

SECTION 105. BOARD OF ADJUSTMENT.

A. ESTABLISHMENT; COMPOSITION; TERMS OF MEMBERS; VACANCIES; ABSENT MEMBERS; COMPENSATION OF MEMBERS.

There is hereby established a Board of Adjustment of the City of Cottonwood, to consist of five (5) members, each of whom shall be a resident of the City of Cottonwood, to be appointed by the City Council. The members of the Board shall serve for three (3) years, except as hereinafter provided. The members of the first Board appointed hereunder shall serve for the following terms: two (2) member shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years. In the event of a death, resignation or removal from the Board, the vacancy shall be filled by the Council for the unexpired term. Members of the Board may, after public hearing, be removed by the Council for inefficiency, neglect of duty or malfeasance in office. The Council shall file a written statement of the reasons for removal. Any member who is absent for three (3) consecutive regular meetings, or a cumulative total of seven (7) meetings throughout the calendar year, shall automatically cease to hold membership without further action being taken by the City Council. All members shall serve without pay. However, members of the Board may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Board and approval of such expenditures by the City Manager.

B. POWERS AND DUTIES.

1. It shall be the duty of the Board of Adjustment to:

- a. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Zoning Administrator in the enforcement of the Zoning Ordinance and to reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Zoning Administrator appealed from and make such order, requirement, decision or determination as necessary.
- b. Hear and decide appeals for variances from the terms of the Zoning Ordinance. A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:
 - 1) That there are special circumstances or conditions applicable to the property, including its size, shape, topography, location, or surroundings; and

- 2) That such special circumstances or conditions are pre-existing and not self-imposed or created by the property owner or the applicant; and
- 3) The strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other property of the same classification in the same zoning district; and
- 4) The adjustment authorized does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

2. The Board of Adjustment may not:

- a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Ordinance provided the restrictions in this paragraph shall not affect the authority to grant variances pursuant to this article.
- b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner. This includes economic hardships, interest in improving financial return on investment or other personal circumstances of the property owner or applicant.

C. SELECTION OF OFFICERS.

The board shall elect a Chairman and Vice-Chairman from among its own members, who shall serve for one (1) year and until their successors are elected and qualified. The Chairman shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The Chairman shall have the power to administer oaths and to take evidence. The Vice-Chairman shall perform the duties of the Chairman in the latter's absence or disability. Vacancies created by any cause shall be filled for the unexpired term by a new election.

D. QUORUM; VOTING.

Three (3) members shall constitute a quorum. The affirmative vote of a majority of members voting shall be required for passage of any matter before the Board. A member may abstain from voting only upon a declaration that he has a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question. The vote of each member shall be shown in the minutes of the meeting.

E. RULES; REGULATIONS; RECORDS; MEETINGS.

The Board shall make and publish rules and regulations to govern its proceedings and to provide for its meetings. Notice of the time and place of the hearing, including a general explanation of the matter to be considered, shall be given at least fifteen (15) days before the hearing. The notice shall be published at least once in a newspaper of general circulation. In addition, notice shall be posted on the property affected, when applicable, in a manner readily visible to the general public. All meetings of the Board shall be open to the public. The minutes and records of all Board proceedings shall be kept and filed as public record in the office of the City Clerk.

F. PROCEDURES.

Procedures for Appeals to the Board of Adjustment and Appeals from the decisions of the Board of Adjustment shall be as per Zoning Ordinance Section 306. Appeals and Variances.