



STAFF REPORT

To: Summit County Council

From: Blaine Thomas

Date: July 30, 2020

AGENDA ITEM: Consideration and possible approval of Ordinance _____ adopting amendments to Title 1, Chapter 13 of the Summit County Code: Administrative Code Enforcement Program.

State law allows counties to “adopt an ordinance establishing an administrative hearing process to review and decide matters relating to the violation, enforcement, or administration of a county civil ordinance.”¹

Summit County (the “County”) has adopted an administrative hearing process (“Administrative Code Enforcement Hearing Program”).²

With only one code enforcement officer, the County has a limited ability to enforce its civil ordinances, which enforcement is an important county function. In order to perform that function, while at the same time to protect tax dollars and keep costs low, staff recommends amending the Code Enforcement Program to grant special service districts the authority to enforce code enforcement programs proposed by a special service district within the county and adopted by ordinance by the County Council as governing body.

The immediate purpose for allowing special service districts to participate in the code enforcement program will be to enlist help addressing the issue of keeping emergency egress near trailheads accessible. Summit County does not have the staff available to maintain its trailheads at a level sufficient to ensure safe egress in case of emergency. This has been a top priority for the County.

¹ Utah Code Annotated § 17-53-228.

² Title I, Ch. 13, Summit County Code.

If the Code Enforcement Hearing Program is amended as proposed, Snyderville Basin Recreation Special Service District intends to propose a code enforcement program that will allow it to help keep emergency egress near trailheads accessible.

The general language in this amendment will allow other special service districts to propose rules and regulation by ordinance as needs arise. It is anticipated that Summit County Wildland Fire Service Area and possibly Park City Fire District will propose a code enforcement program that will allow it/them to help address the issue of reducing the risk and spread of fire.

RECOMMENDATION

Staff is recommending the approval and passing of Ordinance No. ___ adopting the **amendments to Title 1, Chapter 13 of the Summit County Code:** Administrative Code Enforcement Hearing Program as the official county code enforcement program and authorizing special service districts to utilize this same program to enforce their code enforcement programs where such are proposed to and adopted by ordinance by the County Council.

ORDINANCE #

AN ORDINANCE AMENDING
THE ADMINISTRATIVE CODE ENFORCEMENT
HEARING PROGRAM WITHIN SUMMIT COUNTY

Preamble

WHEREAS, the Summit County Council has determined that administrative enforcement of the duly adopted rules and regulations of its Special Service Districts as well as the provisions of the Summit County Code and applicable state statutes (altogether referred to herein as “code”) is in the best interests of the citizens of the County; and

WHEREAS, Summit County has adopted an Administrative Code Enforcement program to aid in code enforcement which initially imposes civil penalties for code violations; and

WHEREAS, the Special Service Districts also have need to enforce their duly adopted regulations through civil enforcement but have no ability or mechanism to administer that enforcement; and

WHEREAS, the Summit County Council is the Governing Board of the Special Services Districts and also acts as the adopting body of their respective regulations; and

WHEREAS, allowing the Districts to join in and utilize the civil enforcement of the Administrative Code Enforcement Program would be an efficient use of governmental resources and tax dollars; and

WHEREAS, the Summit County Council has determined that the Administrative Code Enforcement Hearing Program should be amended to allow special service districts within the county to have access to and use of the Administrative Code Enforcement Hearing Program;

NOW, THEREFORE, BE IT ORDAINED BY THE SUMMIT COUNTY COUNCIL AS FOLLOWS:

Section 1. Title 1, Chapter 13 of the Summit County Code should be amended as provided in the attached Appendix A.

Section 2. That the Special Service Districts desiring to utilize the Administrative Code Enforcement Hearing Program shall enter into interlocal agreements with Summit County to further define the costs and responsibilities associated with the program.

Section 3. Severability. If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision, clause or application hereof. To this end, the provisions and sections of this Ordinance are declared to be severable.

Section 4. Effective date. The County legislative body herewith finds that for the immediate preservation of the peace, health and safety of the County and the inhabitants thereof, this Ordinance shall be effective on _____, 2020.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this ___ day of _____, 2020.

SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, STATE OF UTAH

Council Member Armstrong voted: _____
Council Member Carson voted: _____
Council Member Clyde voted _____
Council Member Robinson voted: _____
Council Member Wright voted _____

By: _____
Douglas Clyde, Chair

ATTEST:
SUMMIT COUNTY CLERK

APPROVED AS TO FORM:
SUMMIT COUNTY ATTORNEY

County Clerk

By: _____
Deputy County Attorney

APPENDIX A

Summit County Code Title 1, Chapter 13 ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM

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1-13-1: GENERAL PROVISIONS:

A. Short Title: This chapter shall be known as the *ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM* or *ACE PROGRAM*.

B. Purpose: The county council finds that the enforcement of this code, the adopted rules and regulations of special service districts within the county, and applicable state statutes (altogether referred to herein as “code”) is an essential public function. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The county council therefore recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The county council finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations. Failure to comply with an administrative code enforcement order may require the county to file a criminal or civil action, or for a special service district to file a civil action to gain compliance.

C. Scope: The provisions of this chapter may be applied to all violations of this code, the adopted rules and regulations of special service districts within the county, and applicable state statutes. It has been designed as an additional remedy for the county's use in achieving compliance with county ordinances; and, for the use of special service districts within the county in achieving compliance with their rules and regulations. Nothing in this chapter is intended to grant any special service district authority to enforce its rules and regulations under this chapter unless the county council adopts by ordinance the code enforcement program proposed by the special service district.

D. Existing Law Continued: The provisions of this chapter do not invalidate any other provision of this code, other county ordinances, or the adopted rules and regulations of special service districts within the county, but shall be read in conjunction therewith as an additional remedy.

E. Civil Liability: By establishing performance standards and obligations to act, it is the intent of the Summit County council that Summit County employees and officers, as well as employees and officers of special service districts, exercise discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

F. General Rules Of Interpretation: For purposes of this chapter:

1. Any gender includes the other gender.
2. "Shall" is mandatory; "may" is permissive.
3. The singular number includes the plural and the plural the singular.
4. Words used in the present tense include the past and future tense, and vice versa.
5. Words and phrases used in this chapter and not specifically defined shall be construed according to the context and approved usage of the language.

G. Acts Include Causing, Aiding, Abetting: Whenever any act or omission is made unlawful in this chapter, it shall include causing, permitting, aiding, or abetting such act or omission.

1-13-2: DEFINITIONS:

The following words and phrases, whenever used in this chapter, shall be applied as defined in this section, unless a different meaning is specifically defined elsewhere in this chapter and

specifically stated to apply:

ADMINISTRATIVE CITATION: A citation issued to a responsible person which gives a reasonable notice of a violation.

ADMINISTRATIVE CODE ENFORCEMENT BOND: A surety bond which guarantees abatement of a violation.

ADMINISTRATIVE CODE ENFORCEMENT HEARING OR HEARING: A hearing held pursuant to the procedures established by this chapter and at the request of a responsible person charged with a violation.

ADMINISTRATIVE CODE ENFORCEMENT ORDER: An order issued by an administrative law judge. The order may include an order to abate the violation, pay civil fees and administrative costs, or take any other action as authorized or required by this chapter and applicable state statutes.

ADMINISTRATIVE LAW JUDGE: An individual appointed by the county council to preside over administrative code enforcement hearings.

COMMUNITY DEVELOPMENT DIRECTOR: The department head of the Summit County department of community development.

COUNTY: Summit County, Utah.

~~**COUNTY CODE OR CODE:** The Summit County code.~~

COUNTY COUNCIL: The legislative body of Summit County and the governing body of special service districts located within the County.

COUNTY MANAGER: The chief executive officer of Summit County.

~~**DISTRICT MANAGER:** The chief executive officer of special service districts located within the County.~~

ENFORCEMENT OFFICIAL: Any person authorized to enforce violations of any applicable laws or the adopted rules and regulation of special service districts within the county including, but not limited to, code enforcement officers, fire marshals, fire wardens, sheriff deputies, engineering inspectors, building inspectors, the building official, health inspectors, and health officials. If the enforcement official issuing a citation is not certified by the Peace Officer Standards and Training Council (“POST certified”), the maximum penalty that may be proscribed by the enforcement official is an infraction.

FINANCIAL INSTITUTION: Any person that holds a recorded mortgage or deed of trust on a property.

GOOD CAUSE: Incapacitating illness; death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance, and acts of nature adverse to performing required acts.

IMMINENT LIFE SAFETY HAZARD: Any condition that creates a present, serious, and immediate danger to life, property, health, or public safety.

LEGAL INTEREST: Any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the Summit County recorder.

NOTICE OF COMPLIANCE: A document issued by the county, [or a special service district located within the County](#), representing that a property complies with the requirements outlined in the notice of violation, and that all outstanding civil fees and costs have been satisfied (either by being paid in full, or a subsequent administrative or judicial decision has resolved the outstanding debt).

NOTICE OF VIOLATION: A written notice prepared by an enforcement official that informs a responsible person of code violations and requires them to take certain steps to correct the violations.

PERSON: Any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, manager, lessee agent, sergeant, officer, or employee of any of them or any other entity that is recognized by law as the subject of rights or duties.

PROPERTY OWNER: The recorded owner of real property as shown on the records of the Summit County recorder or assessor.

PUBLIC NUISANCE: Any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community by any considerable number of persons.

RESPONSIBLE PERSON: Any person who is responsible for causing or maintaining a violation of this code, [the adopted rules and regulations of special service districts within the county](#), or applicable state statutes. The property owner, tenant, person with a legal interest in the real property, or person in possession of the real property, or if a business, the business manager or owner, shall be liable for any violation maintained on the property. In all cases, the property owner shall be considered a responsible person.

WRITTEN: Includes handwritten, typewritten, photocopied, computer printed, or facsimile.

1-13-3: GENERAL ENFORCEMENT AUTHORITY:

Whenever an enforcement official determines that a violation of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes has occurred or continues to exist, he or she may undertake any of the procedures herein. Any designated enforcement official shall have the authority to gain compliance with the provisions of this code, the adopted rules and regulations of special service districts within the county, and applicable state statutes subject to the provisions of this chapter. Such authority shall include the power to issue notices of violation and administrative citations, inspect public and private property, abate nuisances on public and private property, and to use any remedy available under this chapter or state law. (Ord. 710, 12-17-2008, eff. 1-1-2009)

1-13-3-1: SERVICE REQUIREMENTS; SERVICE OF PROCESS:

- A. Whenever notice is required to be given under this chapter for enforcement purposes, the document shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply:
1. ____ Regular mail, postage prepaid, to the last known address of the property owner or other responsible person;
 2. ____ Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as in subsection A1 of this section;
 3. ____ Personal service; or
 4. ____ Published in a newspaper of general circulation once a week for a period of two (2) weeks.
- B. Service by regular mail in the manner set forth above shall be deemed served on the seventh calendar day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addressees shall be deemed served on the tenth calendar day after the date of mailing.
- C. If service complies with the requirements of this section, it shall be deemed a valid service even if a person claims not to have received the service and it shall not affect the validity of any proceedings taken under this chapter.
- D. The failure to serve all responsible persons shall not affect the validity of any proceedings.

1-13-3-2: ADOPTION OF POLICY AND PROCEDURES:

The administrative law judge shall approve the policy relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the administrative code enforcement

hearing program. The county council shall approve the policy for the appointment of the administrative law judge, and the use of the administrative procedures herein by enforcement officials.

1-13-3-3: AUTHORITY TO INSPECT:

Enforcement officials are hereby authorized, in accordance with the applicable law, to enter upon any property or premises to ascertain whether the provisions of this code, [the adopted rules and regulations of special service districts within the county](#), or applicable state statutes are being obeyed and to make any reasonable, lawful examination or survey necessary to determine compliance with this code or applicable state statutes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If a property owner or responsible person refuses to allow an enforcement official to enter the property, the enforcement official shall obtain a search warrant before entering the property.

1-13-3-4: FALSE INFORMATION OR REFUSAL PROHIBITED:

It shall be unlawful for any person to wilfully make a false statement or refuse to give his name or address with intent to deceive or interfere with an enforcement officer when in the performance of his official duties under the provisions of this chapter. [A violation of this section shall be considered a class B misdemeanor and will be referred to the Summit County Attorney's Office for prosecution.](#)

1-13-3-5: FAILURE TO OBEY A SUBPOENA:

It shall be unlawful for any person to wilfully refuse or fail to obey a subpoena issued for an administrative enforcement hearing. A violation of this section shall be a class B misdemeanor.

1-13-4: ADMINISTRATIVE CODE ENFORCEMENT REMEDIES AND PROCEDURES:

1-13-4-1: AUTHORITY:

Any condition caused, maintained, or permitted to exist in violation of any provisions of this code, [the adopted rules and regulations of special service districts within the county](#), or applicable state statutes may be abated by the county [or special service district](#), pursuant to the procedures set forth in this chapter.

1-13-4-2: NOTICE OF VIOLATION:

A. Declaration Of Purpose: The Summit County council finds that there is a need for alternative methods of enforcement for violations of this code, [the adopted rules and regulations of special service districts within the county](#), and applicable state statutes that are found to exist on real property. The county council further finds that one appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation. The procedures established in this section shall be in addition to criminal, civil, or

any other remedy established by law that may be pursued to address the violation of this code or applicable state statutes.

B. Procedure: Whenever any enforcement official determines that a violation of this code, [the adopted rules and regulations of special service districts within the county](#), or applicable state statutes has occurred or continues to exist, the enforcement official may issue a notice of violation to a responsible person. The notice of violation shall include the following information:

1. Name of property owner or responsible person,
2. Street address of violation,
3. Date the violation was observed,
4. All code sections violated and a description of the violation,
5. A statement explaining the type of remedial action required to permanently correct the outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action,
6. Specific date to correct the violations listed in the notice of violation,
7. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation (which may include, but is not limited to, criminal prosecution; civil fees; costs; and any other legal remedies),
8. The amount of any civil fees for each violation and a statement that the civil fees shall accrue daily, immediately upon expiration of the date to correct violations, until the violation is corrected,
9. That only one notice of violation is required for any twelve (12) month period, and that civil fees begin immediately upon any subsequent violations of the notice (the responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice), and
10. Procedures to request a hearing as provided in subsection [1-13-4-4C](#) of this chapter, and consequences for failure to request one.

The notice of violation shall be served by one of the methods of service listed in section [1-13-3-1](#) of this chapter.

More than one notice of violation may be issued against the same responsible person if it encompasses different dates, or different violations.

C. Failure To Bring Property Into Compliance:

1. Civil Fees: If a responsible person fails to bring a violation into compliance before the date given to correct the violation, civil fees shall be owed to the county or special service district located within the county, for every day of each violation and continuing violation.
2. Misdemeanor: Unless otherwise specified, Failure to comply with the notice of violation is a class C misdemeanor.
3. Recording Of Notice Of Violation:
 - a. Once the enforcement official has issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, and no request for a hearing has been filed, the enforcement official may record a notice of violation with the Summit County recorder's office.
 - b. If a hearing is requested and held, and the notice of violation is upheld; the enforcement official may record the notice of violation with the Summit County recorder's office.
 - c. The recordation shall include the name of the property owner or responsible person, the parcel number, the legal description of the parcel, and a copy of the notice of violation.
 - d. The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.
 - e. A notice of the recordation shall be served on the responsible person or property owner pursuant to any of the methods of service set forth in section 1-13-3-1 of this chapter.

D. Inspections: At the time that the notice of violation is issued, the enforcement official may require that the responsible person request an inspection when a violation is brought into compliance. If this is done, it shall be the duty of the responsible person served with the notice of violation to request the inspection when his or her property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested. Civil fees accumulate daily until the property has been inspected and a notice of compliance is issued. Reinspection costs may be assessed if more than one inspection is requested or necessary.

E. Failure To Request Hearing: The failure of any person to file a request for an administrative code enforcement hearing within ten (10) calendar days of being served with a notice of violation shall constitute a waiver of the right to a hearing and a waiver of the right to appeal and shall not affect the validity of a recorded notice of violation.

F. Notice Of Compliance; Procedures:

1. If an inspection is required by the enforcement official, it shall be the duty of the responsible person to request such inspection.
2. Upon receipt of a request for inspection, the enforcement official shall inspect the property as soon as practicable to determine whether the violations have been corrected, whether all necessary permits have been issued and final inspections have been performed as required by applicable code.
3. The enforcement official shall serve a notice of compliance to the responsible person in the manner provided in section [1-13-3-1](#) of this chapter, so long as the enforcement official determines that:
 - a. All violations listed in the notice of violation have been corrected;
 - b. All necessary permits have been issued;
 - c. All assessed civil fees have been paid or satisfied; and
 - d. All assessed administrative fees and costs have been paid or satisfied.
4. If the enforcement official denies a request to issue a notice of compliance, the enforcement official shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in section [1-13-3-1](#) of this chapter.
5. The enforcement official or responsible person shall record the notice of compliance with the Summit County recorder's office if a notice of violation was previously recorded. Recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation.

G. Prohibition Against Issuance Of Permits: From the time that any notice of violation is given, the county [or special service district](#) may withhold permits for any alteration, repair, construction, or occupancy which pertains to any existing or new structures or signs on the property or any permits pertaining to the use and development of the real property or the structure where a violation is located. The county [or special service district](#) may withhold permits until a notice of compliance has been issued by the enforcement official. The county

or special service district may not withhold permits that are necessary to obtain a notice of compliance or that are necessary to correct serious health and safety violations.

1-13-4-3: ADMINISTRATIVE CITATIONS:

A. Declaration Of Purpose:

1. The county council finds that there is a need for an alternative method of enforcement for violations of this code, the adopted rules and regulations of special service districts within the county, and applicable state statutes. The county council further finds that an appropriate method of enforcement is an administrative citation program.
2. The procedures established in this section shall be an alternative and in addition to criminal, civil, or any other legal remedy established by law or this code that may be pursued to address violations of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes.

B. Authority:

1. Any person violating any provision of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes may be issued an administrative citation by an enforcement official as provided in this section.
2. A civil fee shall be assessed by means of an administrative citation issued by the enforcement official, and shall be payable directly to the Summit County treasurer or the equivalent officer for a special service district.

C. Procedures:

1. Upon discovering any violation of this code, the adopted rules and regulations of special service districts within the county, or applicable state statute, an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this section. The administrative citation shall be issued on a form approved by the administrative law judge.
2. If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in section 1-13-3-1 of this chapter.

3. Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings.
4. If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation may be mailed to the responsible person in the manner prescribed in section [1-13-3-1](#) of this chapter and also be posted in a conspicuous place on or near the property.
5. The administrative citation shall also contain the signature of the enforcement official.
6. The failure of any person with a third party legal or other interest in the property to receive notice shall not affect the validity of any proceedings taken under this section.

D. Contents Of Administrative Citation:

1. The administrative citation shall refer to the date and location of the violation(s) and the approximate time the violation(s) was observed.
2. The administrative citation shall refer to the code sections violated.
3. The administrative citation shall state the amount of the administrative civil fee imposed for the violation(s).
4. The administrative citation shall explain how the civil fee shall be paid, the time period by which the civil fee shall be paid, and the consequences of failure to pay the civil fee.
5. The administrative citation shall identify the right and the procedures to request a hearing.
6. The administrative citation shall contain the signature of the enforcement official and the signature of the responsible person.

E. Civil Fees Assessed:

1. Civil fees shall be assessed immediately for each violation listed on the administrative citation. The fees shall be those established in the Summit County administrative fee schedule, [or in the fee schedule of the special service district bringing the action.](#)
2. Payment of the fee shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the county [or special service district.](#)

F. Cost Recovery; Emergency Response Costs:

1. Recovery of costs incurred by the county or special service district for assistance rendered by the county or special service district in responding to a reckless burning, release of hazardous materials, or false alarm, as defined in this code, is authorized under this chapter.
2. "Costs" are defined as the actual costs of government and volunteer personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the costs of any contract labor and materials.

1-13-4-4: ADMINISTRATIVE CODE ENFORCEMENT HEARING PROCEDURES:

A. Declaration Of Purpose: The Summit County council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to this code. It is the purpose and intent of the county council that any responsible person be afforded due process of law during the enforcement process. Due process of law includes notice, an opportunity to request and participate in the hearing and an explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative code enforcement action while providing due process.

B. Authority And Scope Of Hearings: The administrative law judge shall approve a policy to regulate the hearing process for any violation of this code, the adopted rules and regulations of special service districts within the county, and applicable state statutes that are handled pursuant to this chapter.

C. Request For Administrative Code Enforcement Hearing:

1. A responsible person served with one of the following documents or notices has the right to request an administrative code enforcement hearing if the hearing request is filed within ten (10) calendar days from the date of service of one of the following notices:
 - a. Notice of violation.
 - b. Administrative citation.
2. The request for a hearing shall be made in writing and filed with the administrative law judge. The request shall contain the complaint file number, the address of the violation, and the signature of the responsible person.

3. As soon as practicable after receiving the written request for a hearing, the administrative law judge shall schedule an official date, time, and place for the hearing. The administrative law judge shall notify the responsible person, enforcement official and any other applicable parties of the date, time and place of the hearing by any of the methods listed in section [1-13-3-1](#) of this chapter at least seven (7) calendar days prior to the date of the hearing.
4. Failure to request a hearing within ten (10) calendar days from the date of service of any of the notices in subsection C1 of this section shall constitute a waiver of the right to a hearing.
5. If a responsible person fails to request a hearing after being issued a notice of violation or administrative citation as provided herein, such failure to request a hearing shall be considered a waiver by the responsible person of their right to said hearing and the following actions may be taken:
 - a. The corrective action detailed on the notice of violation or administrative citation may be considered an administrative code enforcement order pursuant to subsection D of this section; or
 - b. A default may be entered against the responsible person and the county, [or special service district within the county](#), may seek to have an administrative code enforcement order issued by the administrative law judge without further notice to the responsible person; or
 - c. The enforcement official may request a default hearing before the administrative law judge.
6. An emergency hearing may be requested by the enforcement official or responsible person during special events and on occasions that time is of particular essence and it is necessary to hold a hearing as soon as possible in order to address the concern or hold the responsible person accountable. Emergency hearings shall be held as soon as practicable upon receipt of an emergency hearing request. A request for such a hearing must specifically state why an emergency hearing is required.

D. Default Hearings:

1. A default hearing may be requested by the enforcement official at any time in the enforcement process. If a default hearing is requested by the enforcement official, the administrative law judge shall schedule the default hearing as soon as practicable and shall notify the responsible person, enforcement official and any other applicable parties of the date, time and place of the hearing by any of the methods listed in section [1-13-3-1](#) of this chapter at least seven (7) calendar days prior to the date of the hearing.

2. A default hearing may be scheduled for any case that has outstanding or unpaid civil fees or costs due to the county, or special service district, outstanding violation(s), or in the event that the enforcement official has any outstanding concerns.
3. At the default hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists to do one or more of the following:
 - a. Waive or reduce the civil fees which have accumulated; or
 - b. Excuse the responsible person's failure to request a hearing within the ten (10) calendar day period.
4. If the responsible person fails to establish good cause to take one or more of the actions set forth in subsection D3 of this section, the administrative law judge shall review the notice of violation or administrative citation and any other relevant information included in the case file. The administrative law judge shall not accept any other evidence. If the evidence shows that the violations existed, the administrative law judge shall enter an administrative code enforcement order requiring abatement of the violations, the payment of all fees and any additional action. Civil fees shall run with respect to a notice of violation until the county, or special service district issues a notice of compliance stating when the violations were actually abated.

E. Procedures At Administrative Code Enforcement Hearing:

1. Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be required to be disclosed or released unless the complainant is a witness at the hearing. The policy and format of the hearing shall be approved by the administrative law judge.
2. The county or special service district bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes.
3. The standard of proof to be used by the administrative law judge in deciding the issues at an administrative code enforcement hearing, unless specified otherwise in this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes is whether a preponderance of the evidence shows that the violation exists or existed.
4. Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be

accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.

5. All hearings shall be open to the public and shall be recorded. At the discretion of the administrative law judge, hearings may be held at the location of the violation.
 6. The responsible person has a right to be represented by an attorney. If an attorney will be representing the responsible person at the hearing, written notice of the attorney's name, address, and telephone number must be given to the county or special service district at least two (2) calendar days prior to the hearing. If such notice is not given, the hearing may be continued at the county's or special service district's and all costs of the continuance shall be assessed to the responsible person.
 7. No new hearing shall be granted unless the administrative law judge determines that extraordinary circumstances exist which justify a new hearing.
 8. The burden to prove any raised defense shall be upon the party raising any such defense.
 9. After all applicable evidence, testimony and defense is presented, the enforcement official may present a request on behalf of the county or special service district regarding the type of fee or enforcement action that is appropriate, should the responsible person be found guilty of the violation. This request may include, but is not limited to, civil fees, restitution, community service, abatement, cost recovery, revocation, suspension or conditioning of a business license and any other fees incurred by the county or special service district during the enforcement process.
- F. Failure To Attend Administrative Code Enforcement Hearing: A responsible person who fails to appear at the administrative code enforcement hearing is deemed to waive the right to such hearing, and will result in a default judgment for the county or special service district, provided that proper notice of the hearing has been provided.

1-13-4-5: ADMINISTRATIVE LAW JUDGE:

A. Appointment, Qualifications And Disqualification Of Administrative Law Judge:

1. The county manager with the advice and consent of the county council shall appoint administrative law judge(s) to preside at administrative code enforcement hearings. An administrative law judge shall have no personal, financial or other conflict of interest in the matter for which the hearing is being held. The administrative law judge may be discharged by the county manager prior to the expiration of any personal services contract between the county or special service district and the administrative law judge for just cause.

2. The administrative law judge is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. The policy for disqualification and replacement shall be approved by the administrative law judge.

B. Powers Of The Administrative Law Judge:

1. The administrative law judge has the authority to hold hearings, determine if violations of this code or applicable rules and regulations exist, order compliance with this code, and enforce compliance on any matter as provided in this chapter.
2. If a person is found to be in violation through an administrative code enforcement hearing process, the administrative law judge has the ability to require the responsible person to provide the county or special service district with applicable civil fees, restitution, cost recovery, community service, abatement, revocation or suspension of a business license and any other fees incurred by the county or special service district during the enforcement process.
3. The administrative law judge may continue a hearing based on good cause shown by one of the parties to the hearing or if the administrative law judge independently determines that due process has not been adequately afforded to any party.
4. The administrative law judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The administrative law judge shall approve the policy relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs.
5. The administrative law judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order; ensuring compliance of that administrative code enforcement order, which includes the right to authorize the county or special service district to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
6. The administrative law judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the county or special service district.
7. An administrative law judge shall not make determinations as to the existence of legal nonconforming rights. If a responsible person claims a legal nonconforming right as a defense, the administrative law judge shall continue the administrative code enforcement

hearing and shall refer the matter to the Summit County manager or, for a special service district, the district manager, for a determination as to the existence of the nonconforming right. The decision shall be binding on the administrative law judge. The responsible person shall bear the costs of the appeal.

1-13-4-6: ADMINISTRATIVE CODE ENFORCEMENT ORDER:

A. General:

1. Subsequent to all evidence and testimony being presented in an administrative code enforcement hearing, the administrative law judge shall issue a written administrative code enforcement order that affirms, modifies or rejects the notice of violation or administrative citation, and notify all parties of such written decision by any of the methods listed in section 1-13-3-1 of this chapter within ten (10) calendar days of the hearing. The administrative law judge may increase or decrease the total amount of civil fees and costs that are due pursuant to the county or special service district fee schedule and the procedures set forth in this chapter.
2. An administrative law judge may issue an administrative code enforcement order that requires a responsible person to cease and desist from violating this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes and take any necessary corrective action. This administrative code enforcement order may also include, but is not limited to, civil fees, restitution, cost recovery, community service, abatement, revocation, suspension or conditioning of a business license and any other fees incurred by the county or special service district during the enforcement process.
3. The administrative law judge may issue an administrative code enforcement order for the county or special service district to enter the property to abate all violations.
4. As part of the administrative code enforcement order, the administrative law judge may establish specific deadlines for the payment of fees and costs and condition the total or partial assessment of civil fees on the responsible person's ability to complete compliance by specified deadlines.
5. As part of the administrative code enforcement order, the administrative law judge may revoke, suspend or condition a Summit County business license or liquor license.
6. An administrative law judge may issue an administrative code enforcement order imposing civil fees. Such fees shall continue to accrue until the responsible person complies with the administrative code enforcement order and corrects the violation.
7. The administrative law judge may schedule subsequent review hearings as may be necessary or as requested by the county or special service district to ensure compliance with the administrative code enforcement order.

8. The administrative law judge may require the responsible person to post a code enforcement performance bond to ensure compliance with the administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the county or special service district.
9. The administrative code enforcement order shall become final on the date of the signing by the administrative law judge.
10. A copy of the administrative code enforcement order shall be served by the administrative law judge on all parties by any one of the methods listed in section 1-13-3-1 of this chapter. When required by this chapter, the enforcement official shall record the administrative code enforcement order with the Summit County recorder's office.

B. Failure To Comply With Administrative Code Enforcement Order:

1. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the county or special service district may use all appropriate legal means to recover the civil fees and administrative costs to obtain compliance. The failure of a responsible person to comply with the administrative code enforcement order shall be a class C misdemeanor.
2. After the administrative law judge issues an administrative code enforcement order, the administrative law judge or the enforcement official shall monitor the violations and determine compliance.

C. Appeal Of Administrative Code Enforcement Hearing Decision:

1. The responsible person(s) adversely affected by an administrative code enforcement order made in the exercise of the provisions of this section may file a petition for review by the district court within thirty (30) calendar days after the decision is final.
2. No responsible person(s) may challenge in district court an administrative law judge's decision until that person has exhausted his or her administrative remedies.
3. In the petition, the plaintiff may only allege that the administrative code enforcement order was arbitrary, capricious or illegal.
 - a. Within one hundred twenty (120) calendar days after submitting the petition, the responsible party petitioning for appeal shall request a copy of the record of the proceedings, including findings, orders, and if available, transcripts of hearings when necessary from the administrative law judge. If the proceeding was tape recorded, a transcript of such tape recordings shall be deemed a true and correct transcript for purposes of this subsection. The administrative law judge and the

enforcement official shall not submit copies of files or transcript to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within one hundred eighty (180) calendar days after the petition for review was filed shall be grounds for dismissal of the petition.

- b. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the administrative law judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.
4. The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept or consider any evidence that is not part of the record of that decision unless that evidence was offered to the administrative law judge and the district court determines that it was improperly excluded.
 5. The district court shall:
 - a. Presume that the administrative law judge's decision and administrative code enforcement order are valid;
 - b. Review the record to determine whether or not the decision and administrative code enforcement order were arbitrary, capricious, or illegal; and
 - c. Affirm the decision and administrative code enforcement order if they are supported by substantial evidence.
 6. The filing of a petition does not stay execution of an administrative code enforcement order. Before filing a petition, a responsible person may request the administrative law judge to stay an administrative code enforcement order. Upon receipt of a request to stay, the administrative law judge may require the administrative code enforcement order to be stayed pending district court review.
- D. Settlement Agreements: In lieu of an administrative code enforcement hearing, the responsible person and the county or special service district may enter into a stipulated settlement agreement, which must be signed by both parties. When this occurs, the agreement shall be entered as the administrative code enforcement order and shall be binding upon the responsible person. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

1-13-4-7: ADMINISTRATIVE CIVIL FEES:

A. Authority:

1. If a responsible person fails to correct a violation by the correction date listed in a notice of violation, civil fees shall be owed to the county or specials service district as determined through the county's or special service district's administrative fee schedule.
2. Any person violating any provision of this code or applicable state statutes may be subject to the assessment of civil fees for each violation and each day that the violations existed as determined by an administrative law judge under the authority of this section and in accordance with the county's or special service district's administrative fee schedule.
3. Interest may be assessed on all outstanding civil fee balances until paid in full.
4. Payment of any civil fee shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the county or special service district.
5. Civil fees and any other assessed fees shall be paid to the Summit County treasurer and be deposited into the county's or special service district's general fund to be used for any lawful public purpose.

B. Procedures For Assessing Civil Fees:

1. If a responsible person fails to bring a violation into compliance within the allotted time from service of the notice of violation, civil fees shall be owed to the county or special service district for each day that each violation existed and for each subsequent continuing day of violation.
2. Civil fees are assessed and owing immediately for any violation of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes for an administrative citation.

C. Determination Of Civil Fees:

1. Civil fees shall be assessed per violation per day pursuant to the county's or special service district's administrative fee schedule, as determined by the county council~~commission~~.
2. Civil fees shall continue to accrue until the violations have been brought into compliance with this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes.

D. Modification Of Civil Fees: The administrative law judge or the community development director may modify the civil fees on a finding of good cause on a case by case basis.

E. Failure To Pay Fees: If fees are assessed, a specified date may be given by the administrative law judge or the enforcement official to the responsible person to have the fees paid. The failure of any person to pay civil fees assessed within the specified time may result in the enforcement official pursuing any legal remedy to collect the civil fees.-

1-13-4-8: COSTS:

A. Declaration Of Purpose:

1. The county council finds that there is a need to recover costs incurred by enforcement officials and other county or special service district personnel who spend considerable time inspecting and reinspecting properties throughout the county in an effort to ensure compliance with this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes.
2. The county council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspections, administrative time, administrative law judge fees, title searches, cost recovery for emergency responses, and any additional actual costs incurred by the county or special service district for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial fees or fines for violations of this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes.

B. Authority:

1. The enforcement official or administrative law judge has the authority to assess costs incurred in the administration of this chapter, such as for investigation of violations, preparation of hearings, attendance at hearings, abatements and the collection process. The costs assessed shall be the amount set forth in the county's or special service district's administrative fee schedule.
2. In the case of a notice of violation, the property will be inspected one time. Any additional inspections shall be subject to reinspection fees pursuant to the county's or special service district's administrative fee schedule.

C. Notification Of Assessment Of Reinspection Costs:

1. Notification of reinspection costs shall be provided to the responsible person(s).
2. Reinspection costs assessed or collected pursuant to this chapter shall not be included in any other costs assessed.

3. The failure of any responsible person to receive notice of the reinspection costs shall not affect the validity of any other fees imposed under this chapter.

D. Failure To Timely Pay Costs: The failure of any person to pay assessed costs by the deadline specified may result in a late fee pursuant to the county's or special service district's administrative fee schedule.

1-13-4-9: CIVIL VIOLATIONS; INJUNCTIONS:

In addition to any other remedy provided under this code, the adopted rules and regulations of special service districts within the county, or applicable state statutes, including criminal prosecution or administrative remedies, any and all provisions of this code may be enforced by injunction issued in the third district court upon a suit brought by the county or special service district.