

# ARIZONA CORPORATION COMMISSION

## APPLICATION FOR AN ADJUDICATION NOT A PUBLIC SERVICE CORPORATION

### WATER AND/OR SEWER

### APPLICATION INSTRUCTIONS

#### GENERAL INFORMATION

The attached forms have been prepared by the Utilities Division of the Arizona Corporation Commission (“Commission”) to assist applicants filing an Application for “Adjudication Not A Public Service Corporation” (“Adjudication”).

The criteria for seeking adjudication was established in Commission Decision No.55568, dated May 7, 1987 (Attachment A). The Decision cites seven criteria which must be met when seeking adjudication. **BEFORE PROCEEDING FURTHER** please review the attached Decision to ensure your entity meets the required criteria.

To facilitate the application process, the attached Decision also indicates where each of the seven criteria **MUST** appear in the application.

#### IMPORTANT:

- Please complete the application accurately and attach all the required documents, after determining your entity meets the required criteria for adjudication.
- Please complete all the items. If you do not complete an item, your application could be delayed or denied.
- If the space provided is insufficient, please use a separate sheet of paper and clearly label the information.
- Please allow up to 30 calendar days after application has been docketed, for the Commission to determine if your application meets sufficiency requirements.

**APPLICANT INFORMATION**

1. Please legibly print or type applicant's name, title, address, e-mail address (if applicable) and telephone number :

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2. If application is being submitted by an attorney or other representative, please legibly print or type the name, business name, title, address, e-mail address (if applicable) and telephone number:

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**FILING INSTRUCTIONS**

The following documents **MUST** be submitted when filing your application:

- A. An executed copy of the Articles of Incorporation which indicates applicant is a Non-Profit Homeowners Association (“HOA”), and is in **Good Standing** with the Corporations Division of the Arizona Corporation Commission.
- B. Copy of the HOA’s Covenants, Conditions and Restrictions (“CC&R’s”).
- C. Copy of the Corporation’s Bylaws.
- D. Corporate Resolution **or** Petition signed by 51% or more of the then existing HOA members. The petition list should be legible and contain the names of the homeowner’s/property owner’s, printed and signed. This should be inclusive of addresses, telephone numbers, and area codes. The petition should also include a heading that describes the purpose of the petition.
- E. Evidence, such as a signed notarized affidavit, of association ownership of the utility assets (current or future), including wells, pumps, tanks, mains and all other necessary equipment, sufficient to serve the members requirements.
- F. A complete description of the facilities proposed to be constructed, including a preliminary engineering report with specifications.

**PLEASE ANSWER THE FOLLOWING QUESTIONS:**

- A. Is the applicant presently providing service within the designated area?  
Yes\_\_\_ No\_\_\_ If yes, to how many connections? \_\_\_  
In addition, if yes, as a substitute for item “F” above, please provide as-built plans of the system with documentation from the Arizona Department of Environmental Quality stating that the system is in full compliance.
- B. Is this a new development? Yes\_\_\_\_\_ No\_\_\_\_\_  
If the answer is yes, is this area within an Active Management Area (“AMA”) as determined by the Arizona Department of Water Resources? Yes\_\_\_\_\_ No \_\_\_\_\_
- C. How will wastewater be addressed within the HOA?

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D. Is this application is being submitted by a non-profit homeowner's association?  
Yes\_\_\_\_\_ No\_\_\_\_\_ If no, please review the seven criteria for adjudication not a public service corporation.

E. Is this application for adjudication not a public service corporation a bona fide request by a majority of the membership of the association through a petition signed by 51% or more of the then existing members? Yes\_\_\_\_\_ No\_\_\_\_\_. If yes, please submit petitions. If no, a signed and notarized resolution must be filed in lieu of a petition.

F. Please provide a legal description of the area to be adjudicated (cadastral or metes and bounds).

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**PLEASE DESIGNATE IN THE SECTION GRID NOTED BELOW, THE EXACT LOCATION OF THE PROPOSED ADJUDICATED AREA AS REFERENCED TO IN THE LEGAL DESCRIPTION.**


Please also provide a general description of the entity's location. For example: Located XXXX number of miles from XXXXXX, between XXXXXX and XXXXX.

## **APPLICATION FILING**

When you have completed this application, please provide an original plus 13 copies. You may mail or deliver to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

If you have any questions regarding the adjudication application, please contact the Utilities Division of the Arizona Corporation Commission at (602) 542-4251 or 1-800-222-7000.

**ATTACHMENT A**  
**SEE NEXT THREE (3) PAGES**

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BEFORE THE ARIZONA CORPORATION COMMISSION

MARCIA WEEKS  
Chairman  
RENZ D. JENNINGS  
Commissioner  
DALE H. MORGAN  
Commissioner

COMMISSION POLICY DIRECTIVE TO )  
THE UTILITIES DIVISION ON REVIEW )  
AND PROCESSING OF APPLICATIONS )  
FOR AN ADJUDICATION NOT A PUBLIC )  
SERVICE CORPORATION. )

DOCKET NO. U-87-102

DECISION NO. 55568

Open Meeting  
May 6, 1987  
Phoenix, Arizona

POLICY DIRECTIVE

WHEREAS: The Arizona Corporation Commission finds that there is a need for clarification and guidelines in the matter of evaluating applications requesting an adjudication not a public service corporation. The Commission further finds that processing and consideration of such applications should be conducted in a consistent manner in accordance with its Constitutional responsibility to ensure that the people of Arizona are given the opportunity to receive reasonable and adequate utility services through a reliable source, be it municipal, private or public.

Now therefore, be it resolved that the Utilities Division shall:

- (a) investigate and review all applications for adjudication to ensure that:
- ...

- 1 - adjudication applications must be submitted by  
2 non-profit homeowner associations
- 3 - the application for adjudication not a public service  
4 corporation is a bona fide request by a majority of the  
5 membership of the association through a petition signed  
6 by 51% or more of the then existing members
- 7 - that all such associations making such application have  
8 complete ownership of the system and necessary assets
- 9 - every customer is a member/owner with equal voting  
10 rights and that each member is or will be a customer
- 11 - the service area involved encompasses a fixed territory  
12 which is not within the service area of a municipal  
13 utility or public service corporation or if in such  
14 territory, that municipal utility or public service  
15 corporation is unable to serve
- 16 - there is a prohibition against further sub-division  
17 evidenced by deed restrictions, zoning, water  
18 restrictions or other enforceable governmental  
19 regulations
- 20 - membership is restricted to a fixed number of customers  
21 actual or potential

22 (b) present its findings to the Commission on such  
23 applications.

24 The following minimum filing requirements must be submitted by  
25 applicant at the time of filing:

- 26 - an application by the association setting forth all the  
27 details, and
- 28 - a signed petition by 51% or more of the then existing  
members
- an executed copy of the Articles of Incorporation,
- an executed copy of the By-Laws which restrict service  
to a specific area and membership
- evidence of association ownership of the utility  
assets, including wells and pumps sufficient to serve  
the members requirements
- a legal description by metes and bounds or CADASTRAL of  
the area to be adjudicated
- a map indicating the area to be adjudicated

DECISION NO. 55568

1 I hereby certify that the foregoing policy directive was duly  
2 introduced, passed and adopted at an open meeting of the Arizona  
3 Corporation Commission held on the 7 day of May 1987.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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6 *Chairman*  
CHAIRMAN

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9 *Commissioner*  
COMMISSIONER

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11 *James Matthews*  
JAMES MATTHEWS  
Executive Secretary

12 DISSENT *Del H. Meyer*

13 WER:IT:jl

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DECISION NO. 55568

**THE LOCATION WHERE EACH OF THE SEVEN CRITERIA IN DECISION NO. 55568 MUST APPEAR IN THE APPLICATION:**

Adjudication application must be submitted by non-profit homeowner associations.

(Must appear in the application, see page 5 of application)

The application for adjudication not a public service corporation is a bona fide request by a majority of the membership of the association through a petition signed by 51% or more of the then existing members. (Must appear in either the resolution or application AND in the CC&R's, see page 5 of application)

That all such associations making such application have complete ownership of the system and necessary assets (Must appear in the CC&R's)

Every customer is a member/owner with equal voting rights and that each member is or will be a customer. (Must appear in the CC&R's AND Bylaws)

The service area involved encompasses a fixed territory which is not within the service area of a municipal utility or public service corporation or if in such territory, that municipal utility or public service corporation is unable to serve (Must appear in the CC&R's and Bylaws)

There is a prohibition against further sub-division evidenced by deed restrictions, zoning, water restrictions or other enforceable governmental regulations (Must appear in the CC&R's).

Membership is restricted to a fixed number of customers actual or potential. (Must appear in the CC&R's)

\*\*\*\*\*To view an approved adjudication application, you may utilize the eDocket function through the Arizona Corporation Commission's website. The sample application would be under the heading of "Equestrian Estates At White Hills Water Cooperative, Inc" (Amended application).