

**TOWN OF FLORENCE
BOARD OF APPEALS
RULES OF PROCEDURE**

Adopted April 11, 2017

SCOPE.

These rules shall apply in all cases involving the decision of appeals before the Board of Appeals.

DEFINITIONS.

Appeal means an appeal of orders, decisions or determinations made by the Town Official, relative to the application and interpretation of the Town's adopted technical codes, in the Town of Florence, Arizona. Pursuant to these "Decisions of the Board" procedure only, "appeal" means appeal of the Board of Appeals decision to the superior court of Pinal County.

Counsel means an attorney licensed to practice law in the state.

Decision letter means the written and dated document prepared by the Board of Appeals, which includes the board's findings of fact and conclusions of law, and articulates the board's decision to affirm or override the Town Official's decision or determination.

Designated staff representative means the Town official designated to represent the position of the Town at an appeal hearing with regard to the subject matter of the appeal.

Determination letter means the written and dated document, sent by the Town via first class mail to the property owner or personally obtained from the Town by the property owner or owner's representative, which document officially informs the property owner of the Town's final order, decision or determination regarding the application or interpretation of the code(s).

Other designated representative means a person over eighteen (18) years of age, other than an attorney, authorized in writing by the property owner to represent the property owner in proceedings before the board of appeals. The written authorization shall be in a form sufficient to satisfy the board that the person has in fact been authorized to act on the property owner's behalf and that the property owner understands and agrees to be bound by actions taken by the other designated representative in proceedings before the board of appeals.

Parties mean the permit holder, and/or property owner and the Town.

Town means Town of Florence.

Town Official includes the Building Code Official and Fire Official.

APPOINTMENT OF A CHAIRPERSON.

The board shall annually select one of its members to serve as chairperson.

APPOINTMENT OF A VICE-CHAIRPERSON.

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The board shall annually select one of its members to serve as vice-chairperson to serve in the absence of the Chairperson.

DISQUALIFICATION OF MEMBER.

A member shall not hear an appeal in which that member has a personal, professional or financial interest as determined by the provisions of Title 38, Arizona Revised Statutes.

COMMENCEMENT OF APPEAL.

Every appeal brought before the Board of Appeals shall be in writing and filed with the Town Clerk within 20 calendar days after receipt by the property owner of the determination letter. The appeal shall state with particularity the dedication or determination requirement that is being appealed. After receipt of an appeal, the designated staff representative shall schedule an appeal hearing within 30 days after receipt. The parties shall be given at least 10 calendar days prior written notice of the date and time of the appeal hearing unless the party not provided such notice agrees to a shorter notice period.

REPRESENTATION AT THE BOARD OF APPEAL HEARING.

The person affected by the decision, or determinations of the Town Official shall have the right to be represented by counsel and/or designated representative at the appeal hearing. In addition to the Town's designated staff representative, the Town shall have the right to be represented by counsel at the appeal hearing. The parties waive the right to be represented by counsel, or other designated representative in the case of a property owner, at the appeal hearing unless actual written notice of such representation is provided to the Town Clerk and to the other party at least five (5) working days prior to the appeal hearing.

DISCOVERY.

Pre-hearing discovery shall be limited to exchange of each party's list of witnesses, copies of the exhibits and written reports or recorded statements by any witness proposed to be heard or examined by either party at the hearing. Said exchange shall occur not less than five (5) Working days prior to the hearing. Failure to comply with this rule may result, at the chairperson's discretion, in the granting of a recess or continuance to permit such inspection, or denying admission of the evidence not so exchanged.

POSTPONED HEARING.

When five members are not present to hear an appeal, either the appellant or the Town shall have the right to request postponement of hearing not to exceed 30 days.

CONTINUANCE.

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At any time prior to the start of testimony, upon the chairman's own motion or a motion by either party, the chairman may continue the appeal hearing for a period not to exceed thirty (30) calendar days, if it appears that the interests of justice so require. In the event that continuance is granted, the chairperson shall notify the parties in writing of the new appeal hearing date.

OATH.

All testimony at the appeal hearing shall be given under oath or affirmation.

QUESTIONING OF WITNESS.

On the chairperson's own motion, the board may call and examine witnesses, including the property owner. Each party shall have the right to examine their respective witnesses and opposing witnesses.

RULES OF EVIDENCE.

The Arizona Rules of Evidence shall not apply before the Board of Appeals. Any evidence offered may be admitted subject to a determination by the chairperson that the offered evidence is relevant and material and has some probative value to a fact at issue. Nothing in this rule is to be construed as abrogating any statute or law relating to privileged communications.

ORDER OF PROCEEDINGS.

The order of proceedings at an appeal hearing shall be as follows:

- (1) Testimony of the permit holder and/or property owner's witnesses.
- (2) Testimony of the Town's witnesses.
- (3) Testimony of the property owner's rebuttal witnesses, if any.
- (4) Testimony of the Town's rebuttal witnesses, if any.
- (5) Argument of the parties or their counsel or other designated representative, if permitted by the chairperson of the board of appeals.
- (6) Decision by the board of appeals.

DECISION BY THE BOARD OF APPEALS; TIME PERIOD FOR APPEAL.

The Board shall issue a decision letter including findings of fact and conclusions of law to the parties within 20 calendar days after the conclusion of the appeal hearing. An aggrieved permit holder and/or property owner shall have 30 calendar days to appeal an adverse decision to the Superior Court of Pinal County.

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DIRECTION:

The Town Official shall take immediate action in accordance with the decision of the Board.

RECORD.

All appeal-hearing proceedings shall be recorded by audiotape. A record of the appeal hearing may be made by a court reporter, if provided by the property owner at the property owner's expense.