

**ZONING ORDINANCE 10-02**

**AMENDING THE COCHISE COUNTY ZONING REGULATIONS DEFINITION OF "RURAL LANDS" FOR THE PURPOSES OF THE COCHISE COUNTY BUILDING SAFETY CODE AND ESTABLISHING REVISED ELIGIBILITY CRITERIA FOR THE COCHISE COUNTY OWNER BUILDER OPT OUT AMENDMENT TO THE BUILDING SAFETY CODE**

**WHEREAS**, the Cochise County Zoning Regulations provide the definition of "Rural Lands" for purposes of the Cochise County Building Safety Code; and

**WHEREAS**, it is the purpose of the Cochise County Owner-Builder Opt Out Amendment to allow owner-builders to opt out of the requirement for Plan Review and Site Inspections if they are located in areas defined by the Cochise County Zoning Regulations as "rural lands"; and

**WHEREAS**, the Cochise County Board of Supervisors recognizes that:

- 1) Significant areas meeting the amended definition of "Rural Lands" exist in unincorporated areas of Cochise County;
- 2) The Cochise County Owner Builder Opt Out Amendment is designed to provide Owner- Builders in rural lands flexibility in the application of the provisions of the Cochise County Building Safety Code; and

**WHEREAS**, the existing Cochise County Owner-Builder Opt Out Amendment provides relief to rural property owners from the expenses associated with full plan review and inspections; and

**WHEREAS**, the Board has determined that it is in the best interest of rural County residents to expand the reach of the Owner-Builder Opt Out Amendment while preserving public safety; and

**WHEREAS**, the Cochise County Planning and Zoning Commission held a duly noticed public hearing on January 13, 2010, on the proposed amendments to the Zoning Regulations and the Owner-Builder Opt Out Amendment, hereby known as Docket R-10-01, attached here as Exhibit A; and

**WHEREAS**, parcels not located in areas defined as "Rural Lands" under this amendment shall not be eligible for relief under the Cochise County Owner Builder Opt Out Amendment,

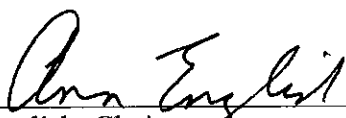
**ZONING ORDINANCE 10-02**

**Re: Amending Definition of "Rural Lands" – Owner Builder Opt Out Amendment**

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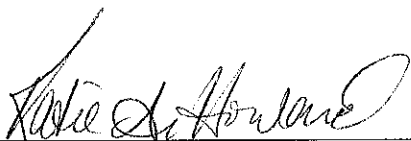
**NOW, THEREFORE, IT IS HEREBY RESOLVED** that said Regulations be amended to define "Rural Lands" for purposes of the Cochise County Building Safety Code and the Owner Builder Opt Out Amendment as described in Exhibit A.

**PASSED AND ADOPTED** by the Board of Supervisors of Cochise County on this 2<sup>nd</sup> day of March, 2010.



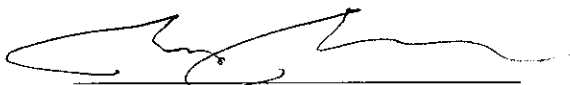
Ann English, Chairperson *3-02-10*  
Cochise County Board of Supervisors

**ATTEST:**



Katie A. Howard  
Clerk of the Board

**APPROVED AS TO FORM:**



Adam Ambrose  
Civil Deputy County Attorney



## **COCHISE COUNTY PLANNING DEPARTMENT**

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### **Exhibit A-1 to Zoning Ordinance 10-02**

## **Amendment to the Cochise County Building Safety Code for Owner-Built Rural Residential Dwellings:**

### **Section 1- Purpose and Intent.**

The purpose of this amendment is to exempt a Rural Residential Owner-Builder from the requirement for construction plan review and inspection under the currently adopted version of the Cochise County Building Safety Code, provided the property is located in a zoning district with a minimum parcel size of four (4) acres per dwelling unit. This option is available for *residential* construction projects only. This amendment also allows an Owner-Builder to opt to comply with the Cochise County Building Safety Code plan review but limit inspections. Such an Owner-Builder may, of course, also opt for compliance with the Cochise County Building Safety Code accompanied by full plan review and inspections. This amendment is intended to allow the owner-builder the option to construct owner-occupied residential structures without County plan and inspection oversight, if the property is located in an area defined as "rural".

By statute, this exemption does not exempt owner-builders from statewide codes such as the plumbing, and state, county, or fire-district adopted fire codes and regulations regarding smoke detectors, nor does it exempt owner-builders from health regulations regarding wastewater treatment systems.

### **Section 2 - Application.**

Rural – properties in any Zoning District with a maximum density of one dwelling unit per four acres or larger, as long as the subject parcel is of a size and configuration that conforms to the Zoning District in which it is located.

The provisions of this amendment shall apply to the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy and maintenance of limited density owner-built residential rural dwellings and accessory structures situated within the designated areas of Cochise County.

This amendment is limited to use by the owner-builder once in every five years for *Residential Dwellings* on all properties within the unincorporated area of Cochise County owned by that individual. This limitation does not apply to accessory structures or additions on the same property.

### **Section 3 - Definitions.**

For the purpose of this amendment the following definitions shall apply:

A) Limited Density - Residential Rural Dwelling: Any site built residential structure consisting of one or more habitable rooms intended or designed to be occupied by one family with facilities for living and sleeping, with the use restricted to rural areas that fulfill the requirements of this amendment.

B) Owner-Builder: Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent.

C) Rural: For the purpose of this regulation only, "Rural" shall mean those unincorporated areas of the county eligible for the application of this regulation and as described in Section 2.

### **Section 4 - Regulation of Use.**

A) For the purposes of this amendment, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such project was undertaken for the purpose of sale or rent. As used in this paragraph "sale" or "rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or transfer of the property or the structures on the property.

B) The *Owner-Builder* in selecting to use this amendment is strongly encouraged to take advantage of the best water conservation practices available at the time of construction (Note: county water conservation site development standards may be mandatory in some areas of the County.). Additionally, if the property is located in the vicinity of a military airport the *Owner-Builder* is required to provide high noise sound attenuation through the construction materials selected for the project as defined and required by ARS § 28-8482B.

### **Section 5 - Amendment Options.**

Option 1: Full Construction Plan Review with Limited Building Code Inspection: This option when selected by the applicant during the permit issuance process requires (in addition to *Zoning* and other County Departments inspection requirements) that only limited Building Code inspections dealing with the trade areas of Mechanical, Electrical, Plumbing and Fire Prevention be completed by County Building Inspectors. Full construction plan review and the required limited inspections for this option will be completed in accordance with the adopted *Cochise County Building Safety Code*.

Option 2: No Construction Plan Review with No Building Code Inspection: This option, when selected by the applicant during the permit issuance process requires (in addition to *Zoning* and other *County Departments* inspection requirements) that no building code inspections be completed by County Building Inspectors. In addition, by selecting this option, no construction plans are required to be submitted or reviewed by the *County Planning Department*.

### **Section 6 - Recording.**

Each time a permit is issued pursuant to this amendment for residential dwellings, additions or accessory structures a notice that a permit has been issued pursuant to the provisions of this article shall be recorded with the County Recorder by the Planning Department.

### **Section 7 - Permits.**

This amendment does not affect the requirement that prior to construction the Rural Owner-Builder must obtain all permits required under State law and County ordinance.

### **Section 8 - Application Process.**

To obtain a permit, the applicant shall first file an application with the Planning Department. Permit applications shall contain the following information:

- 1) Name and mailing address of the owner(s) of record;
- 2) Address and location of the proposed structures;
- 3) A general description of the proposed structure(s) or proposed work;
- 4) A site plan conforming to Section 1705 of the Cochise County Zoning Regulations; *Setback information from the proposed structure to the property lines in all directions shall be mandatory for consideration of eligibility for the Owner-Builder Option.*
- 5) The signature of the owner of record or authorized agent;
- 6) The use or occupancy for which the work is intended;
- 7) Any other data or information as may be required by statute or regulation; and
- 8) A stipulation by the owner of record or authorized agent that the building or structure is to be constructed by the owner, or built for occupancy of the owner by licensed contractors with the owner-builder acting as the General Contractor;
- 9) The selection of the owner-builder option of choice by the owner of record or authorized agent is contained in Section 5 of this amendment.

**Section 9 - Construction Plans.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Two copies of Construction Plans (when applicable) for the proposed project shall be submitted to the Planning Department for review and approval. These Construction Plans may be hand drawn by the applicant and may include a simplified diagram of the floor plan, structure elevations and construction details in order to determine the appropriate dimensions of structural members.

**Section 10 - Waiver of Plans.**

The Planning Department shall waive the submission of any plans if the department finds that the nature of the work applied for is such that the reviewing of plans is not necessary to obtain compliance with this amendment. The Planning Department shall waive the submission of construction plans when the regulation option of *No Construction Plan Review with No Building Code Inspection* is selected at the time of permit application.

**Section 11 - Modifications.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Modifications to the design, materials, and methods of construction are permitted, provided that the structural integrity of the building or structure is maintained, the building continues to conform to the provisions of this regulation, and the Planning Department is notified in writing of the intended modification and approves the modification prior to construction.

**Section 12 - Permit Expiration.**

Any building permit issued under this amendment shall be valid, without renewal, for a maximum period of 36 months for the Owner-Builder to show compliance with all County zoning regulations, setback requirements, and all state and local code requirements for which exemption does not apply as noted in Section 1.; however, the *County Zoning Inspector* may, upon written request of the permittee, extend the time limit for the permit once for an additional 12 months. Any construction work eligible for exemption for applicants applying under *Option 2: No Plan Review and No Inspections* shall not be subject to this permit expiration period.

**Section 13 - Inspections.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

All construction or work for which a permit is required will be subject to inspection within the designated scope option of this amendment by the Planning Department. If an inspection is required, such construction or work shall remain accessible and exposed for inspection purposes until approved.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code amendment or of other ordinances of the jurisdiction. Neither the building

official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material to allow inspection.

At anytime during the construction process for the *Full Construction Plan Review with Limited Inspections* option an applicant may elect to have an additional *Building Code* inspection completed (work being inspected must be accessible and exposed), in addition to the inspections already required under their selected option, at the adopted per hour inspection fee by a County Building Inspector.

#### **Section 14 - Special Inspections.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Certain types of construction may require *Special Inspections*, when applicable, by Arizona Registered Design Professionals as required under Section 1704 of the adopted International Building Code and as determined by the Building Official.

#### **Section 15 - Inspection Requests and Notice.**

It shall be the duty of the applicant to notify the Planning Department that the construction is ready for inspection and to provide access to the premises when applicable. Inspections shall be requested by the applicant at least twenty-four (24) hours in advance of the intended inspection. It shall be the duty of the Planning Department to notify or inform the applicant of the day during which the inspection is to be conducted.

#### **Section 16 - Certificate of Occupancy.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

After the dwelling(s) is completed for occupancy and any inspections which have been required by the Planning Department have been conducted and work approved, the Planning Department shall issue a conditioned Certificate of Occupancy for such dwelling(s) and accessory structure(s), which comply with the provisions of this amendment.

#### **Section 17 - Temporary Occupancy.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

The use and occupancy of a portion or portions of a dwelling or accessory structure prior to the completion of the entire structure shall be allowed, provided that approved sanitary facilities are available at the site and that the work completed does not create any condition to an extent that endangers life, health or safety of the public, visitors or occupants of the structure or portion thereof. Prior to any temporary occupancy of the dwelling or accessory structure a temporary occupancy inspection must be completed and approved by the Planning Department.

**Section 18 - Fees.**

Fees shall be required and collected by the Planning Department to provide for the cost of administering the provisions of this amendment as adopted by the Board of Supervisors. It is the intent of this amendment that permit processing and inspection fee schedules be established to reflect the actual inspection and administrative costs resulting from the application of the amendment.

**Section 19 - General Requirements.**

Each structure shall be built and maintained in a sound structural condition to be safe, sanitary, and to shelter the occupants from the elements.

**Section 20 - Mechanical Requirements.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Fireplaces, cooling, heating, cooking appliances and gas piping installed in buildings constructed pursuant to this amendment shall be installed and vented in accordance with the requirements contained in the currently adopted *Cochise County Building Safety Code*.

**Section 21 - Electrical Requirements.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Where electrical wiring or appliances are installed, the installation shall be in accordance with the provisions contained in the currently adopted *Cochise County Building Safety Code*.

Exceptions: No dwelling or accessory structure constructed pursuant to this amendment shall be required to be connected to a source of electrical power, or wired, or otherwise fitted for electrification. In structures where electrical usage is confined to one or more rooms of a structure, the remainder of the structure shall not be required to be wired or otherwise fitted for electrification unless the Planning Department determines the electrical demands are expected to exceed the confinement and capacity of that room(s). It is the intent of this subsection to apply to buildings in which there exists a workshop, kitchen, or other single room, which may require electrification, and where there is no expectation of further electrical demand.

**Section 22 - Plumbing Requirements.**

(Full Construction Plan Review with Limited Building Code Inspection Option Only)

Plumbing equipment, systems and installation shall be in accordance with the requirements contained in the *Cochise County Building Safety Code* and the *Cochise County Health Department* regulations. Alternative materials and methods shall be permitted provided that the design complies with the intent of the *County* codes and regulations. Potable water shall be available to the dwelling site.

**Section 23 - Fire Prevention Requirements.**

Residential Smoke Detectors shall be provided in accordance with the requirements contained in the *Cochise County Building Safety Code*.

**Section 24 - Sanitation Requirements.**

Sanitation facilities, including the type, design, and number of facilities, as required and approved by the *County Director of Environmental Health*, shall be provided to the dwelling site.

**Section 25 - Violations.**

The critical concern in the promulgation of this amendment is to provide for health and safety while maintaining respect for the law and voluntary compliance with the provisions of this amendment, and therefore, in the event that an order to correct a substandard condition (based on the level of option selected) is ignored, it is the intent of this section that the adopted *County Hearing Officer Rules of Procedure* for violations be followed.

**Section 26 - Petitions for Appeals.**

When applicable for a particular issue the adopted appeals process contained in the *Cochise County Zoning Regulations* or the *Cochise County Building Safety Code* shall be followed to hear and decide appeals dealing with issues on this amendment. The department shall keep a record of the decisions on appeals.

**Section 27 - Rezoning and Change of Use.**

If a structure(s) on a property has been built or altered under the relief granted by this amendment, this would be considered a factor against a rezoning to a higher density or a change of use if this action diminishes the parcel size to less than one dwelling unit per four acres. Any change of use from a residential dwelling to a commercial use shall require certification by a registered design professional that the building complies with the currently adopted *Cochise County Building Code*.

## **Adopted Exhibit A-2 to Zoning Ordinance 10-02, March 3, 2010**

### **ARTICLE 5, ZONING DISTRICTS, MAPS, AND BOUNDARIES**

#### **508 Rural Zoned Districts**

For the purposes of application of building codes, qualifying land for Owner-builder Residential Opt Out shall include all lands in any Growth Area Category and lying within a Zoning District in which the minimum lot size is four-acres and the parcel is a minimum of four-acres. Certain lands within the above Areas, as specified in the ordinance establishing building codes or that specified exemptions for Owner Built Rural Residential structures, as currently adopted or as may hereafter be amended, may be exempted from the Cochise County Building Safety Code by the Board pursuant to A.R.S. section 11-861 et. seq.