

When recorded,
return to:
Marian Sheppard, BOS
(11/17/08 #3)



RESOLUTION 08-11-03

**A RESOLUTION OF THE
BOARD OF SUPERVISORS OF GILA COUNTY, ARIZONA,
ADOPTING AMENDMENTS TO GILA COUNTY ORDINANCE 05 - 01,
GILA COUNTY HEARING OFFICER RULES OF PROCEDURE,
ORIGINALLY ADOPTED ON DECEMBER 6, 2005**

WHEREAS, Gila County has adopted The Gila County Hearing Officer Rules of Procedure for application within the unincorporated areas of Gila County; and

WHEREAS, on September 18, 2008, following a public hearing, the Gila County Planning and Zoning Commission reviewed the proposed amendments to the Gila County Hearing Officer Rules of Procedure (Case # ROP-08-01) and recommended that the Gila County Board of Supervisors adopt such amendments; and

WHEREAS, on November 17, 2008, the Gila County Board of Supervisors conducted a public hearing on such proposed amendments; and

WHEREAS, the Gila County Board of Supervisors have found that the adoption of this Resolution is necessary and appropriate to protect the health, safety, and welfare of the citizens of Gila County; and

WHEREAS, it is the desire of the Board of Supervisors to amend the Gila County Hearing Officer Rules of Procedure by amending Introduction, Rule 1 - Scope, Rule 2 - Definitions (2.11), Rule 3 - Service (3.1), Rule 5 - Notice of Hearing (5.1), Rule 21 - Ruling of the Hearing Officer (21.4) and Rule 23 - Appellate Review (23.1, 23.5.1.3, 23.6, 23.9, 23.9.4). By reference pursuant to A.R.S. §11-861;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF GILA COUNTY, ARIZONA, DO HEREBY ADOPT AS FOLLOWS:

Section 1. That the amendments to the Introduction, Rule 1 - Scope, Rule 2 - Definitions (2.11), Rule 3 - Service (3.1), Rule 5 - Notice of Hearing (5.1), Rule 21 - Ruling of the Hearing Officer (21.4) and Rule 23 - Appellate Review (23.1, 23.5.1.3, 23.6, 23.9, 23.9.4) of the Gila County Hearing Officer Rules of Procedure set forth in this Resolution are heretofore declared to be a public record, and that the amendments are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Resolution.

Section 2. That at least three (3) copies of the Gila County Hearing Officer Rules of Procedure, as adopted by this Resolution be filed in the Office of the Clerk of the Board of Supervisors and the same shall be maintained and kept available for public use and inspection.



Section 3. That the amendments of the Gila County Hearing Officer Rules of Procedure of Gila County hereby are added and shall read as follows:

The Rules of Procedure for the Gila County Hearing Officer are adopted pursuant to the authority granted to Gila County in A.R.S. 48-3601 through 3628 (Unauthorized Development within the Floodplain); A.R.S. 49-141 (Unhealthy Conditions Causing Environmental Nuisance); A.R.S. §11-268 (Requiring the an owner, lessee or occupant of buildings, grounds or lots located in the unincorporated areas of the county to remove rubbish, trash, weeds, filth, debris and dilapidated buildings which constitute a hazard to Public Health and Safety from buildings grounds, lots, contiguous sidewalks, streets and alleys); A.R.S. 11-808 (Establish Civil Penalties for Zoning Violations) and A.R.S. 11-866 which allows A.R.S. 11-808 (to be utilized in enforcing Building Codes).

RULE 1 SCOPE

1.1 These rules shall apply in all cases involving the adjudication of civil violations which may be brought before the Gila County Hearing Officer. The Rules of Procedure for the Gila County Hearing Officer are adopted pursuant to the authority granted to Gila County in A.R.S. 48-3601 through 3628 (Unauthorized Development within the Floodplain); A.R.S. 49-141 (Unhealthy Conditions Causing Environmental Nuisance); A.R.S. §11-268 (Requiring the an owner, lessee or occupant of buildings, grounds or lots located in the unincorporated areas of the county to remove rubbish, trash, weeds, filth, debris and dilapidated buildings which constitute a hazard to Public Health and Safety from buildings grounds, lots, contiguous sidewalks, streets and alleys); A.R.S. 11-808 (Establish Civil Penalties for Zoning Violations) and A.R.S. 11-866 which allows A.R.S. 11-808 (to be utilized in enforcing Building Codes).

RULE 2 DEFINITIONS

2.9.8 The Gila County Clean and Lien Ordinance

2.11 COUNTY OFFICER means a County Zoning Inspector, Code Enforcement Officer, Deputy, Assistant, Gila County Community Development Director or the Building Official.

RULE 3 SERVICE

3.1 Personal Service, Personally Serve, Personally Served

This shall be accomplished by the County Officer, Inspector or other authorized law enforcement officers delivering documents to the alleged violator personally or by leaving such pleadings or papers at his/her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or delivery to a personal representative or agent authorized by appointment or by law to receive service of process. Any document served upon the alleged violator(s) by personal service shall be served at least ten-(10) fifteen (15) days prior to the hearing date.



RULE 5 NOTICE OF HEARING

5.1 Notice of Hearing. The complaint shall be accompanied by a Notice of Hearing which shall set forth a date for appearance. The Complaint and Notice of Hearing shall be personally served on the alleged violator at least ~~ten~~(10) fifteen (15) days prior to this appearance date. If the County Officer is unable to personally serve the notice, then the complaint and notice may be served by Certified Mail in accordance with Rule 3.2 of the Hearing Officer Rules of Procedure. Any notice served upon the alleged violator other than by personal service shall be served at least thirty (30) days prior to the date for appearances.

RULE 21 RULING OF THE HEARING OFFICER

21.4 The Final Decision shall be filed with the Gila County Recorder's Office upon the expiration of the time for filing an appeal and upon determination that the defendant did not file an appeal. If the Defendant appeals the Final Decision and the Final Decision is upheld in whole or in part by the appellate process, the Final Decision as modified by the appellate process shall be filed with the Gila County Recorder's Office upon the exhaustion of all appellate remedies.

RULE 23 APPELLATE REVIEW

23.1 The party requesting review shall file a written Notice of Request for Appellate Review with the Code Compliance Supervisor within ~~ten~~(10) fifteen (15) days after the signing of the final decision, notice or order by the Hearing Officer.

23.5.1.3 Upon transmission of the record, the Clerk of the Board shall send notice by mail to all parties that the record has been transmitted and stating that written memoranda are due within ~~ten~~(10) fifteen (15) working days from the date of transmission of the record by the Code Compliance Supervisor.

23.6 Appellate Memoranda. Each party may file a written memorandum no later than ~~ten~~(10) fifteen (15) working days following the date of transmission of the record to the Board as to why the Board should affirm, modify or reverse the final decision being reviewed by the Board. The memorandum shall not raise new facts or issues not previously presented before the Hearing Officer.

23.9 Disposition by the Board. After consideration of the record transmitted by the Hearing Officer and memoranda, the Board may increase, decrease or modify any penalty/assessment imposed by the Hearing Officer as long as it follows the penalty amounts set by the applicable ordinance or resolution and may:

23.9.4 Written notice of the final decision of the Board shall be hand-delivered or mailed by first class mail to all parties by the Clerk of the Board within ~~ten~~(10) Fifteen (15) calendar days of the Board's decision.



Section 4. All resolutions and parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution. The Board of Supervisors declares that it would have adopted this portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

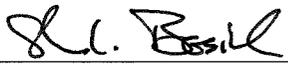
PASSED AND ADOPTED BY THE GILA COUNTY BOARD OF SUPERVISORS this 17th day of November, 2008 by the following vote:

AYES 3 NOES _____ ABSTENTIONS _____ ABSENT _____

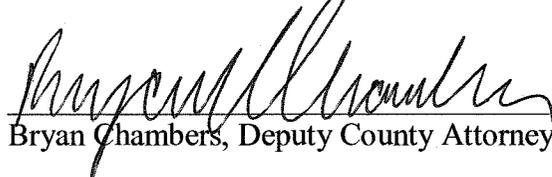
BOARD OF SUPERVISORS


Jose M. Sanchez, Chairman

ATTEST:


Steven L. Besich, Clerk of the Board

APPROVED AS TO FORM:


Bryan Chambers, Deputy County Attorney

