

**ZONING ORDINANCE 19-\_\_**

**TO ADOPT COCHISE COUNTY ZONING REGULATIONS  
ARTICLE 17 MINOR LAND DIVISIONS**

**WHEREAS**, A.R.S. 11-821 et. seq. gives the County Board of Supervisors the authority to adopt zoning regulations to address land use; and

**WHEREAS**, the Cochise County Board of Supervisors originally adopted Zoning Regulations in Cochise County pursuant to that authority in 1975, and has with periodic modification, maintained them in effect since that time; and

**WHEREAS**, the Cochise County Board of Supervisors recognizes that amendment to the Zoning Regulations can affect countywide land use patterns and therefore warrants careful consideration of regional impacts; and

**WHEREAS**, A.R.S. 11-831 et. seq. gives the County Board of Supervisors the authority to adopt ordinances and regulations to allow staff review and approval of land divisions of five or fewer lots, parcels, or fractional interests, any of which is ten acres or smaller in size; and

**WHEREAS**, the Cochise County Board of Supervisors recognizes the purpose of this ordinance is to provide a minor land division process, which ensures the division of land in compliance with zoning ordinances, has recorded legal access, and does not constitute a subdivision as defined by A.R.S. 11-831.

**WHEREAS**, on August 27, 2019, the Board of Supervisors held a duly noticed public hearing of the proposed amendments to the Zoning Regulations, hereby known as Docket R-19-04, and attached hereto as "Exhibit A", which amends Article 17 and found them to be in the public interest.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Cochise County Zoning Regulations shall be amended as contained in "Exhibit A", Article 17 Minor Land Divisions, and is hereby adopted;

**ADOPTED** by the Cochise County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Peggy Judd, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Arlethe G. Morrison  
Clerk of the Board

**APPROVED AS TO FORM:**

*Christine J. Roberts* 8/8/2019  
\_\_\_\_\_  
Christine J. Roberts  
Civil Deputy County Attorney

# EXHIBIT “A”

## **1721 Minor Land Divisions**

### **1721.01 Intent**

The intent of this Ordinance is to provide for the orderly growth and harmonious development of Cochise County by prescribing certain minimum requirements regulating the conditions under which minor divisions of land within Cochise County may be permitted and by establishing a review procedure for minor divisions of land within Cochise County.

### **1721.02 Purpose**

The purpose of this ordinance is to provide a process to divide land into five (5) or fewer lots, tracts, parcels, sites or divisions, any of which is ten (10) acres or smaller in size, with a level of review to ensure the division of land complies with zoning regulations and does not constitute a subdivision of six or more lots as defined by Arizona Revised Statutes (A.R.S.). This ordinance is not intended to prohibit or prevent the division of land as otherwise authorized and permitted by the A.R.S. and Cochise County Zoning Regulations and Subdivision Regulations, but to allow for staff review and approval of minor land divisions.

### **1721.03 Permit Required**

- A. No land may be divided into five or fewer lots, parcels, or fractional interests, any of which is ten acres or smaller, unless a minor land division permit has been issued by Cochise County.
- B. The lots, parcels or fractural interests may not be a part of a County-approved subdivision plat.
- C. Payment of an applicable minor land division fee, in accordance with the adopted fee schedule, is required as a condition of obtaining a minor land division permit.

### **1721.04 Jurisdiction**

The provisions of this ordinance shall apply to all divisions of land located within the unincorporated territory of Cochise County, excluding lands outside the authority of Cochise County.

### **1721.05 Application Submittals**

- A. The applicant must submit a properly completed and filled out minor land division application to the Cochise County Development Services Department along with the associated processing fee and any required supporting documentation for staff review as set forth below.
  - 1. Names, addresses, and telephone numbers of all parties of interest to the division

2. A statement from a registered land surveyor, or other evidence acceptable to the county, stating whether each lot, parcel or fractional interests has physical access that is traversable by a two-wheel drive passenger motor vehicle.
3. Survey Map: The legal descriptions and map shall be prepared by a Registered Land Surveyor (R.L.S) and comply with all state and County standards in a format acceptable to the County Recorder and shall include:
  - a. A standard engineering scale not to exceed 1" = 200' (one-inch equals 200 feet). Scale used must be indicated.
  - b. A north arrow.
  - c. Area and dimensions of all proposed lots, parcels or fractional interests.
  - d. The current zoning of the parcels proposed to be divided.
  - e. A public or private road, or a private driveway easement, as defined by the *Cochise County Road Design & Construction Standards & Specifications for Public Improvements* shall provide legal access to each parcel.
    - 1) A private easement with a minimum width of twenty-four (24) feet. A private easement will be considered legal access only if it runs with the land and expressly allows ingress and egress by any utility company providing services to the new lot or parcel, any provider of emergency services (fire, police, ambulance, etc.) to the new lot or parcel, and any public official (building inspector, health inspector, etc.) requiring ingress and egress to the new lot or parcel in connection with the official's lawful duties.
    - 2) Public roads, to be maintained by Cochise County, shall be constructed to the standards included in the *Road Design & Construction Standards & Specifications for Public Improvements* and then adopted or accepted by the County Board of Supervisors prior to sale of any of the divided lots.
  - f. Location and width of all easements within and bordering the minor land division.
  - g. Location, width and designation of roads bordering the property indicating whether they are public or private.

#### **1721.06 Definitions**

- A. "Minor Land Division" means land or lands that are proposed to be divided for purposes of sale or lease into five (5) or fewer lots or parcels.
- B. "Subdivision" or "subdivided lands":
  1. Means improved, or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests.

2. Includes a stock cooperative, lands divided or proposed to be divided as part of a common promotional plan and residential condominiums as defined by ARS.
- C. "Legal access" means a public right of vehicular ingress and egress between the lots, parcels or fractional interests being created.
  - D. "Minimum applicable county zoning requirements" means the minimum acreage and dimensions of the resulting lot, parcel or fractional interest as required by the County's zoning ordinance.
  - E. "Utility easement" means an easement of a minimum of eight (8) feet in width dedicated to the general public to install, maintain and access sewer, electric, gas and water utilities.

### **1721.07 Review Criteria**

- A. An application to split a parcel of land shall be approved if the following items are submitted for review by the Development Services Department and found to be complete:
  1. Each newly-created parcel must meet the minimum zoning requirements of the applicable zoning designation.
  2. The applicant demonstrates legal access to the lots, parcels or fractional interests.
  3. The applicant provides a statement from a licensed surveyor or engineer, or other evidence acceptable to the county, stating whether each lot, parcel or fractional interest has legal and physical access that is traversable by a two-wheel drive passenger motor vehicle.
  4. The applicant reserves the necessary and appropriate utility easements to serve each lot, parcel or fractional interest created by the land division.

### **1721.08 Action by the Development Services Department**

Upon receipt of the submitted documents, the Development Services Department shall review to determine their completeness. If the application is complete, it shall be date-stamped showing the day it arrived complete. If the submitted documents and information are found to be incomplete or insufficient, the applicant shall be notified of the deficiencies. The application will not be formally accepted for processing until the missing items are submitted.

Upon receipt of the completed application, the Development Services Department shall:

- A. Distribute the submitted application for review and comment to the appropriate departments as deemed necessary by the Development Services Director.

- B. Review the submitted survey map and supplemental information to determine compliance with the Zoning and Subdivision Regulations and prepare its report, which shall include comments received from other departments.
- C. Based on the above findings, the Development Services Director shall then approve, conditionally approve, or deny the application within thirty (30) business days from the date a completed application was filed unless the applicant consents to an extension of the review period in writing. If review of the request is not completed within thirty business days from receipt of the request, the land division shall be deemed approved.
- D. The County may not deny approval of any land division that meets the requirements of this section or where the deficiencies are noticed in the deed. If an applicant chooses to record a minor land division survey without an approved permit, any-and-all deficiencies shall be noticed in the deed including noncompliance with the requirement for legal access and/or noncompliance with applicable zoning regulations.
- E. The County may not require a public hearing on a minor land division request.

#### **1721.09 Permit Recordation**

- A. Recordation with Approval - After approval of a Minor Land Division Permit, it shall be recorded at the County Recorder's Office along with any attached supplementary information. Recordation must occur within six (6) months of the approval by the Development Services Department, or the approval shall lapse and become void. If the minor land division permit is approved, the Development Services Director shall enter the following certification on the approved permit:

“Notice is hereby given that the parcels of real estate created by the division recorded pursuant to this document is in conformance with all the provisions of the Minor Land Division Ordinance of Cochise County and meets all statutory requirements for recording.”

- B. Recordation without Approval - Pursuant to the provisions of Arizona Revised Statutes, Section 11-831.C, recordation of a division of land may not be denied for non-compliance with the requirement for legal access or compliance with applicable zoning regulations, however, all such deficiencies are required to be noticed in full, detailed description in all deeds. Should an applicant choose to record a Minor Land Division survey without a permit approved by the Development Services Director, any deficiencies are required to be noticed in full, detailed description in all deeds.

“Notice is hereby given that the parcels of real estate created by the division recorded pursuant to this document either does not conform to the zoning regulations in force at the time of recordation, does not have adequate provision for access to public utilities, or that no legal access exists in accordance with the provisions of the Minor Land Division Ordinance of Cochise County. In consequence, any and all Cochise County Development permits may be denied until such time as deficiencies relative to this parcel are corrected.”

### **1721.10 Removal of Deficiencies from the Deed**

Where access or zoning deficiencies are corrected, through zoning change, variance or acquisition of property for access, it shall be the responsibility of the property owner to remove the deficiencies. All removal of deficiencies shall be subject to the approval of the Development Services Director prior to recording.

### **1721.11 Acting in Concert**

It shall be unlawful for a person or group of persons acting in concert to divide a parcel of land into six (6) or more lots or sell or lease six (6) or more lots by using a series of owners or conveyances in an attempt to avoid the provisions of this ordinance. This provision may be enforced by the County Attorney's Office or the Arizona Department of Real Estate, or both, pursuant to the laws of the State of Arizona.

### **1721.12 Penalties**

Any deficiencies related to legal access or minimum County zoning will not prevent the approval of a Minor Land Division Permit but shall result in the withholding of any Cochise County permits for development until such time as deficiencies relative to the parcels created by the Minor Land Division are corrected. All such deficiencies are required to be noticed in full, detailed description in all deeds.