When recorded, return to:
Clerk of the Board
P.O. Box 827
Florence AZ 85132

RESOLUTION NO. _____

A RESOLUTION OF THE PINAL COUNTY, ARIZONA, BOARD OF SUPERVISORS: (1) AUTHORIZING AND DELEGATING TO THE COUNTY MANAGER, OR THE COUNTY MANAGER'S DESIGNEE, THE ABILITY TO RETAIN, DESIGNATE AND EMPLOY CIVIL HEARING OFFICERS TO HEAR APPEALS BROUGHT PURSUANT TO A.R.S § 11-832; (2) ADOPTING INITIAL HEARING RULES FOR A.R.S. § 11-832 APPEALS; AND (3) AUTHORIZING THE COUNTY MANAGER, OR THE COUNTY MANAGER'S DESIGNEE, TO MAKE REVISIONS TO THE HEARING RULES

WHEREAS, pursuant to A.R.S. § 11-832 a hearing officer shall be designated by the Pinal County Board of Supervisors (the "**Board**") to receive and hear appeals to certain actions relating to an owner's property by a county, or an administrative agency or official of a county in the manner prescribed by statute with respect to: (1) the requirement by a county of a dedication or exaction as a condition of granting approval for the use, improvement or development of real property; and (2) the adoption or amendment of a zoning regulation by a county that creates a taking in violation of A.R.S. § 11-832(I); and;

WHEREAS, because the Board views its role as setting and establishing policy, direction and budgetary parameters under which the county performs its duties and not as providing direct day-to-day supervision over hearing officers; and,

WHEREAS, Pinal County employs a County Manager who oversees various Pinal County departments and special districts, personnel, budgets and projects; and,

WHEREAS, for consistency and efficiency purposes the County Manager, or the County Manager's designee, should be delegated the authorization to retain, designate and employ civil hearing officers who shall be available to meet the requirements and obligations as set forth at A.R.S § 11-832; and,

WHEREAS, to assist in the orderly and just review of appeals authorized by the State legislature to be filed pursuant to A.R.S. § 11-832, the Board finds that it will be helpful to initially adopt the attached Hearing Rules for A.R.S. § 11-832 Appeals (**Exhibit "A"**) (the "**Hearing Rules**"); and,

WHEREAS, for consistency and efficiency purposes the County Manager, or the County Manager's designee, should be delegated the authorization to make revisions to the Hearing Rules from time to time, as may be necessary.

RESOLUTION NO. _____

NOW, THEREFORE, BE IT RESOLVED, by the Board that the Pinal County Manager, or the Pinal County Manager's designee, is hereby authorized and directed to retain, designate and employ civil hearing officers to receive and hear appeals and to meet all other requirements and obligations of a hearing officer as set forth at A.R.S. § 11-832.

BE IT FURTHER RESOLVED, that the Hearing Rules attached as **Exhibit "A"** are hereby adopted to assist in the orderly and just review of appeals authorized to be filed pursuant to A.R.S. § 11-832.

BE IT FURTHER RESOLVED, that the Pinal County Manager, or the Pinal County Manager's designee, is hereby authorized to make revisions to the Hearing Rules from time to time, as may be necessary.

BE IT FURTHER RESOLVED, that this Resolution shall become effective upon its recording with the Office of the Pinal County Recorder.

PASSED AND ADOPTED this _____ day of _____, 2025, by the PINAL COUNTY BOARD OF SUPERVISORS.

_____
Chair of the Board

ATTEST:

_____
Clerk/Deputy Clerk of the Board

APPROVED AS TO FORM:

_____
Deputy County Attorney

EXHIBIT "A"

[Hearing Rules for A.R.S. § 11-832 Appeals]

PINAL COUNTY

HEARING RULES
FOR
A.R.S. § 11-832 APPEALS

www.pinalcounty.az.gov

Adopted January 2025

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RULE 1 SCOPE

1.1 These rules shall apply to all appeals falling within the scope of A.R.S. § 11-832 and filed within the jurisdiction of unincorporated Pinal County. These rules shall not be construed to create any rights of appeal beyond the rights set forth at A.R.S. § 11-832, as may be amended. In the event of any conflict between A.R.S. § 11-832 and these rules, A.R.S. § 11-832, as amended, shall govern.

1.2 Pursuant to A.R.S. § 11-832(A), a property owner may appeal the following actions relating to the owner's property by a county, or an administrative agency or official of a county, in the manner prescribed by A.R.S. § 11-832: **(1)** The requirement by a county of a dedication or exaction as a condition of granting approval for the use, improvement or development of real property. Per A.R.S. § 11-832(A)(1), A.R.S. § 11-832 does not apply to a dedication or exaction that is required in a legislative act of the board of supervisors and that does not give discretion to an administrative agency or official to determine the nature or extent of the dedication or exaction. **(2)** The adoption or amendment of a zoning regulation by a county that creates a taking in violation of A.R.S. § 11-832(I). (*See* A.R.S. §§ 11-832(A)(1), (2)).

RULE 2 STATUTORY REQUIREMENTS

2.1 Notification. The county shall notify the property owner that the property owner has the right to appeal the county's action pursuant to A.R.S. § 11-832 and shall provide a description of the appeal procedure. The county shall not request the property owner to waive the right of appeal or trial de novo at any time during the consideration of the property owner's request. (*See* A.R.S. §§ 11-832(B)).

2.2 Filing. The appeal shall be in writing and filed with or mailed to a hearing officer designated by the board of supervisors within thirty days after the final action is taken. (*See* A.R.S. §§ 11-832(C)).

2.3 Takings Impact Report. The county shall submit a takings impact report to the hearing officer. (*See* A.R.S. §§ 11-832(C)).

2.4 No Filing Fee. A fee shall not be charged for filing the appeal. (*See* A.R.S. §§ 11-832(C)).

2.5 Scheduling of Hearing. After receipt of an appeal, the hearing officer shall schedule a time for the appeal to be heard not later than thirty days after receipt. The property owner shall be given at least ten

days' notice of the time when the appeal will be heard unless the property owner agrees to a shorter time period. (*See* A.R.S. §§ 11-832(D)).

2.6 Burden of Proof. In all proceedings under A.R.S. § 11-832, the county has the burden to establish that there is an essential nexus between the dedication or exaction and a legitimate governmental interest and that the proposed dedication, exaction or zoning regulation is roughly proportional to the impact of the proposed use, improvement or development or, in the case of a zoning regulation, that the zoning regulation does not create a taking of property in violation of A.R.S. § 11-832(I). If more than a single parcel is involved, this requirement applies to the entire property. (*See* A.R.S. § 11-832(E)).

2.7 Decision by Hearing Officer. The hearing officer shall decide the appeal within five working days after the appeal is heard. (*See* A.R.S. § 11-832(F)).

2.7.1 Failure of County to Meet Burden of Proof. If the county does not meet its burden of proof, the hearing officer shall: **(1)** Modify or delete the requirement of the dedication or exaction appealed under A.R.S. § 11-832(A)(1); or, **(2)** In the case of a zoning regulation appealed under A.R.S. § 11-832(A)(2), the hearing officer shall transmit a recommendation to the board of supervisors. (*See* A.R.S. §§ 11-832(F)(1), (2)).

2.7.2 Modification or Affirmation of the Requirement of the Dedication, Exaction, or Zoning Regulation. If the hearing officer modifies or affirms the requirement of the dedication, exaction or zoning regulation, a property owner aggrieved by a decision of the hearing officer, at any time within thirty days after the hearing officer has rendered a decision, may file a complaint for a trial de novo in the superior court on the facts and the law regarding the issues of the condition or requirement of the dedication, exaction or zoning regulation. Pursuant to the standards for granting preliminary injunctions, the court may exercise any legal or equitable interim remedies that will permit the property owner to proceed with the use, enjoyment and development of the real property but that will not render moot any decision upholding the dedication, exaction or zoning regulation. (*See* A.R.S. § 11-832(G)).

2.7.3 Matters Presented to the Superior Court. All matters presented to the superior court pursuant to A.R.S. § 11-832

have preference on the court calendar on the same basis as condemnation matters, and the court may award reasonable attorney fees incurred in the appeal and trial pursuant to this section to the prevailing party. The court may further award damages that are deemed appropriate to compensate the property owner for direct and actual delay damages on a finding that the county acted in bad faith. (*See* A.R.S. § 11-832(H)).

2.8 Compliance with Precedential Caselaw. Pursuant to A.R.S. § 11-832(I), a county or an agency or instrumentality of a county shall comply with the United States Supreme Court cases of *Dolan v. City of Tigard*, 512 U.S. 374 (1994), *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), *First English Evangelical Lutheran Church v. County of Los Angeles*, 482 U.S. 304 (1987), *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001), *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 320 (2002) and Arizona and federal appellate court decisions that are binding on Arizona counties interpreting or applying those cases.

RULE 3 CONDUCT OF HEARINGS.

3.1 All testimony shall be given under oath or affirmation.

3.2 Opening statements may be given by the parties at the discretion of the Hearing Officer.

3.3 The Hearing Officer may, on the Hearing Officer's own motion, call and examine any witnesses presented by the county or appellant.

3.4 Suggested Order of Witnesses. The following order of witnesses as set forth in this Rule 3.4 is suggested as an aid to the Hearing Officer; however, the Hearing Officer may choose to deviate from the same as the Hearing Officer may determine is necessary or appropriate in the interest of justice:

3.4.1 Testimony and cross-examination of any county witnesses.

3.4.2 Testimony and cross-examination of any appellant witnesses.

3.4.3 Testimony and cross-examination of County's rebuttal witnesses, if any.

3.4.4 Testimony and cross-examination of appellant's rebuttal witnesses, if any.

3.4.5 Argument/closing statements of the parties if permitted by the Hearing Officer.

RULE 4 RULES OF EVIDENCE

4.1 The Arizona Rules of Evidence do not apply to hearings held pursuant to A.R.S. § 11-832.

4.2 Nothing in this Rule is to be construed as abrogating any statutory provision relating to privileged communication.

4.3 Incompetent, irrelevant, immaterial and unduly repetitious evidence may be excluded.

4.4 Documentary evidence may be received in the form of copies or by incorporation by reference.

4.5 The Hearing Officer may take note of judicially cognizable facts and may take note of general, technical or scientific facts.

RULE 5 DUTIES AND POWERS OF THE HEARING OFFICER

5.1 Any and all duties and powers set forth at A.R.S. § 11-832, whether express or implied.

5.2 Request written pre-hearing statements, memoranda or briefs and other information from the parties, as determined in the discretion of the Hearing Officer.

5.3 Administer oaths and affirmations.

5.4 Rule upon admissibility of exhibits and motions.

5.5 Call and examine witnesses.

5.6 Determine the order of witnesses.

5.7 Impose such other rules or requirements upon the parties as the Hearing Officer determines necessary to ensure the full, fair and impartial hearing of the matters presented and to adjourn the hearing as the needs of justice and good administration require.

RULE 6 VENUE AND RECORD OF PROCEEDINGS

The county shall provide a location for the hearing to take place and the means for recording the proceedings by audiotape or digital or electronic means. The appellant may have the proceedings recorded by a court reporter provided by the appellant at the appellant's sole cost and expense.