MINOR LAND DIVISION ORDINANCE OF THE COUNTY OF GILA

ARTICLE I - TITLE, PURPOSE AND ADMINISTRATION

100.00 Intent and Purpose

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

.02 Purpose: The purpose of this Ordinance shall be to insure that minor land divisions shall: comply with existing zoning regulations; provide adequate public utility easements; provide for adequate unobstructed legal and physical access; not constitute a subdivision; not constitute an attempt to evade or circumvent the laws and regulations governing subdivisions; insure compliance with related ordinances, laws and regulations; and provide for conveyance by accurate legal description.

101.00 Authority

The Gila County Minor land Division Ordinance is authorized by Sections 11-809, title 11, Ch. 6, and 11-251.05 of Arizona Revised Statues, as, and is hereby declared to be in accordance with all provisions of these statutes.

102.00 Title

The title of this Ordinance shall be the "Minor Land Division Ordinance of the County of Gila."

103.00 Administration

The Gila County Community Development Department is hereby authorized to administer this Ordinance.

104.00 Jurisdiction

This Ordinance shall govern minor land division in those areas of Gila County lying outside the corporate limits of any municipality.

ARTICLE II - DEFINITIONS

200.00 Definitions

Conform To (Comply With) Zoning Regulations – Means conformance with all applicable requirements of the zoning ordinance including, but not limited to, minimum lot size, lot configuration such as lot width and lot depth, setbacks, distances between buildings, performance standards and property development standards

Director - Shall be the duly appointed Director of the Community Development Department of Gila County or his designee.

Legal Access - A way or means of approach to provide physical entrance to a property which shall consist of a public street, federal, state or county road, or a private recorded easement for ingress and egress connecting with any of the above. Any internal easement for ingress or egress created as a result of a minor land division shall be a minimum of twenty –four (24) feet in width.

Minor Land Division -the dividing of one parcel of land into five or fewer separate parcels, lots or fractional interests, any of which is ten (10) acres or smaller in size. A minor land division does not include:

1. The division of land into lots or parcels each of which is, or will be, thirty-six (36) acres or more in area including to the center line of dedicated roads or easements, if any, contiguous to the lot or parcel.
2. Adjustment of the boundary line between two abutting parcels or lots or transfer of land between two owners of abutting parcels or lots which does not result in the creation of any additional parcel or lots.

Subdivision - Means a subdivision as defined in Sec. 32-2101, Arizona Revised Statues.

ARTICLE III - GENERAL REQUIREMENT AND PROCEDURES

300.00 Permit Required Prior to Recordation

No parcel of land may be divided into five or fewer separate parcels, lots or fractional interests either by recordation of a contract of sale or deed of conveyance, or by requesting the creation of a separate tax parcel through the Gila County Assessor's Office, without first obtaining a Minor Land Division Permit issued by the Director subject to the Provisions of this Ordinance. The completed application form will serve as the Minor Land Division Permit.

301.00 Filing of Application

Any applicant proposing a minor land division shall file an application for a Minor Land Division Permit with the Director on the form provided. AN APPLICATION FEE OF $500 PLUS $50 PER LOT AFTER THE FIRST SPLIT IS TO BE PAID AT THE TIME OF FILING AN APPLICATION.

The fee is non-refundable and is to cover the costs of processing the application.

.01 Required Information: The Permit application shall contain the following information:

a. A legal description of the property prepared by a qualified Registered Land Surveyor as established by the Arizona State Board of Technical Registration.
b. A scaled plat drawn by a qualified Registered Land Surveyor as established by the Arizona State Board of Technical Registration showing the existing and proposed boundaries, access, and utility easements.
c. Names, addresses, and telephone numbers of all parties of interest to the division.
d. A description of access to the parcels proposed to be divided and method by which such access is to be granted.
e. The current zoning of the parcels proposed to be divided.

f. A scaled site plan on blue-line or other reproduction showing the location of all; existing improvements and structures (wells, septic tanks, fences, etc) showing setbacks and distances between structures, on both the remaining parcels and parcels to be created by the proposed division.

g. The plat must comply with State and County standards as outlined in the "Gila County Record of Survey - Minor Land Division Map Guidelines."

h. The applicant provides 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.

i. Area and dimensions of all proposed lots, parcels or fractional interests

302.00 Action of the Director

The Director shall review the completed application and shall issue a decision to approve or deny the permit within thirty (30) days from receipt of the completed application which includes any required additional information, corrections and/or clarifications, otherwise the minor land division shall be deemed approved as submitted. A denial can only be based on one of the following findings:

a. The parcels resulting from the division do not conform to the applicable zoning regulations.

b. The proposed division constitutes a subdivision or conspiracy to subdivide as defined by this Ordinance.

c. One or more of the resulting parcels does not have unobstructed legal and physical access.

d. The plat or legal description is found to be inaccurate.

e. One or more of the resulting parcels does not have access to public utilities

.01 The Director shall review the decision to deny a minor land division upon the presentation of evidence that any deficiency in the application which resulted in denial has been complied with.

.02 Recordation Without Approval. Pursuant to the provisions of Arizona Revised Statutes, Section 11-809.E, recordation of a division of land may not be denied for noncompliance with the requirement for legal access or compliance with applicable zoning regulations. Should an applicant choose to record a Minor Land Division plat without a permit approved by the Director, the following statement shall be required to be placed on any deed or recorded plat in such manner that it becomes a matter of public record related to the parcels, lots or fractional interests created by the division:

> "Notice is hereby given that the parcel 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 and physical access exists in accordance with the provisions of the Minor Land Division Ordinance of Gila County. In consequence, any and all Gila County Development permits may be denied until such time as deficiencies relative to this parcel are corrected."

.03 Standards for conducting surveys: Surveys shall be conducted utilizing the Arizona Boundary Survey Minimum Standards.

ARTICLE IV - ENFORCEMENT AND EFFECTUATION

400.00 Violations

Henceforth, it shall be unlawful to create minor land divisions within the unincorporated areas of Gila County in violation of the terms of this Ordinance.

.01 Henceforth, it shall be unlawful for a person or group of persons acting in concert to attempt to avoid the provisions of this Ordinance or the subdivision laws of the State of Arizona by 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.

401.00 Penalties

Failure to comply with the terms of this Ordinance shall result in the withholding of any Gila County permits for development until such time as deficiencies relative to the parcels created by the Minor Land Division are corrected.

402.00 Separability

.01 If any article, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a decision of any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions. The Board hereby declares that it would have adopted this Ordinance and each article, section, subsection, sentence, clause and phrase thereof separately and irrespective of the fact that if any one or more of the articles, sections, subsections, sentences, clauses, or phrases be deemed unconstitutional or invalid.

.02 If the application of any provisions of this Ordinance to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the intent that the effect of such decision shall be limited to that tract of land immediately involved. Such a decision shall not affect, impair, or nullify this Ordinance as a whole or in any part in its application to any other tract of land.

Adopted by Gila County Board of Supervisors March 13, 1989.

Amended: August 7, 1989, October 15, 1990, September 24, 1996, June 20, 2003 and December 19, 2006.