

Board of Supervisors

Mike Palmer
Chairman,
District 2

Tony J. Saracino
District 1

Leslie E. Thompson
District 3



Jody N. Klein
Interim County Administrator

Nadine Parkhurst
Clerk

ORDINANCE NO. 013-94

REGULATING THE CREATION OF PUBLIC ROADS

HIGHWAY & FLOODPLAIN DEPARTMENT

AN ORDINANCE OF THE COCHISE COUNTY BOARD OF SUPERVISORS SPECIFYING THE CONDITIONS AND CIRCUMSTANCES UNDER WHICH PUBLIC ROADS MAY BE ESTABLISHED AND PROVIDING A MEANS OF ENFORCEMENT.

Section 1 Authority and Purpose

- a. The Board of Supervisors is authorized to lay out, maintain, control, and manage the public roads within Cochise County, A.R.S. §11-251(4), and the Board may adopt all ordinances necessary or proper to carry out the duties, responsibilities and functions of the County, A.R.S. §11-251.05.
- b. The unregulated and unauthorized establishment of substandard, dangerous, or inappropriate public roads solely through the actions of private parties poses a very real threat to the health, safety, and welfare to the citizens of this County and other travelers of such roads.
- c. The unregulated and unauthorized establishment of substandard, dangerous, or inappropriate public roads solely through the actions of private parties has the potential to mislead and confuse property owners as to the responsibilities assumed by the County for the maintenance and care of such roads.
- d. It is in the best interest of the citizens of this County that an Ordinance be adopted to specify the conditions and circumstances under which public roads may hereafter be established and to provide for a means of enforcement.

Section 2 Definitions

- a. Public Road. The entire width between the boundary lines of a tract of land used or intended for use by the public for purposes of vehicular travel and which meets the following criteria:
 - i. ownership of the property or of an easement across it has been transferred to the County or to the "public"; and

- ii. the County has the authority to control and manage the public use of this road upon appropriate governmental action. This may include, among other matters, the regulation of traffic or the maintenance and improvement of the roadway.

- b. Private road. A road other than a "public road." A private road may be made available for use by the public, or designated individuals, by its owner, as the owner may see fit. However, absent a formal acceptance of title to the property or to an easement by the County, the property shall remain under the control and management of the owner, subject only to easements specifically conveyed to or obtained by individual third parties, if any.

Section 3 Regulation of the Creation of Public Roads

- a. From the date of this Ordinance, no public road may be established within the unincorporated area of Cochise County without written acceptance by the Board of Supervisors or their appointed designee. This acceptance shall be indicated in writing on the deed of dedication, grant of right-of-way easement, subdivision plat, Report of Survey, or other instrument creating such public road prior to recording such document with the Cochise County Recorder.

- b. No dedication, grant, or conveyance for road purposes shall be accepted until such time as the designated roadway is properly designed, surveyed, and constructed in accordance with applicable standards for such roadways or appropriate improvement security is deposited or proved to insure proper completion. This shall not prohibit the perfection of right-of-way on currently maintained public roads or obtaining future rights-of-way which have been designated as Declared County Highways, or other right-of-way essential to the public transportation network as determined by the County Engineer.

- c. Any road, easement, or right-of-way which is created by any legal instrument or constructed after the date of this Ordinance without written Board acceptance is not a public road of this County. Until such acceptance is obtained, these roads, easements, or rights-of-way shall be private roads or private ways and the County shall assume no responsibility for their care, maintenance or improvement.

- d. From the date of this Ordinance, public roads created by the State Land Department, absent specific acceptance by the Board of Supervisors, will not be deemed to be public roads of the County, and the County will assume no responsibility for their care, maintenance, or improvement.

- e. No easement shall be permitted to intersect with any maintained public road within the unincorporated area of Cochise County unless the location, design, and construction of such intersection has been approved by the Cochise County Engineer, or his designee, in accordance with the Cochise County Right-of-Way Permit Resolution.

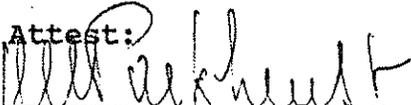
Section 4 Enforcement

- a. Any person who violates the requirements of this Ordinance by recording a document which purports to create a public road without proper approval shall be liable for all costs incurred in the enforcement of this ordinance. County costs shall include all associated personnel expenses, administrative costs, attorney's fees and all other direct and indirect expenses.
- b. The County Recorder and the County Assessor, and their respective deputies and assistants, are hereby directed to advise the County Engineer or his designee, in writing, of any document recorded after the date of this Ordinance which purports to dedicate or grant a public roadway without the approval of the Board of Supervisors. The County Engineer, or his designee, upon the receipt of such notice, is directed and authorized to record formal notice of the disclaimer of any public interest in the purported public road, to initiate formal abandonment proceedings, or to pursue other applicable procedures to enforce the other provisions of this Ordinance.

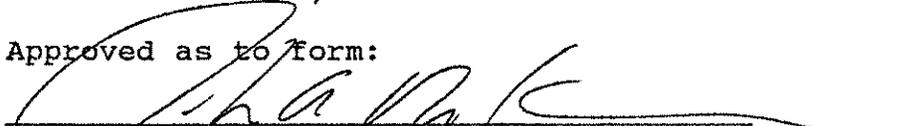
Passed and adopted by the Board of Supervisors of the County of Cochise this 2ND day of MAY, 1994.



 Tony J. Saracino, Chairman
 Board of Supervisors

Attest:


 Nadine Parkhurst, Clerk of the Board

Approved as to form:


 John MacKinnon, Deputy County Attorney