



PLANNING COMMISSION AGENDA
Thursday, June 26th, 2025
Morgan County Commission Room
6:30 p.m.

PUBLIC NOTICE is hereby given that the Morgan County Planning Commission will meet at the above time and date at the Morgan County Courthouse, Commission Chambers; 48 West Young St., Morgan, Utah. The agenda is as follows:

1. Call to Order – Prayer
2. Pledge of Allegiance
3. Approval of Agenda
4. Declaration of Conflicts of Interest
5. Public Comment

Legislative

Public Hearing/Discussion/Decision – Geohazards Code Text Amendment – Request for approval of a text amendment to the Morgan County Code (MCC) to clean up and clarify the geohazard section and other sections mentioning slopes.

Public Hearing/Discussion/Decision – Code Enforcement Code Text Amendment – Request for approval of a text amendment to modify the Morgan County Code (MCC) to establish revised enforcement procedures, clarify appeal processes, and expand available civil and criminal remedies.

6. Business/Staff Questions
7. Approval of June 12th, 2025, Planning Commission Minutes
8. Adjourn

MEMORANDUM

TO: Morgan County Planning Commission

FROM: Morgan County Planning & Development Services Staff

SUBJECT: Geohazards Code Text Amendment

SUMMARY: A request to amend multiple sections of the Morgan County Code—including § 155.008, 155.293, 155.366, 155.407, and 155.426—to allow development on slopes of 15% or greater with the submission of a geotechnical report prepared by a licensed professional. The amendments introduce slope-related standards for recreational dwellings, establish submittal requirements at the time of preliminary plat, and clarify geohazard review expectations for conditional uses.

In response to recurring questions about slope stability and hillside development, Morgan County staff has prepared a draft text amendment to address several sections of the Land Use Code related to slope and soil regulations. The amended language would allow development on slopes of 15% or greater, provided that a geohazards report prepared by a licensed professional geologist is submitted and includes appropriate mitigation measures. For recreational dwellings, § 155.293 now requires a geohazard report addressing slope and soil hazards. Section 155.426 updates preliminary plat requirements by specifying that lots with building envelopes on slopes between 15% and 25% must include both a geohazard report and a geotechnical investigation, along with engineered site plans and slope stability analysis. Conditional use standards under § 155.366 have also been revised to clarify when geological reports and construction limitations apply, particularly in areas with steep slopes or potential landslide risk. These changes are intended to support safe hillside development, ensure consistent review procedures, bring the Code into closer alignment with current geologic and engineering practices, and expand land use rights by allowing development on previously restricted terrain subject to professional geotechnical review. Any developable lot or parcel that the County prohibits development on due to slopes being greater than 25% would be considered a regulatory taking. This amendment eliminates that code language and places the liability in the hand of the professionals and the property owners.

ATTORNEY GUIDANCE

Legislative Review:

The Planning Commission is tasked with advising and recommending to the County Commission whether the proposed zoning change (land use ordinance text amendment) is consistent with Morgan County Code requirements for zoning applications. The Planning Commission is further tasked with advising and making its recommendations based on whether the text amendment conforms to Utah State law. In that regard, while previously the County Commission had broad discretion in either approving or denying a legislative decision (the standard being whether the zoning ordinance could promote the general welfare; or even if it is reasonably debatable that it is in the interest of the general welfare), it appears to have been narrowed by recent changes to § 17-27a-801(3). The subsequently amended statute provides that legislative acts will be upheld if it is shown to be “reasonably debatable that the land use regulation is consistent with LUDMA.”

While I have not seen any caselaw testing this new standard, I highly recommend that any recommendations by the Planning Commission or decisions by the County Commission include references to the standards in Morgan County Code and Utah State Code to support them and provide a solid basis for review. In that regard, the State Code standards include:

17-27a-102. Purposes — General land use authority — Limitations.

(1)

(a) The purposes of this chapter are to:

- (i) provide for the health, safety, and welfare;
- (ii) promote the prosperity;
- (iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county’s present and future inhabitants and businesses;
- (iv) protect the tax base;
- (v) secure economy in governmental expenditures;
- (vi) foster the state’s agricultural and other industries;
- (vii) protect both urban and nonurban development;
- (viii) protect and ensure access to sunlight for solar energy devices;
- (ix) provide fundamental fairness in land use regulation;
- (x) facilitate orderly growth and allow growth in a variety of housing types; and
- (xi) protect property values.

(b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

- (i) uses;
- (ii) density;
- (ii) open spaces;
- (iv) structures;
- (v) buildings;
- (vi) energy-efficiency;
- (vii) light and air;

- (viii)air quality;
- (ix)transportation and public or alternative transportation;
- (x)infrastructure;
- (xi)street and building orientation and width requirements;
- (xii)public facilities;
- (xiii)fundamental fairness in land use regulation; and
- (xiv)considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

PROPOSED TEXT

§ 155.008 DEFINITIONS.

BUILDABLE AREA. The portion of a lot which, in its natural state, has ~~an average percent of slope less than 25%, with~~ a contiguous building area of at least 5,000 square feet, and which is free of other building constraints which are identified by this chapter. ~~Areas over 25% slope shall not be included within any ***BUILDABLE AREA*** or building envelope.~~
ALL PROPERTIES WITH SLOPES 15% OR GREATER SHALL BE REQUIRED TO SUBMIT GEOHAZARD REPORTS COMPLETED BY A LICENSED GEOLOGIST THAT INCLUDES MITIGATION REQUIREMENTS AND CONDITIONS AS OUTLINED IN SECTION 155.220 THROUGH 155.237.

§ 155.293 SLOPE AND SOIL REGULATIONS.

(A) ALL RECREATION DWELLINGS PROPOSED TO BE CONSTRUCTED ON SLOPES OF 15% OR GREATER SHALL BE REQUIRED TO SUBMIT A GEOHAZARD REPORT PREPARED BY A LICENSED GEOLOGIST THAT INCLUDES CONDITIONS AND REQUIREMENTS TO MITIGATE SLOPE AND SOIL HAZARDS ~~The maximum slope for any recreational dwelling shall be 25%.~~

§ 155.366 CONDITIONAL USES.

(D) *Performance standards for all conditional uses.* There is a need to promote healthy and visually and auditory attractive environments and to reduce conflicts between different land uses. As part of the purpose to protect the health, safety, convenience and general welfare of the inhabitants of the county, the performance standards delineated in this division

(D) are intended to conserve, enhance, restore and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply, watersheds, flood storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, historic features and sites and scenic views and vistas, and to establish criteria and standards for the development, change of use or alteration of such features. As responsible parties, applicants for conditional use permits shall meet all specific requirements made in this chapter. The Planning Commission may establish additional requirements as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, general plan and neighborhood needs, performance and administration. More specifically, and without limitation, the Planning Commission may require:

(3) Environmental concerns:

(f) Limitations and/or restrictions on construction and/or development on slopes in excess of 30% to control erosion;

(g) If the proposed conditional use involves hillside construction and/or development, the application will be approved only after the applicant provides:

1. Topographic information showing that the proposed activity is on land with a slope ~~less than~~ **IN EXCESS OF** 30% and that it is located **IN THE VICINITY OF** ~~more than 200 feet from~~ a known landslide;

2. A geologic/geotechnical report which shall be in form and content approved by the County Engineer, consisting of, among other things, a slope stability study, earthquake analysis and sedimentation analysis, prepared by a certified engineering geologist or geotechnical engineer approved by the County Engineer, certifying that the site or route in its entirety is suitable for the proposed development;

3. Such other engineering or technical reports as may be required by the Planning Commission or governing body; and

4. Detailed construction plans, drawings and specifications which outline all construction methods proposed to be utilized.

§ 155.407 PRELIMINARY PLAT SUBMITTAL.

(D) Grading and drainage plan (may be combined with plat sheet, if approved by the County Engineer):

(10) Slope analysis which depicts all slopes ~~greater than~~ **15% OR GREATER** with distinct notation.

§ 155.426 LOTS.

(L) ~~Areas of lots which are 25% slope or greater are considered unbuildable and shall not be included within the building envelope.~~ Lots which contain a building envelope with slopes greater than 15%, ~~but less than 25%~~ shall submit a **GEOHAZARD REPORT (PREPARED BY A LICENSED GEOLOGIST) AND** geotechnical investigation ~~and~~ **including** slope stability analysis, along with a site plan with the preliminary plat application, which has been prepared by a state-licensed professional engineer. The site plan shall include the driveway location, driveway grade, existing and proposed contour lines, location of and engineering design for all retaining walls in excess of four feet, a grading and drainage plan (including slope stability analysis) for all cut and fill areas and the finished floor elevation of the home. Slope stability analyses shall demonstrate that the proposed structure is stable on the slope to a minimum factor of safety of one and one-half under static conditions and one and one-tenth under pseudostatic conditions in conformance with the provisions in §§ [155.220](#) through [155.237](#) of this code (geologic hazards). The County Engineer shall review the analysis and site plan and may require peer review of any submitted engineering report by the County Geologist or other state-licensed professional engineer. The Building Official may require the developer to provide special inspections and written verification from a state-licensed professional engineer regarding construction compliance with the engineered site plan and recommendations of the geotechnical report.

RECOMMENDED MOTIONS

Sample Motion for a *Recommendation for Approval* – “I move we recommend approval to the County Commission of the Geohazards Code Text Amendment based on the findings listed in the memorandum dated June 26, 2025.”

Sample Motion for a *Recommendation for Approval with Conditions* – “I move we recommend approval to the County Commission of the Geohazards Code Text Amendment based on the findings listed in the memorandum dated June 26, 2025, with the following additional conditions:”

1. *List any additional findings and conditions...*

Sample Motion for a *Recommendation for Denial* – “I move we recommend denial to the County Commission of the Geohazards Code Text Amendment with the following findings:”

1. *List any additional findings...*

ATTACHMENTS:

Attachment “A”: Geohazards Code Text Amendment

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ORDINANCE NO. CO-25-0X

AN AMENDMENT TO THE LAND USE MANAGEMENT CODE FOR MORGAN COUNTY TO REVISE AND CLARIFY THE GEOHAZARD REGULATIONS AND RELATED PROVISIONS CONCERNING SLOPE STANDARDS, OTHERWISE KNOWN AS THE GEOHAZARDS CODE TEXT AMENDMENT, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Morgan County Commission has previously established land use management regulations for Morgan County as Title XV of the Morgan County Code which established, among other things, the requirements for the subdivision approval process; and

WHEREAS, the regulations established by the Morgan County Commission in Title XV of the Morgan County Code have been determined by the Morgan County staff and the Morgan County Commission to be in need of revision to address these concerns; and

WHEREAS, the Morgan County Planning Commission and Zoning Administrator have reviewed the proposed amendment in accordance with State law and have recommended approval of the same;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF MORGAN COUNTY, STATE OF UTAH:

Section 1. Amendment and Adoption. Title XV of the Morgan County Code is hereby amended and adopted to clean up and clarify the Geohazards section of the Morgan County Code (MCC) and other sections mentioning slopes, as more specifically described in Exhibit “A”, attached hereto and incorporated herein by reference.

Section 2. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 3. Effective Date. This Ordinance shall become effective after subsequent publication in accordance with State Law, but not before 15 days after its passage.

**APPROVED, ADOPTED AND PASSED and ordered published by the
Morgan County Commission, this 15th Day of July 2025.**

ATTEST:

MORGAN COUNTY GOVERNING
BODY

Leslie Hyde
Morgan County Clerk

Matthew Wilson, County Commission Chair

APPROVED AS TO FORM

Garrett Smith
Morgan County Attorney

Commission Members	AYE	Voting:	
		NAY	ABSENT
Vaughn Nickerson	_____	_____	_____
Mike Newton	_____	_____	_____
Raelene Blocker	_____	_____	_____
Matthew Wilson	_____	_____	_____
Blaine Fackrell	_____	_____	_____

Exhibit "A": Geohazards Code Text Amendment

§ 155.008 DEFINITIONS.

BUILDABLE AREA. The portion of a lot which, in its natural state, has ~~an average percent of slope less than 25%, with~~ a contiguous building area of at least 5,000 square feet, and which is free of other building constraints which are identified by this chapter. ~~Areas over 25% slope shall not be included within any BUILDABLE AREA or building envelope.~~ **ALL PROPERTIES WITH SLOPES 15% OR GREATER SHALL BE REQUIRED TO SUBMIT GEOHAZARD REPORTS COMPLETED BY A LICENSED GEOLOGIST THAT INCLUDES MITIGATION REQUIREMENTS AND CONDITIONS AS OUTLINED IN SECTION 155.220 THROUGH 155.237.**

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(D) *Performance standards for all conditional uses.* There is a need to promote healthy and visually and auditory attractive environments and to reduce conflicts between different land uses. As part of the purpose to protect the health, safety, convenience and general welfare of the inhabitants of the county, the performance standards delineated in this division (D) are intended to conserve, enhance, restore and maintain significant natural and human-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply, watersheds, flood storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, historic features and sites and scenic views and vistas, and to establish criteria and standards for the development, change of use or alteration of such features. As responsible parties, applicants for conditional use permits shall meet all specific requirements made in this chapter. The Planning Commission may establish additional requirements as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, general plan and neighborhood needs, performance and administration. More specifically, and without limitation, the Planning Commission may require:

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2. A geologic/geotechnical report which shall be in form and content approved by the County Engineer, consisting of, among other things, a slope stability study, earthquake analysis and sedimentation analysis, prepared by a certified engineering geologist or geotechnical engineer approved by the County Engineer, certifying that the site or route in its entirety is suitable for the proposed development;

3. Such other engineering or technical reports as may be required by the Planning Commission or governing body; and

4. Detailed construction plans, drawings and specifications which outline all construction methods proposed to be utilized.

§ 155.407 PRELIMINARY PLAT SUBMITTAL.

(D) Grading and drainage plan (may be combined with plat sheet, if approved by the County Engineer):

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MEMORANDUM

TO: Morgan County Planning Commission

FROM: Morgan County Planning & Development Services Staff

SUBJECT: Code Enforcement Code Text Amendment

SUMMARY: A request to amend § 155.030, § 155.397, § 155.437, § 155.440, § 155.999 of the Morgan County Code (MCC) to modernize and expand the County's code enforcement provisions. The proposed changes eliminate outdated language, add a full menu of civil and criminal remedies, and align appeal procedures with state law. The amendment removes broad third-party lawsuit provisions, strengthens permit and lien authority, and clarifies the civil fine process, creating a more consistent and defensible enforcement framework.

The Morgan County Commission directed staff to prepare a comprehensive update to § 155.999 of the Land Use Code to update and modernize an old code enforcement section, appeal structure, and statutory alignment. The prior version of § 155.999 lacked definitions, offered limited enforcement tools, and included a broad citizen-suit provision that exposed the County to unnecessary litigation risk. The proposed amendment establishes a front-loaded definitions section, codifies specific remedies such as permit withholding, stop work orders, and recorded notices of noncompliance, and formalizes civil and criminal enforcement procedures. Appeals will now follow the administrative pathway outlined in § 155.030, ensuring consistency with Utah Code § 17-27a-801. Fix-it tickets, civil fines, and lien procedures have also been revised to enhance procedural clarity and collection authority. The amended text (Exhibit "A") is intended to provide more predictable enforcement, reduce ambiguity, and ensure due process protections are clearly stated.

PLANNING COMMISSION SUMMARY

The Planning Commission meeting scheduled for May 22, 2025, was properly noticed but cancelled due to a lack of quorum. As a result, no action was taken on this item. In accordance with County bylaws (or applicable state statute), and due to the absence of a formal recommendation from the Planning Commission, staff is forwarding the item to the County Commission with a procedural recommendation of denial.

COUNTY COMMISSION SUMMARY

The County Commission heard this item at their regularly scheduled meeting on June 26, 2025. Having acknowledged that the item advanced with a procedural denial due to a lack of quorum at the May 22, 2025, Planning Commission meeting, the County Commission remanded it back for the express purpose of review and comment by that body. There was some concern from the Commission that the proposed Civil Penalty Ceiling—up to one thousand dollars (\$1,000.00) per violation per day—may be too high. Additionally, members discussed the need for greater clarity in the emergency abatement section. The County Attorney noted that the more detailed a Code Enforcement subchapter is, the less ambiguity it contains—which would be an improvement over the current language in the Morgan County Code (MCC).

ATTORNEY GUIDANCE

Legislative Review:

The Planning Commission is tasked with advising and recommending to the County Commission whether the proposed zoning change (land use ordinance text amendment) is consistent with Morgan County Code requirements for zoning applications. The Planning Commission is further tasked with advising and making its recommendations based on whether the text amendment conforms to Utah State law. In that regard, while previously the County Commission had broad discretion in either approving or denying a legislative decision (the standard being whether the zoning ordinance could promote the general welfare; or even if it is reasonably debatable that it is in the interest of the general welfare), it appears to have been narrowed by recent changes to § 17-27a-801(3). The subsequently amended statute provides that legislative acts will be upheld if it is shown to be “reasonably debatable that the land use regulation is consistent with LUDMA.” While I have not seen any caselaw testing this new standard, I highly recommend that any recommendations by the Planning Commission or decisions by the County Commission include references to the standards in Morgan County Code and Utah State Code to support them and provide a solid basis for review. In that regard, the State Code standards include:

17-27a-102. Purposes — General land use authority — Limitations.

(1)

(a) The purposes of this chapter are to:

- (i) provide for the health, safety, and welfare;
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(b) Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

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- (ii) density;
- (ii) open spaces;
- (iv) structures;
- (v) buildings;
- (vi) energy-efficiency;
- (vii) light and air;
- (viii) air quality;
- (ix) transportation and public or alternative transportation;
- (x) infrastructure;
- (xi) street and building orientation and width requirements;
- (xii) public facilities;
- (xiii) fundamental fairness in land use regulation; and
- (xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

PROPOSED TEXT

Cross-check result: § 155.030 now meshes with the new § 155.999

You already aligned the title line ("County **Appeal Authority**"), so only two **minor wording tweaks** remain to make the two sections perfectly consistent:

Where	Current text	Why adjust?	Quick fix
§ 155.030(D) first sentence	"...within 15 days from the date of the decision or action appealed."	§ 155.999 (b) uses " 15 calendar days. " Adding "calendar" removes any doubt about business-day counting.	"...within 15 calendar days from the date of the decision or action appealed. "
§ 155.030(B)(2) (optional clarity)	"The appeals and variance hearing officer shall hold meetings as needed to consider matters within its purview under this chapter."	§ 155.999 (e) now requires a hearing to be scheduled within 45 days of a timely appeal and noticed 10 days in advance. A parenthetical pointer keeps the two timeframes in sync.	"...shall hold meetings as needed (and shall schedule appeal hearings within the time frames set out in § 155.999 [E]). " I think we should put in 155.030 the 45 day deadline to schedule

Where	Current text	Why adjust?	Quick fix
			hearing....rather than refer to 155.999

If you drop in those two edits, there are **no conflicts**:

- **Appeals window** – both chapters: 15 calendar days
- **Filing office** – Zoning Administrator in both sections
- **Standard of review** – arbitrary/capricious/illegal, no de novo
- **Hearing officer name** – “County Appeal Authority (appeals and variance hearing officer)” matches § 155.999 terminology
- **Scheduling & notice** – § 155.030 is silent, but the pointer to § 155.999[E] covers the 45-/10-day rule
- **Stay procedure, variances, district-court review, ex parte rules** – unchanged and compatible

Implement those small edits and the two sections will work together seamlessly under your revised penalty and enforcement scheme.

Change log – § 155.397 APPEALS (Subdivision chapter)

(Old version 2010/2019 → Revised version 2025)

Topic	Old ordinance text	New ordinance text	What changed & why
Appeal recipient	“by filing with the County Clerk a notice ...”	“by filing with the Zoning Administrator a notice ...”	Aligned with § 155.030, which makes the Zoning Administrator the intake office for appeals to the County Appeal Authority .
Appeal body	Appeal heard by the County Commission ; Commission could affirm/modify/reverse.	Cross-references § 155.030 ; appeal is now heard by the County Appeal Authority (Appeals & Variance Hearing Officer) .	Removes legislative body from quasi-judicial role and consolidates all land-use appeals under the new Appeal Authority framework.
Who may appeal	“the subdivider or other person ”	“the subdivider or any aggrieved person ”	Tracks the “adversely affected / aggrieved” language used in § 155.030 and § 155.999.

Topic	Old ordinance text	New ordinance text	What changed & why
Filing deadline	15 days after the decision.	Same 15-day window.	Consistent; no change except filing office.
Appeal fee	Silent.	Adds requirement to pay the “ requisite appeal fee. ”	Matches § 155.030(D) (completeness review & fee).
Stay of proceedings	Appeal “shall stay all proceedings ... pending a decision of the County Commission.”	Removed ; stays now handled under § 155.030(F) (Zoning Administrator may grant stay on request).	Avoids conflicting stay language.
Hearing scheduling & notice	Clerk sets hearing before Commission; 7-day notice to appellant.	Removed ; scheduling & 10-day notice now governed by § 155.999(e) & § 155.030(B)(2).	Eliminates duplicate timelines.
County Commission’s written ruling	Commission to notify appellant in writing.	Omitted—handled by Appeal Authority decision process in § 155.030(C) & (E).	Consolidates procedure.
District-court appeal clause	Old (C) referenced U.C.A. § 17-27a-801 for judicial review.	Deleted ; that language now appears in § 155.030(I).	Prevents duplication; one master clause in appeals chapter.
Structure	Three subsections (A)–(C).	Single paragraph (A); subsections (B) & (C) deleted.	Streamlines—everything else is governed by § 155.030.

Net effect:

§ 155.397 is now just a pointer: subdivision-related appeals flow into the unified appeals system established in §§ 155.030 and 155.999. No conflicting timelines, stay language, or duplicate judicial-review text remain.

Change log – § 155.437 APPROVAL AUTHORITY; SMALL SUBDIVISIONS

Topic	Old ordinance text	New ordinance text	What changed & why
Appeal body	“The applicant may appeal the decision of the Planning Commission to the County Commission as outlined elsewhere in this subchapter.”	“The applicant may appeal the decision of the Planning Commission to the Appeal Authority	Redirects subdivision appeals to the unified County Appeal Authority (Appeals & Variance Hearing Officer) , consistent with the revised §

Topic	Old ordinance text	New ordinance text	What changed & why
		pursuant to § 155.030.”	155.030 and § 155.999 framework.
Cross-reference location	“as outlined elsewhere in this subchapter.”	“pursuant to § 155.030.”	Provides a precise citation to the master appeals procedure rather than a vague pointer.
All other language	Unchanged.	Unchanged.	Only the appeal pathway was updated; no other procedural or substantive edits.

Result: The section now seamlessly integrates small-subdivision appeals into the county’s new uniform appeal system, eliminating the County Commission’s quasi-judicial role and avoiding conflicting timelines or standards.

Change log – § 155.440 REVIEW BY THE PLANNING COMMISSION OF SMALL SUBDIVISIONS

Topic / subsection	Old ordinance text	New ordinance text	What changed & why
Appeal body § 155.440(E)	“The applicant may appeal ... to the County Commission... ”	“...may appeal ... to the Appeal Authority pursuant to § 155.030... ”	Shifts quasi-judicial review from the legislative body to the unified County Appeal Authority (Appeals & Variance Hearing Officer), matching the updated appeals framework in §§ 155.030 & 155.999.
Filing office	Appeal “submitted in writing to the county’s Planning and Development Services Department. ”	“...submitted in writing to the Zoning Administrator... ”	Aligns with § 155.030, which designates the Zoning Administrator as the intake point for appeals.
Appeal deadline	14 days after notice of decision.	15-day window (to match §§ 155.030 & 155.999).	Consistent timing across the code.
Appeal fee	No fee mentioned.	Adds requirement to include the requisite appeal fee.	Mirrors § 155.030(D) completeness-check language.
County Commission	Detailed paragraph: Commission reviews	Deleted (no counterpart).	Obsolete once appeals go to the Appeal Authority;

Topic / subsection	Old ordinance text	New ordinance text	What changed & why
review procedure	record in a public meeting and may remand to Planning Commission.		removes duplicate/remand loop.
Stay of proceedings / remand	Implied by Commission review/remand.	Omitted; stays handled under § 155.030(F).	Avoids conflicting procedures.
Notification of final decision § 155.440(F)	Zoning Administrator must notify Planning Commission and County Commission .	Now notifies Planning Commission only (County Commission removed).	County Commission no longer in the appeal chain.
Subsection lettering	(A)–(F) with old E = appeal; F = notice.	Still (A)–(F); contents of E & F updated.	Structure retained; only content revised.
All other provisions (review criteria, data requests, ability to require full subdivision process)	Remain unchanged.	Remain unchanged.	No substantive edits outside the appeal pathway.

Net effect:

Section 155.440 now routes any small-subdivision appeal into the county’s consolidated appeals system—same 15-day filing window, same fee and notice rules, and review by the independent Appeal Authority instead of the County Commission. This eliminates duplicate procedures and ensures consistency with the newly amended §§ 155.030 and 155.999.

§ 155.999 – Side-by-Side Change Log

(Old ordinance adopted 2010–2020 → New draft May 2025)

Topic / location	Old ordinance text	New ordinance text	What changed & why
Overall structure	Two main subsections: (A) default to § 10.99; (B) blended criminal + civil scheme; plus separate	Seven lettered parts: [A] reference; [B] definitions; [C] menu of 12 enforcement tools; [D]	Reorganized for clarity: definitions up front; remedies grouped; appeals

Topic / location	Old ordinance text	New ordinance text	What changed & why
	(C)(D) class-C misdemeanors for specific code ranges.	criminal penalties; [E] detailed civil process; [F] appeals; [G] fix-it tickets.	pulled out; redundant special-range penalties deleted.
[A] General Penalty	One sentence: “violating provision with no specific penalty → § 10.99.”	Pointer revised: “Fines and jail terms ... governed by § 10.99 and U.C.A. § 17-27a-803. ”	Still a sign-post, but now it also references state land-use-penalty statute.
Definitions paragraph	None.	Added [B] referencing § 155.008 terms (adversely affected party, appeal authority, etc.).	Ensures consistent meanings without re-printing the glossary.
Menu of remedies	Criminal (misdemeanor) + civil (courtesy, notice to comply, admin hearing) + third-party suits + fix-it tickets.	Twelve-item list in [C] adds: withhold permits, stop-work orders, injunctions, abatement, emergency abatement, notice of non-compliance, liens, blanket “other remedies.” Drops third-party enforcement.	Broader enforcement toolbox for County; private “nuisance” lawsuits deleted as separate paragraph.
Criminal classification	<ul style="list-style-type: none"> • <i>General</i> violations: Class C misdemeanor (B)(1)(a). • Fix-It Ticket failure: Class B misdemeanor (B)(4)(c). 	<i>All</i> violations (including fix-it failures) are Class C misdemeanors (a) & (b).	Key change: Class B removed to comply with U.C.A. § 17-27a-803 , which limits land-use criminal penalties to Class C.
Civil penalty ceiling	\$25–\$100 / day after compliance period (old (B)(2)(c)).	Up to \$1,000 / day (or amount set in County fee schedule) (a)6.	Aligns with current fees of other jurisdictions and provides deterrence.
Courtesy Notice	10-day cure; certified mail or constable service.	Same 10-day cure; explicitly allows electronic tracking service; renames “Courtesy Notice” as defined form.	Modernized service options and capitalization.
Notice-to-Comply	30 d (first), 15 d (second), 1 d (third) in rolling 12 mo.	Same 30 / 15 / 1-day schedule; now located at (a)4 & (f).	No substantive change—moved

Topic / location	Old ordinance text	New ordinance text	What changed & why
compliance periods			wording and added statutory cross-refs.
Administrative hearing	Held by Administrative Law Judge; procedure detailed; appeals to district court on arbitrary/capricious standard.	Hearing now before Appeal Authority (§ 155.030); procedures cross-referenced; district-court review verbatim from state code [F].	Integrates with County's existing land-use appeal system; removes duplicative procedure text.
Collection of civil fines	Small-claims judgment or tax lien; costs & attorney fees recoverable.	Expressly invokes Political Subdivision Lien Authority, U.C.A. § 11-60-101 ff. ; keeps small-claims, liens, attorney-fee recovery .	Gives County statutory lien mechanism and "direct charge" status.
Emergency abatement	Implied but not explicit.	New authorizes immediate action when danger imminent; costs recoverable.	Provides quick response language; ties cost recovery to civil-liens paragraph.
Third-party enforcement	Private owners could sue after 30-day notice; attorney-fee shift.	Removed.	County opted to keep enforcement in public hands and avoid duplicative nuisance suits.
Fix-It Ticket section	Issued by Planner/Inspector, Sheriff, animal control; failure to comply = Class B misdemeanor.	Expanded authority list; capitalized Fix-It Ticket ; failure to comply = Class C misdemeanor; County may still pursue other remedies concurrently.	Conforms to state Class C limit and renames ticket form.
Statutory citations	Few references (U.C.A. § 17-27a-803 only in criminal sub-part).	Added cites to § 17-27a-803, 17-27a-802, 17-27a-701, -801, and § 11-60-101-103 throughout.	Provides clear legal foundation for each enforcement tool.

Highlight: Why Class B → Class C?

- **Utah Code § 17-27a-803(2)** expressly states that any violation of a county land-use ordinance “is punishable as a **Class C misdemeanor**.”
- The old ordinance’s Class B label for Fix-It Ticket failures conflicted with that statute.
- The new draft eliminates the Class B reference and classifies *all* Chapter 155 criminal violations—including unresolved Fix-It Tickets—as **Class C misdemeanors**, keeping the County in statutory compliance.

RECOMMENDED MOTIONS

Sample Motion for *Approval* – “I move we approve the Code Enforcement Code Text Amendment based on the findings listed in the memorandum dated June 26, 2025.”

Sample Motion for *Approval with Conditions* – “I move we approve the Code Enforcement Code Text Amendment based on the findings listed in the memorandum dated June 26, 2025, with the following additional conditions:”

1. *List any additional findings and conditions...*

Sample Motion for *Denial* – “I move we deny the Code Enforcement Code Text Amendment with the following findings:”

1. *List any additional findings...*

ATTACHMENTS:

Attachment “A”: Code Enforcement Code Text Amendment

Attachment “A”: Code Enforcement Code Text Amendment

ORDINANCE NO. CO-25-11

AN AMENDMENT TO THE LAND USE MANAGEMENT CODE FOR MORGAN COUNTY TO ESTABLISH REVISED ENFORCEMENT PROCEDURES, CLARIFY APPEAL PROCESSES, AND EXPAND AVAILABLE CIVIL AND CRIMINAL REMEDIES, AMENDING SECTIONS § 155.030 APPEAL AUTHORITY; APPEALS AND VARIANCE HEARING OFFICER, § 155.397 APPEALS, § 155.440 REVIEW BY THE PLANNING COMMISSION OF SMALL SUBDIVISIONS, AND AMENDED IN ITS ENTIRETY § 155.999 PENALTY, OTHERWISE KNOWN AS THE CODE ENFORCEMENT CODE TEXT AMENDMENT, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Morgan County Commission has previously established land use management regulations for Morgan County as Title XV of the Morgan County Code which established, among other things, the requirements for the enforcement of the Morgan County Code; and

WHEREAS, the regulations established by the Morgan County Commission in Title XV of the Morgan County Code have been determined by the Morgan County staff and the Morgan County Commission to be in need of revision to address these concerns; and

WHEREAS, the Morgan County Planning Commission and Zoning Administrator have reviewed the proposed amendment in accordance with State law and have recommended approval of the same;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF MORGAN COUNTY, STATE OF UTAH:

Section 1. Amendment and Adoption. Title XV of the Morgan County Code is hereby amended and adopted to establish revised enforcement procedures, clarify appeal processes, and expand available civil and criminal remedies, as more specifically described in Exhibit “A”, attached hereto and incorporated herein by reference.

Section 2. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 3. Effective Date. This Ordinance shall become effective after subsequent publication in accordance with State Law, but not before 15 days after its passage.

**APPROVED, ADOPTED AND PASSED and ordered published by the
Morgan County Commission, this 3rd Day of June 2025.**

ATTEST:

Leslie Hyde
Morgan County Clerk

MORGAN COUNTY GOVERNING
BODY

Matthew Wilson, County Commission Chair

APPROVED AS TO FORM

Garrett Smith
Morgan County Attorney

Commission Members	AYE	Voting: NAY ABSENT	
Vaughn Nickerson	_____	_____	_____
Mike Newton	_____	_____	_____
Raelene Blocker	_____	_____	_____
Matthew Wilson	_____	_____	_____
Blaine Fackrell	_____	_____	_____

Exhibit “A”: Code Enforcement Code Text Amendment

§ 155.030 APPEAL AUTHORITY; APPEALS AND VARIANCE HEARING OFFICER.

(A) Appointment. The appeals and variance hearing officer shall be appointed as the ~~€County~~ ~~aAppeals aAuthority~~ as follows.

(1) The appeals and variance hearing officer shall be appointed by the County Commission.

(2) The appeals and variance hearing officer shall be appointed for a term of one year and thereafter may be appointed for succeeding one-year terms.

(3) The appeals and variance hearing officer shall, as a minimum, have such training and experience as will qualify him or her to conduct administrative or quasi-judicial hearings regarding land use, land development and regulatory codes dealing with issues related to land use.

(4) The County Commission may remove the appeals and variance hearing officer for cause upon receipt of written charges filed against the appeals and variance hearing officer with the County Commission. The County Commission shall provide the appeals and variance hearing officer with a public hearing if one is requested.

(5) In the case of death, resignation, removal or disqualification, the position of appeals and variance hearing officer shall be promptly filled by a replacement appointed by the County Commission for the unexpired term of the previous appeals and variance hearing officer.

(6) The appeals and variance hearing officer shall be considered an independent contractor; and as such will enter into a year-long contract for services at the beginning of each appointed term. Terms for compensation and reimbursement will be determined and agreed upon in the aforementioned contract. The terms and conditions of the contract shall ultimately be approved by the County Commission prior to any individual entering into an agreement with the county to serve as the appeals and variance hearing officer.

(7) The County Commission may, from time to time, appoint an appeals and variance hearing officer pro tempore on a temporary basis when necessitated by the absence, unavailability, incapacity or disqualification of the regularly appointed appeals and variance hearing officer. Each appeals and variance hearing officer pro tempore shall, as a minimum, have qualifications which are similar to the regularly appointed appeals and variance hearing officer.

(B) Organization and procedure. The appeals and variance hearing officer shall organize and exercise his or her powers and duties as follows.

(1) The appeals and variance hearing officer may adopt reasonable policies and procedures in accordance with county ordinances to govern the conduct of its meetings and hearings and for any other purposes considered necessary for the functioning of the position of appeals and variance hearing officer. Such policies and procedures shall be approved by the County Commission before taking effect.

(2) The appeals and variance hearing officer shall hold meetings as needed to consider matters within its purview under this chapter. The appeals and variance hearing officer meeting shall be held at such times and dates as deemed necessary by the appeals and variance hearing officer. All meetings and hearings shall be properly noticed and held in accordance with the Open and Public Meetings Act set forth in UCA §§ 52-4-1 et seq., as amended. Written minutes of all meetings of the appeals and variance hearing officer shall be prepared and filed in the office of

the County Clerk for review and access by the public. All records of the meetings shall be subject to the provisions of the Government Records Access Management Act, UCA §§ 63G-2-101 et seq., as amended.

(3) The decision of the appeals and variance hearing officer takes effect on the date when the appeals and variance hearing officer issues a written decision.

(C) Powers and duties. The powers and duties of the appeals and variance hearing officer shall be limited to the matters set forth below. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this chapter:

(1) Hear and decide appeals from administrative decisions applying the provisions of this chapter where not otherwise specifically designated;

(2) Hear and decide variances from the terms of this chapter;

(3) Hear appeals related to determinations made regarding the existence, expansion or modification of nonconforming uses; and

(4) Hear appeals regarding the interpretation of the zoning maps and disputed questions on lot lines, district boundary lines or similar questions as they arise in the administration of the zoning regulations only after a written decision has been made by the land use authority.

(D) Appeals. Appeals to the appeals and variance hearing officer shall be filed in writing with the Zoning Administrator within ~~30~~15 days from the date of the decision or action appealed. The officer or department from whom the appeal is taken shall forthwith transmit to the appeals and variance hearing officer all papers constituting the record upon which the action appealed was taken. Appeals shall only be accepted in which final action of the land use authority has been made, as evidenced by issuance of a permit or other final written action. The Zoning Administrator shall determine the completeness of the appeal and shall reject any appeal filed without the required fee or submitted after the ~~30~~15-day deadline has expired.

(1) The appeals and variance hearing officer shall determine the correctness of a decision of the land use authority in its interpretation and application of this chapter. Only those decisions in which a land use authority has applied this chapter to a particular application, person or parcel may be appealed to the appeals and variance hearing officer. No person may challenge a legislative decision by a land use authority to the appeals and variance hearing officer, including land use ordinance amendment, General Plan amendment or interpretation or zoning map amendment.

(2) In reviewing a decision of a land use authority, the appeals and variance hearing officer must affirm that decision, unless it is found that a decision interpreting or applying this chapter was arbitrary, capricious or illegal. An appeal is not subject to de novo review.

(3) In exercising his or her powers, the appeals and variance hearing officer may reverse or affirm, in whole or in part, or modify an order, decision or determination, to make such order, decision or determination, consistent with county ordinances and other applicable laws.

(4) Appeals may not be used to waive or modify the terms or requirements of this chapter.

(E) Decisions of the appeals and variance hearing officer. At the hearing of any matter, the parties affected may appear in person with or without an attorney. The appeals and variance hearing officer shall decide all appeals and other issues brought before it within a reasonable time.

(F) Stay of proceedings. An appeal to the appeals and variance hearing officer shall not stay proceedings taken in furtherance of the action appealed from unless such proceedings are specifically stayed by order of the Zoning Administrator. An appellant may request a stay by submitting to the Zoning Administrator, in writing, an application for a stay setting forth the reasons why a stay is necessary to protect against imminent harm. In determining whether or not

to grant a stay, the Zoning Administrator shall ensure that all potentially affected parties are given the opportunity to comment on the request. A ruling on the request for a stay shall be given within five days from the date the request is received by the Zoning Administrator. The Zoning Administrator, in granting a stay, may impose additional conditions to mitigate any potential harm that may be caused by the stay, including requiring the appellant to post a cash escrow financial guarantee. Within ten days of the Zoning Administrator's decision regarding the grant or denial of a stay, any aggrieved party may appeal the decision to the appeals and variance hearing officer, whose decision will be final.

(G) Appeals from the appeals and variance hearing officer. Any person aggrieved by a final decision of the appeals and variance hearing officer may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction, provided that the petition for such relief is presented to the court within 30 days from the date of the decision of the appeals and variance hearing officer.

(H) Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of this chapter as applied to a parcel of property that he or she owns, leases or in which he or she holds some other beneficial interest, may apply to the appeals and variance hearing officer for a variance from the terms of this chapter.

(2) The appeals and variance hearing officer may grant a variance if:

(a) 1. Literal enforcement of this chapter would cause a hardship for the applicant that is not necessary to carry out the general purpose of this chapter;

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

4. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and

5. The spirit of this chapter is observed, and substantial justice done.

(b) In determining whether or not enforcement of this chapter would cause unreasonable hardship under division (H)(2)(a)1. above, the appeals and variance hearing officer may not find an unreasonable hardship unless:

1. a. The alleged hardship is located on or associated with property for which the variance is sought; and

b. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general in the neighborhood.

2. In determining whether or not enforcement of this chapter would cause unreasonable hardship under division (H)(2)(a)1. above, the appeals and variance hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under division (H)(2)(a)2. above, the appeals and variance hearing officer may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and

2. Deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

- (5) The appeals and variance hearing officer may not grant use variances.
- (6) In granting a variance, the appeals and variance hearing officer may impose additional requirements on the applicant that will:
 - (a) Mitigate any harmful effects of the variance; or
 - (b) Serve the purpose of the standard or requirement that is waived or modified.
- (I) District court review of appeals and variance hearing officer decision.
 - (1) Any person adversely affected by any decision of the appeals and variance hearing officer may petition the district court for a review of the decision in accordance with UCA §§ 17-27a-801 et seq., as amended.
 - (2) In the petition, the plaintiff may only allege that the appeals and variance hearing officer's decision was arbitrary, capricious or illegal.
 - (3) The petition is barred unless it is filed within 30 days after the appeals and variance hearing officer's decision is final. As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge the land use authority's decision, in accordance with this chapter.
 - (4) The appeals and variance hearing officer shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this division (I)(4).
 - (5) If there is a record, the district court's review is limited to the record provided by the appeals and variance hearing officer. The court may not accept or consider any evidence outside the appeals and variance hearing officer's record unless that evidence was offered to the appeals and variance hearing officer and the court determines that it was improperly excluded.
 - (6) If there is no record, the court may call witnesses and take evidence.
 - (7) The court shall affirm the decision of the appeals and variance hearing officer if the decision is supported by substantial evidence in the record.
 - (8) The filing of a petition does not stay the decision of the appeals and variance hearing officer. Before filing the petition, the aggrieved party may petition the appeals and variance hearing officer to stay its decision. Upon receipt of a petition to stay, the appeals and variance hearing officer may order its decision stayed pending district court review if the appeals and variance hearing officer finds it to be in the best interest of the county. After the petition is filed, the petitioner may seek an injunction staying the appeals and variance hearing officer's decision.
- (J) Ex parte contact.
 - (1) Ex parte contact between the appeals and variance hearing officer and opposing parties involved in litigation with the county involving land use issues shall be prohibited. The appeals and variance hearing officer shall not participate in site or office visits, electronic communication, written communication or verbal conversation, either face to face or over the telephone, with any individual or any representative of a company or entity involved in legal proceedings with the county involving land use issues. This prohibition shall include plaintiffs who have filed suit against the county, claimants who have served a notice of claim on the county and defendants in actions filed by the county, such as those in violation of provisions of this chapter.
 - (2) The appeals and variance hearing officer shall be restricted from ex parte contact, including site or office visits, electronic communication, written communication and verbal conversation, either face to face or over the telephone, with any individual or representative of a company or entity when such interaction involves a request for hearings, variances or appeals of administrative decisions. This restriction on ex parte contact applies to all variances, appeals of

administrative decisions or special exceptions, after an application for such is filed with the Zoning Administrator, while the application is under review by the appeals and variance hearing officer or while the application is under appeal, if an appeal is filed. The appeals and variance hearing officer shall not participate in ex parte contact with individuals or representatives of a company or entity opposed to a request for a hearing, variance or appeal of administrative decision.

(3) Receipt of written information regarding an active request for a hearing, variance, appeal of administrative decision or special exception shall be permitted, provided such written information is disclosed at the next meeting of the appeals and variance hearing officer where the matter is being heard and submitted as a part of the record of that meeting.

(Prior Code, § 8-3-11) (Ord. 11-03, passed 3-1-2011) Penalty, see § 155.999

§ 155.397 APPEALS.

(A) **PURSUANT TO THE PROVISIONS OF § 155.030, THE SUBDIVIDER OR ANY AGGRIEVED PERSON MAY** ~~a~~Appeal may be made to the County Commission from any decision, determination or requirement of the Zoning Administrator regarding subdivision or subdivision plat amendment approval or recommendation hereunder by filing with the **ZONING ADMINISTRATOR** ~~County Clerk~~ a notice thereof in writing within **FIFTEEN (15)** days after such decision, determination or requirement is made. Such notice shall set forth in detail the action and grounds upon which the subdivider or other person deems himself or herself aggrieved **AND INCLUDE THE APPLICABLE FEE FOR APPEAL.**

~~—(B) The County Clerk shall set the appeal for hearing before the County Commission within a reasonable time after receipt of the appeal. Such hearing may be continued by order of the County Commission. The appellant shall be notified of the appeal hearing date at least seven days prior to the hearing. After hearing the appeal, the County Commission may affirm, modify or reverse the decision, determination or requirement appealed and enter any such orders as are in harmony with the spirit and purpose of this chapter. The County Commission shall notify the appellant in writing of its ruling. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the County Commission.~~

~~—(C) An aggrieved party may appeal any decision of the County Commission in applying the provisions of this subchapter to state's district court as provided in UCA § 17-27a-801, as amended.~~

(Prior Code, § 8-12-14) (Ord. 10-16, passed 12-14-2010; Ord. 19-09, passed 10-15-2019)

§ 155.437 APPROVAL AUTHORITY; SMALL SUBDIVISIONS.

In the case of small subdivisions, the Planning Commission shall have the ability to approve, approve with conditions or deny a small subdivision in accordance with the regulations outlined in this subchapter. Alternatively, the Planning Commission may direct that the application follows the standard procedures for subdivision approval, as provided elsewhere in this subchapter. The applicant may appeal the decision of the Planning Commission **TO THE APPEAL AUTHORITY PURSUANT TO § 155.030** ~~to the County Commission as outlined elsewhere in this subchapter.~~

(Prior Code, § 8-12-54) (Ord. 15-06, passed 6-21-2015; Ord. 19-09, passed 10-15-2019)

§ 155.440 REVIEW BY THE PLANNING COMMISSION OF SMALL SUBDIVISIONS.

(A) Once comment has been received from all notified government departments, agencies and property owners, the county's Planning and Development Services Department shall review the submitted small subdivision application and check compliance with relevant requirements of the county's General Plan, Land Use Management Code and other appropriate regulations, and shall present a staff report to the Planning Commission. Based on this staff report, the Planning Commission shall make findings regarding the submitted small subdivision plan, specifying the approval, approval with conditions or denial of the subdivision, or specifying any inadequacy in the information submitted, noncompliance with county regulations, questionable or undesirable design and/or engineering. The Planning Commission may also make a determination that the small subdivision is required to proceed through the normal subdivision process. The Zoning Administrator shall prepare a notice of decision and deliver it to the applicant within a reasonable period following the review, outlining the decision of the Planning Commission, including any findings and/or conditions of approval.

(B) The Planning Commission shall take the following into account when determining whether the application will require standard subdivision review:

- (1) The size of the proposed development;
- (2) Whether the subdivision lies within the Sensitive Area District or geologic hazard study area;
- (3) Compliance with county ordinances and relevant sections of the county's General Plan;
- (4) Requests for exceptions or modifications;
- (5) Compatibility with surrounding properties; and
- (6) Whether the proposal is routine and uncontested.

(C) The Planning Commission may require additional information, data or studies to be provided by the applicant for the subdivision before any determination is made as to the acceptability of the proposed subdivision.

(D) The Planning Commission may, after review of the plan and comment from other departments and agencies, direct the applicant to follow the standard procedures required for subdivision, as described in this subchapter.

(E) The applicant may appeal any decision of the Planning Commission to the ~~County Commission~~ **APPEAL AUTHORITY PURSUANT TO § 155.030** within **FIFTEEN (145)** days of the notice of decision. The appeal must be submitted in writing to the ~~county's Planning and Development Services Department~~ **ZONING ADMINISTRATOR AND INCLUDE THE APPLICABLE APPEAL FEE.** ~~The County Commission shall then, during a public meeting, review the record of the decision and determine if the Planning Commission's decision was in accordance with this chapter. If the Planning Commission's decision is found to not be in accordance with this chapter, the application shall be remanded, with comment regarding the County Commission's action, to the Planning Commission for additional review.~~

(F) The Zoning Administrator shall provide notification of any final decision regarding a small subdivision to the Planning Commission ~~and the County Commission.~~

(Prior Code, § 8-12-57) (Ord. 15-06, passed 6-21-2015; Ord. 19-09, passed 10-15-2019)

§ 155.999 PENALTY.

~~—(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.~~

~~—(B) Any person, firm, partnership or corporation or the principals or agents thereof, violating or causing the violation of any provision of this chapter, as the same may be amended from time to time, shall be subject to the following penalties.~~

~~—(1) *Criminal penalty.*~~

~~—(a) Any person, firm or corporation, whether as principal, agent or employee, who violates or causes the violation of any of the provisions of this chapter shall be guilty of a class C misdemeanor, as allowed by UCA § 17-27a-803 and, upon conviction thereof, shall be subject to penalty as provided in § 10.99 of this code.~~

~~—(b) In addition, the following may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use:~~

~~—1. The county by action of the governing body; or~~

~~—2. Any owner of real estate within the zoning district in which an alleged violation of this chapter has occurred; or the owner of real estate across a zoning district line and abutting or facing the real estate where the alleged violation has occurred.~~

~~—(2) *Civil penalties.* In lieu of pursuing criminal remedies with respect to any violation of any provision of this chapter, the county may elect, in its sole discretion based upon the particular facts and circumstances of each case, to pursue the following civil remedies regarding such violation. The following civil remedies may not be pursued for a violation that occurs in conjunction with a criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding, but the following civil remedies may be pursued if no criminal proceedings will occur with respect to the violation.~~

~~—(a) *Courtesy notice.* The Zoning Administrator or designee will investigate alleged zoning violations and determine if a violation exists. If a violation exists, the county shall send a courtesy notice to the property owner, stating the nature of the violation, possible action of the county and allowing a ten day compliance period in which the property owner may either bring the property into compliance or meet with the Zoning Administrator for an inspection to determine if in fact a violation exists and what remedies may be available to the property owner. Courtesy notice shall be delivered by certified mail or shall be served by a constable.~~

~~—(b) *Notice to comply.*~~

~~—1. The county shall issue a written notice to comply regarding each such violation to the offending party, which written notice shall identify the offending party, identify the violation, set forth the time period afforded to the offending party to come into compliance with this chapter and thereby avoid further enforcement proceedings, and set forth the date, time and location of the administrative hearing to be held regarding the same in the event that the offending party does not comply within the prescribed time period. For a first-time offense, the applicable compliance period shall be 30 calendar days from the date of the written notice to comply.~~

~~—2. If the offending party is unable to correct the offense within the allowed compliance period, the party may request an extension. The extension must be in writing and must be signed by all property owners, tenants and parties, with all signatures notarized. The request for extension shall contain the requested extension date, factual evidence as to why the extension is justified and a commitment to correct the violation within the extension period. The extension may be granted by the Zoning Administrator at his or her discretion. Written approval or denial of the extension will be given to the offending party. In the event that the Zoning Administrator does not grant the extension, his or her decision may be appealed to the administrative hearing officer.~~

~~3. In the event that a second notice to comply is issued to the same party with respect to a particular violation within any rolling 12-month period, the applicable compliance period shall be 15 calendar days from the date of the written notice to comply. In the event that a third notice to comply is issued to the same party with respect to a particular violation within any rolling 12-month period, the applicable compliance period shall be the next calendar day after the date of the written notice to comply. Notice shall be delivered by certified mail or shall be served by a constable.~~

~~(c) *Amount of civil penalty.* If a violation is not completely cured within the time period set forth in the written notice to comply, then such violation of any provision of this chapter shall be subject to a civil penalty in the minimum amount of \$25 and the maximum amount of \$100 per day, depending upon the particular facts and circumstances of each case, which fine shall be imposed beginning on the first calendar day after the applicable compliance period has expired and ending on the date that the violation is completely cured and the offending party is in full compliance with this chapter with respect thereto.~~

~~(d) *Administrative hearing.* The administrative hearing shall be a public meeting during regularly scheduled hours, conducted by an administrative law judge appointed by the County Commission (which administrative law judge may be an employee of the county). The offending party shall be given an opportunity to be heard at the administrative hearing and shall otherwise be afforded due process. The administrative hearing shall be recorded or otherwise documented so that a true and correct transcript may be made of its proceedings. The administrative law judge shall make a final administrative determination with respect to the citation, which determination may be that there was no violation, or that a violation occurred and must be abated, and the amount of the appropriate civil penalty within the parameters set forth herein.~~

~~(e) *Appeal.* Any person adversely affected by any such administrative proceeding and order may petition a district court for review of the determination. In the petition, the petitioner may only allege that the administrative order was arbitrary, capricious or illegal. The petition is barred unless it is filed within 30 calendar days after the administrative order is final. No evidence may be submitted to the district court as part of such petition that is not included in the administrative record of the proceedings unless the evidence was offered to the administrative law judge as part of the administrative hearing and the district court determines that the evidence was improperly excluded by the administrative law judge.~~

~~(f) *Collection.* In the event that the county is required to take formal legal action to collect any civil penalty imposed pursuant to this division (B)(2)(f), the person responsible therefor shall also be responsible for paying any costs of collection incurred by the county, including, but not limited to, reasonable attorney fees, which costs of collection may exceed the amount of the civil penalty itself. Collection may be opened by obtaining a judgment in small claims court and/or attaching a tax lien on the property.~~

~~(3) *Third-party enforcement.* Each and every continuing violation of any provision of this chapter is declared to constitute a nuisance. Private citizens of and/or property owners in the county shall also have the right to commence and pursue formal civil legal proceedings with respect to any ongoing violations affecting their interests; provided, that no such legal action shall be filed until after the expiration of 30 calendar days from the date that a written notice of intent to commence such legal proceedings is actually received by the County Clerk. The prevailing party in any such private civil legal proceedings shall be entitled to an award of reasonable attorney fees incurred in pursuing or defending such action.~~

~~—(4) *Inspector to issue fix-it tickets.* The Planner/Building Inspector is hereby authorized to issue fix-it tickets to persons whom it is his or her opinion are violating this chapter. The other law enforcement personnel, including the Sheriff's force and animal control officers, are hereby authorized to issue fix-it tickets to such persons as they believe are violating county ordinances:~~

~~—(a) A person authorized to issue a fix-it ticket may set down on the ticket the terms for which the ticket is issued, which shall give the person receiving the fix-it ticket a reasonable time in which to rectify the conceived violation of this chapter or other ordinances of the county;~~

~~—(b) If a person receiving a fix-it ticket does not respond and rectify the perceived violation of county ordinances, including this chapter, within the time permitted by the issuer of the fix-it ticket, then and in that event such failure shall be considered a violation of the county ordinances; and~~

~~—(c) A violation of county ordinances and failure to respond to a fix-it ticket shall be and is hereby ordained to be a class B misdemeanor and shall be punishable in accordance with the statutes of the state fixing penalties for a class B misdemeanor.~~

~~(Prior Code, § 8-1-8)~~

~~—(C) Any person who after being formally charged with the violation of any provision of §§ [155.200](#) through [155.207](#) of this code and is subsequently found guilty on such charges, shall be deemed guilty of a class C misdemeanor, punishable as provided in § [10.99](#) of this code.~~

~~(Prior Code, § 8-5H-7)~~

~~—(D) It shall be a class C misdemeanor for any person to fail to comply with the provisions of §§ [155.385](#) through [155.450](#) of this code. In addition to any criminal prosecution, the county may pursue any other legal remedy to ensure compliance with this chapter including, but not limited to, injunctive relief and the withholding of approvals.~~

~~(Prior Code, § 8-12-13)~~

~~(Ord. 10-16, passed 12-14-2010; Ord. 19-09, passed 10-15-2019; Ord. 20-15, passed 10-20-2020)~~

[A] GENERAL PENALTY REFERENCE. FINES AND JAIL TERMS FOR PENALTIES IMPOSED UNDER THIS SECTION ARE GOVERNED BY § 10.99 AND U.C.A. § 17-27A-803.

[B] DEFINITIONS. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS, "ADVERSELY AFFECTED PARTY," "APPEAL AUTHORITY," "LAND USE AUTHORITY," "LAND USE DECISION," AND "LAND USE REGULATION" HAVE THE MEANINGS PROVIDED IN § 155.008 AND ARE INCORPORATED HEREIN BY REFERENCE.

[C] VIOLATIONS AND PENALTIES. ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, OR THE PRINCIPALS OR AGENTS THEREOF, WHO VIOLATES OR CAUSES THE VIOLATION OF ANY PROVISION OF THIS CHAPTER, IS SUBJECT TO THE FOLLOWING ENFORCEMENT MECHANISMS:

(1) WITHHOLD PERMITS. THE COUNTY MAY DENY OR WITHHOLD ALL PERMITS, CERTIFICATES, OR OTHER FORMS OF AUTHORIZATION PERTAINING TO ANY LAND OR IMPROVEMENTS WHEN AN UNCORRECTED VIOLATION EXISTS WITH REGARD TO SUCH LAND OR IMPROVEMENT. THE COUNTY MAY GRANT THE PERMIT SUBJECT TO

CORRECTION OF THE VIOLATION, REGARDLESS OF WHETHER THE CURRENT OR PRIOR OWNER WAS RESPONSIBLE FOR THE VIOLATION.

(2) REVOKE PERMITS OR APPROVALS. THE ZONING ADMINISTRATOR MAY REVOKE ANY PERMIT PROCURED BY FALSE REPRESENTATION OR ISSUED IN ERROR. WRITTEN NOTICE OF REVOCATION SHALL BE SERVED UPON THE RESPONSIBLE PARTY AND NO FURTHER WORK SHALL PROCEED. WHERE A VIOLATION INVOLVES FAILURE TO COMPLY WITH APPROVED PLANS OR CONDITIONS OF APPROVAL, THE COUNTY MAY REVOKE THE APPROVAL OR IMPOSE ADDITIONAL CONDITIONS.

(3) STOP WORK ORDER. THE COUNTY MAY ISSUE A STOP WORK ORDER ON ANY BUILDING OR PROJECT WHERE AN UNCORRECTED VIOLATION EXISTS, WITH OR WITHOUT REVOKING PERMITS.

(4) INJUNCTIVE OR EQUITABLE RELIEF. THE COUNTY MAY SEEK AN INJUNCTION OR OTHER EQUITABLE RELIEF IN THE DISTRICT COURT TO STOP OR PREVENT ANY VIOLATION OF THIS CHAPTER.

(5) ABATEMENT / RESTORATION. THE COUNTY MAY SEEK A COURT ORDER REQUIRING ABATEMENT OR REMOVAL OF A VIOLATION AND RESTORATION OF THE PREMISES.

(6) EMERGENCY ABATEMENT. WHEN THE ZONING ADMINISTRATOR, BUILDING OFFICIAL, FIRE MARSHAL, OR SHERIFF DETERMINES THAT A CONDITION ON REAL PROPERTY PRESENTS AN IMMINENT AND SUBSTANTIAL DANGER TO THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC OR OCCUPANTS, THE COUNTY MAY, WITHOUT PRIOR NOTICE, TAKE WHATEVER ACTIONS ARE REASONABLY NECESSARY TO REMOVE OR ABATE THE DANGER. COSTS INCURRED BECOME A CIVIL DEBT AGAINST THE RESPONSIBLE PARTY AND MAY BE COLLECTED AS PROVIDED IN § 155.999[E](3).

(7) NOTICE OF NONCOMPLIANCE. THE COUNTY MAY RECORD A NOTICE OF NONCOMPLIANCE WITH THE COUNTY RECORDER'S OFFICE.

(8) CIVIL/ADMINISTRATIVE MEASURES. COURTESY NOTICES, NOTICES TO COMPLY, CIVIL PENALTIES, LIENS, AND ALL OTHER CIVIL ENFORCEMENT AS ALLOWED BY LAW.

(9) CRIMINAL PROSECUTION AND FIX-IT TICKETS.

(10) OTHER REMEDIES. THE COUNTY RETAINS ALL REMEDIES AVAILABLE UNDER LAW OR EQUITY FOR VIOLATIONS OF THIS CHAPTER.

(11) REMEDIES CUMULATIVE. THESE REMEDIES ARE CUMULATIVE AND NOT EXCLUSIVE. INVOCATION OF ONE REMEDY DOES NOT PRECLUDE THE COUNTY FROM INVOKING ANOTHER.

(12) NOTICE OF ANY REMEDY UTILIZED BY THE COUNTY FOR VIOLATIONS SHALL BE SERVED PURSUANT TO § 155.999[E](2)(B).

[D] CRIMINAL ENFORCEMENT.

(1) CRIMINAL PENALTIES.

(A) ANY PERSON OR ENTITY, WHETHER AS PRINCIPAL, AGENT, OR EMPLOYEE, WHO VIOLATES ANY PROVISION OF THIS CHAPTER SHALL BE GUILTY OF A CLASS C MISDEMEANOR, PURSUANT TO U.C.A. § 17-27A-803 AND SUBJECT TO PENALTIES AS PROVIDED IN § 10.99.

(B) IN ADDITION TO CRIMINAL PENALTIES, THE COUNTY, THROUGH ACTION OF THE GOVERNING BODY MAY INITIATE CIVIL PROCEEDINGS SUCH AS INJUNCTIONS OR ABATEMENTS TO PREVENT OR REMEDY VIOLATIONS. THE COUNTY NEED ONLY ESTABLISH THE VIOLATION TO OBTAIN INJUNCTIVE RELIEF, AS PROVIDED IN U.C.A. § 17-27A-802(1)(B).

[E] CIVIL ENFORCEMENT. IN LIEU OF PURSUING CRIMINAL REMEDIES WITH RESPECT TO ANY VIOLATION OF ANY PROVISION OF THIS CHAPTER, THE COUNTY MAY ELECT, IN ITS SOLE DISCRETION BASED UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF EACH CASE, TO PURSUE THE FOLLOWING CIVIL REMEDIES REGARDING SUCH VIOLATION. THE FOLLOWING CIVIL REMEDIES MAY NOT BE PURSUED FOR A VIOLATION THAT OCCURS IN CONJUNCTION WITH A CRIMINAL VIOLATION AS PART OF A SINGLE CRIMINAL EPISODE THAT WILL BE PROSECUTED IN A CRIMINAL PROCEEDING, BUT THE FOLLOWING CIVIL REMEDIES MAY BE PURSUED IF NO CRIMINAL PROCEEDINGS WILL OCCUR WITH RESPECT TO THE VIOLATION.

(1) COURTESY NOTICE. UPON INVESTIGATION OF A SUSPECTED VIOLATION, THE ZONING ADMINISTRATOR OR THEIR DESIGNEE MAY ISSUE A COURTESY NOTICE TO THE PROPERTY OWNER. THIS NOTICE SHALL DESCRIBE THE VIOLATION AND ALLOW A TEN (10) DAY COMPLIANCE PERIOD.

(2) NOTICE TO COMPLY.

(A) IF THE VIOLATION IS NOT RESOLVED AFTER THE COURTESY PERIOD OR IF THE ZONING ADMINISTRATOR CHOOSES NOT TO

**ISSUE A COURTESY NOTICE, THE ZONING ADMINISTRATOR SHALL
ISSUE A WRITTEN NOTICE TO COMPLY THAT:**

- 1. IDENTIFIES THE OWNER OF RECORD AS SHOWN IN THE
COUNTY RECORDER'S OFFICE, THEIR DESIGNATED AGENT,
OR OTHER RESPONSIBLE PARTY;**
- 2. IDENTIFIES THE DATE AND LOCATION OF EACH
VIOLATION;**
- 3. DESCRIBES EACH VIOLATION AND IDENTIFIES THE CODE
SECTIONS VIOLATED;**
- 4. SPECIFIES A THIRTY (30) DAY COMPLIANCE PERIOD
WITHIN WHICH THE VIOLATION MUST BE CURED OR AS
PROVIDED IN § 155.999[E](2)(F) THE SHORTENED
COMPLIANCE PERIOD WITHIN WHICH THE VIOLATION
MUST BE CURED;**
- 5. ADVISES THE RESPONSIBLE PARTY OF THE RIGHT TO
REQUEST AN ADMINISTRATIVE HEARING BEFORE THE
APPEAL AUTHORITY PURSUANT TO § 155.999[F] BY FILING A
WRITTEN APPEAL WITH THE ZONING ADMINISTRATOR
WITHIN THE SAME THIRTY (30) DAY COMPLIANCE PERIOD;**
- 6. ADVISES THAT IF THE NOTICE TO COMPLY VIOLATION(S)
IS NOT CURED WITHIN ALLOWED TIME, A CIVIL PENALTY
MAY BE ASSESSED UP TO ONE THOUSAND DOLLARS
(\$1,000.00) PER VIOLATION PER DAY, OR SUCH AMOUNT AS
SET FORTH IN THE COUNTY FEE SCHEDULE ADOPTED BY
RESOLUTION OF THE COUNTY COMMISSION. PENALTIES
SHALL BE BASED ON THE SEVERITY AND DURATION OF THE
VIOLATION. THE NOTICE TO COMPLY SHALL SPECIFY THE
AMOUNT TO BE ASSESSED EACH DAY TO THE RESPONSIBLE
PARTY; AND**
- 7. ADVISES THAT FAILURE TO EITHER FILE A TIMELY
APPEAL OR TO CURE THE VIOLATION WITHIN THE
COMPLIANCE PERIOD RENDERS THE NOTICE TO COMPLY
FINAL AND THAT CIVIL PENALTIES WILL BEGIN TO ACCRUE
WITHOUT FURTHER NOTICE.**

**(B) THE ENFORCEMENT OFFICIAL SHALL SERVE THE NOTICE ON
THE RESPONSIBLE PARTY BY:**

1. POSTING A COPY OF THE WRITTEN NOTICE ON THE NONCOMPLIANT PROPERTY, AND

2. MAILING THE NOTICE THROUGH CERTIFIED MAIL OR A REPUTABLE MAIL TRACKING SERVICE THAT IS CAPABLE OF CONFIRMING DELIVERY. IF THE RESPONSIBLE PARTY IS THE PROPERTY OWNER OF RECORD, THEN MAILING SHALL BE TO THE LAST KNOWN ADDRESS APPEARING ON THE RECORDS OF THE COUNTY RECORDER. IF THE RESPONSIBLE PARTY IS ANY OTHER PERSON OR ENTITY OTHER THAN THE OWNER OF RECORD, THEN MAILING SHALL BE TO THE LAST KNOWN ADDRESS OF THE RESPONSIBLE PARTY ON FILE WITH THE COUNTY.

3. NOTWITHSTANDING THE FOREGOING, PERSONAL SERVICE UPON THE RESPONSIBLE PARTY SHALL BE SUFFICIENT TO MEET THE NOTICE REQUIREMENTS.

(C) FOLLOWING THE ISSUANCE OF A NOTICE TO COMPLY, ANY RESPONSIBLE PARTY SHALL CORRECT THE VIOLATIONS SPECIFIED IN THE NOTICE TO COMPLY. UPON CORRECTION OF THE SPECIFIED VIOLATIONS, THE RESPONSIBLE PARTY SHALL CONTACT THE ENFORCEMENT OFFICIAL IDENTIFIED IN THE NOTICE TO COMPLY TO REQUEST AN INSPECTION OF THE PROPERTY.

(D) REQUESTS FOR EXTENSIONS OF THE COMPLIANCE PERIOD MUST BE MADE IN WRITING, SIGNED BY ALL RELEVANT PARTIES, AND NOTARIZED PRIOR TO THE EXPIRATION OF THE THIRTY (30) DAY COMPLIANCE PERIOD. THE ZONING ADMINISTRATOR MAY APPROVE OR DENY EXTENSIONS, WITH WRITTEN NOTICE TO THE APPLICANT. DENIALS OF AN EXTENSION MAY BE APPEALED TO THE APPEAL AUTHORITY WITHIN TEN (10) DAYS OF WRITTEN DENIAL BY FILING A WRITTEN APPEAL PURSUANT TO § 155.999[F] AND PAYING A FEE IN THE AMOUNT AS PROVIDED IN THE COUNTY FEE SCHEDULE.

(E) NO APPEAL HEARING FOR THE NOTICE TO COMPLY OR CIVIL FINE AMOUNT WILL BE SCHEDULED UNLESS THE RESPONSIBLE PARTY TIMELY FILES A WRITTEN REQUEST AND PAYS THE REQUISITE APPEAL FEE WITHIN THE APPROVED COMPLIANCE PERIOD. UPON RECEIVING A TIMELY REQUEST AND PAYMENT OF FEE, THE APPEAL AUTHORITY SHALL SET A HEARING WITHIN FORTY-FIVE (45) DAYS OF THE REQUEST AND SHALL PROVIDE WRITTEN NOTICE OF THE HEARING DATE, TIME, AND LOCATION TO THE APPELLANT AT LEAST TEN (10) DAYS IN ADVANCE.

(F) SUBSEQUENT VIOLATIONS WITHIN A ROLLING TWELVE (12) MONTH PERIOD SHALL RECEIVE REDUCED COMPLIANCE PERIODS: FIFTEEN (15) DAYS FOR A SECOND VIOLATION, AND ONE (1) CALENDAR DAY FOR A THIRD.

(G) RESPONSIBILITY: PAYMENT OF CIVIL FINES SHALL NOT RELIEVE THE RESPONSIBILITY OF ANY PERSON TO CORRECT THE VIOLATION OR MAKE PAYMENT OF SUBSEQUENTLY ACCRUED CIVIL FINES NOR SHALL IT REQUIRE THE COUNTY TO REISSUE ANY OF THE NOTICES REQUIRED BY THIS CHAPTER.

(3) CIVIL PENALTY ENFORCEMENT. UPON THE EXPIRATION OF THE APPLICABLE APPEAL PERIODS, UNDER THE POLITICAL SUBDIVISION LIEN AUTHORITY AS SET FORTH IN U.C.A. § 11-60-101 ET SEQ., AS AMENDED, EACH CIVIL FINE ASSESSED UNDER THIS CHAPTER SHALL CONSTITUTE A DIRECT CHARGE, AS DEFINED IN U.C.A. § 11-60-102(1) FOR CODE VIOLATIONS. THE COUNTY MAY COLLECT THE CIVIL FINES BY FILING A LIEN ON REAL OR PERSONAL PROPERTY OWNED BY THE PERSON ASSESSED HEREUNDER PURSUANT TO U.C.A. § 11-60-103. ADDITIONALLY, THE COUNTY MAY PURSUE COLLECTION THROUGH OTHER LEGAL MEANS INCLUDING SMALL CLAIMS JUDGMENT, LIENS, NOTICES OF NON-COMPLIANCE, AND THE RECOVERY OF REASONABLE ATTORNEY'S FEES AND COLLECTION COSTS. THE COUNTY'S DECISION TO PURSUE COLLECTION DOES NOT LIMIT ITS ABILITY TO APPLY OR PURSUE OTHER ENFORCEMENT MECHANISMS UNDER THIS SECTION CONCURRENTLY.

[F] APPEALS/ADMINISTRATIVE HEARING.

(1) APPEAL AUTHORITY. ADMINISTRATIVE HEARINGS UNDER THIS CHAPTER SHALL BE CONDUCTED BY THE COUNTY'S DESIGNATED APPEAL AUTHORITY PURSUANT TO § 155.030 AND U.C.A. § 17-27A-701. THE APPEAL AUTHORITY SHALL HEAR AND DECIDE SUCH MATTERS IN ACCORDANCE WITH THE POWERS, PROCEDURES, AND STANDARDS ESTABLISHED IN § 155.030. THE APPEAL AUTHORITY'S WRITTEN DECISION SHALL CONSTITUTE THE COUNTY'S FINAL ACTION FOR PURPOSES OF JUDICIAL REVIEW UNDER U.C.A. § 17-27A-801.

(2) RIGHT TO ADMINISTRATIVE HEARING.

(A) ANY PERSON AGGRIEVED BY A LAND USE DECISION OR DETERMINATION MADE BY A COUNTY OFFICER, EMPLOYEE, OR DESIGNEE IN THE ADMINISTRATION OR ENFORCEMENT OF THE COUNTY LAND USE CODE, SHALL HAVE THE RIGHT TO REQUEST

**AN ADMINISTRATIVE HEARING BEFORE THE APPEAL AUTHORITY
PURSUANT TO § 155.030.**

(B) TIME FOR FILING APPEAL.

1. VIOLATIONS OF LAND USE REGULATIONS. ANY PERSON WHO RECEIVES A WRITTEN NOTICE TO COMPLY SHALL HAVE FIFTEEN (15) CALENDAR DAYS FROM THE DATE OF SERVICE TO FILE A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR FOR AN ADMINISTRATIVE HEARING BEFORE THE APPEAL AUTHORITY PURSUANT TO § 155.030. FAILURE TO FILE A TIMELY REQUEST CONSTITUTES A WAIVER OF THE RIGHT TO APPEAL.

2. LAND USE DECISIONS – ADVERSELY AFFECTED PARTIES. ANY ADVERSELY AFFECTED PERSON SHALL HAVE FIFTEEN (15) CALENDAR DAYS FROM THE DATE OF ACTUAL OR CONSTRUCTIVE NOTICE OF A FINAL LAND USE DECISION TO FILE A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR FOR AN ADMINISTRATIVE HEARING BEFORE THE APPEAL AUTHORITY PURSUANT TO § 155.030. FAILURE TO FILE A TIMELY REQUEST CONSTITUTES A WAIVER OF THE RIGHT TO APPEAL.

(C) CONTENT OF APPEAL. EACH REQUEST FOR HEARING SHALL INCLUDE:

- 1. THE NAME AND CONTACT INFORMATION OF THE APPELLANT;**
 - 2. A COPY OF THE DECISION OR NOTICE BEING APPEALED;**
 - 3. A CONCISE STATEMENT OF THE BASIS FOR THE APPEAL;**
- AND**
- 4. THE SPECIFIC RELIEF OR OUTCOME SOUGHT.**

(3) DISTRICT COURT REVIEW. NO PERSON MAY PETITION FOR DISTRICT COURT REVIEW OF A LAND USE DECISION UNDER THIS SECTION UNTIL ALL ADMINISTRATIVE REMEDIES, INCLUDING THE ADMINISTRATIVE HEARING PROVIDED HEREIN, HAVE BEEN EXHAUSTED AS REQUIRED BY U.C.A. § 17-27A-801(1) AND § 155.030. ANY PERSON ADVERSELY AFFECTED BY THE APPEAL AUTHORITY'S FINAL DETERMINATION MAY PETITION THE DISTRICT COURT WITHIN THIRTY (30) CALENDAR DAYS OF THE APPEAL AUTHORITY'S FINAL WRITTEN DECISION. THE PETITION MAY ONLY ALLEGE THAT THE DECISION WAS ARBITRARY, CAPRICIOUS, OR

ILLEGAL, AND THE COURT'S REVIEW SHALL BE LIMITED TO THE ADMINISTRATIVE RECORD. ADDITIONAL EVIDENCE MAY BE CONSIDERED ONLY IF THE COURT FINDS IT WAS OFFERED TO, BUT IMPROPERLY EXCLUDED BY, THE APPEAL AUTHORITY.

[G] FIX-IT TICKETS. THE ZONING ADMINISTRATOR AND/OR THEIR DESIGNEE, BUILDING INSPECTOR, SHERIFF'S DEPUTIES, AND ANIMAL CONTROL OFFICERS ARE AUTHORIZED TO ISSUE FIX-IT TICKETS. THE TICKET SHALL SPECIFY THE ALLEGED VIOLATION AND A DEADLINE FOR CORRECTION.

(1) A PERSON AUTHORIZED TO ISSUE A FIX-IT TICKET MAY SET DOWN ON THE TICKET THE TERMS FOR WHICH THE TICKET IS ISSUED, WHICH SHALL GIVE THE PERSON RECEIVING THE FIX-IT TICKET A REASONABLE TIME IN WHICH TO RECTIFY THE PERCEIVED VIOLATION OF THIS CHAPTER OR OTHER ORDINANCES OF THE COUNTY.

(A) IF A PERSON RECEIVING A FIX-IT TICKET DOES NOT RESPOND AND RECTIFY THE PERCEIVED VIOLATION OF COUNTY ORDINANCES, INCLUDING THIS CHAPTER, WITHIN THE TIME PERMITTED BY THE ISSUER OF THE FIX-IT TICKET, THEN AND IN THAT EVENT SUCH FAILURE SHALL BE CONSIDERED A VIOLATION OF THE COUNTY ORDINANCES; AND

(B) A VIOLATION OF COUNTY ORDINANCES AND FAILURE TO RESPOND TO A FIX-IT TICKET IS A CLASS C MISDEMEANOR.

(2) THE COUNTY MAY PURSUE ADMINISTRATIVE/CIVIL PENALTIES, CRIMINAL PROSECUTION, OR OTHER ACTIONS CONCURRENTLY WITH OR INDEPENDENTLY OF ANY FIX-IT TICKET ISSUED.

PLANNING COMMISSION MINUTES

Thursday, June 12th, 2025
Morgan County Commission Room
6:30 pm

Minutes of the Morgan County Planning Commission meeting at the above time and date at the Morgan County Courthouse, Commission Chambers; 48 West Young Street, Morgan, Utah.

Present PC Members:

Member Maloney
Member King
Member Wilson
Member Watt
Member Telford

PC Members Absent:

Member McMillan

Public Attendance:

Debbie Sessions

Staff:

Joshua Cook – Planning Director
Jeremy Lance -Planner I
Judy Vogel, Transcriptionist/Permit Tech

1. Call to order – Prayer
2. Pledge of Allegiance
3. Approval of agenda

Motion by Member King to approve the agenda.

Second by Member Wilson. The vote was unanimous. Motion carried.

4. Declaration of Conflicts of Interest

6. Public Comment

No Public Comment

Administrative

7. Public Meeting/Discussion/Decision – Ponderosa Subdivision Phase 2 Preliminary Plat –

A request for preliminary plat approval of a subdivision of 24 lots, which is identified by parcel numbers 00-0083-4593, 00-0083-4595, and 00-0063-3521 and serial numbers 03-POND1-0101, 03-POND1-0103, 03-005-029, and is approximately located at 6113 N Hidden Valley Rd in unincorporated Morgan County.

Planner Lance stated that this item will be continued until July 10th. He explained that staff had not received all the documentation that was needed to move this item forward.

Motion by Member Watt, “I move we continue the Ponderosa Subdivision Phase 2 Preliminary Plat to the Planning Commission Meeting on July 10th, 2025

Second by Member Telford. The vote was unanimous.

Legislative

8. Public Hearing/Discussion/Decision – Cemetery Code Text Amendment – Request for approval of a text amendment to modify the Morgan County Code (MCC) to define public and private cemeteries, clarify where cemeteries are permitted, and establish detailed approval standards for cemetery layout, infrastructure, and long-term maintenance.

Planning Director Cook Presented the code text amendment was brought about by the County Commission. This was done in the effort to Combine the public and private definition of a cemetery. We deleted the “private cemetery” from the land use section and called it just “cemetery”. There are minor changes that need to be made without changing the substance. Section A says site plan; it should say application. B4, states area covered by base flood, should read, area covered by flood plain with corresponding base flood elevations. C3, add an additional sentence, “These areas shall be noted on the plat, which kind of ties into before the potential for flooding, high topographic relief shot, shallow depths to groundwater, things like that. Those areas need to be denoted on the recorded plat. C6 denotes that 12 feet of roadway is for one way traffic. If it is 2-way traffic, it should be 24 ft. Adding a 6 to D stating that existing vegetation will be counted toward the total required trees and shrubs. F should not say Planning Commission; it should say County Commission.

Member Telford questioned if the county would have to go through the application process if they were to have a county run cemetery?

Planning Director Cook explained that they would not since Supreme Court dictates they do not have to comply with rules and standards they have adopted.

Member Watt questioned whether this can be moved forward tonight or have to return after changes are made.

Planning Director Cook explained that it can move forward because changes do not change the content.

Open Public Hearing

Motion by Member Wilson to open Public Hearing

Second, by Member King. The vote was unanimous. Motion carried.

No public comment

Close Public Hearing

Motion by Member King to close Public Hearing.

Second, by Member Watt. The vote was unanimous. Motion carried.

Motion by Member King “I move we recommend approval to the county commission of the cemetery code text amendment based on the findings listed in the memorandum dated June 12, 2025, with the following additional conditions, and that is the changes as they were put forth in a narrative to us this this evening,

Second by Member King. The vote was unanimous. Motion carried.

9. Business and staff questions

Deputy Attorney Christoffersen discussed propriety for using personal cell phones for County business. You should be using County email. Private cell phones can be GRAMMA-ed.

Discussion on making Planning department aware of absences, issues with not have a quorum. Approved absences must go through Judy.

Member Wilson questioned the need to continue the Ponderosa Subdivision Preliminary Plat several times as it prevents the public from voicing their opinions.

Planning Director Cook explained why it was continued and how it is right of the applicant to continue.

Discussion continues about the continuance of the application.

Chair Maloney questioned the status of the ridgeline protection code.

Planning Director Cook explained there are many other code text requests that have been brought forth by the County Commission that take precedence.

Chair Maloney questioned ADUs and the reversing of the primary residence.

Planning Director Cook explained that it doesn't matter which is the primary if it fits within the code parameters.

Chair Maloney expressed concern for applicants switching primary residence and feels it should be enforced to not switch.

Planning Director Cook explained that they can do what ever they want on their property as long as it follows code and he will not enforce otherwise.

Member Wilson questioned who is in charge of the meeting and feels the Planning Commission has no say. He continued stating that he feels the Planning Director just does what he wants and tells the Planning Commission what he will and won't do and doesn't feel that is proper.

Deputy Attorney Christoffersen explained that the Zoning Administrator, Josh Cook, is the one to interpret code as well as state law regarding land use.

Member Watt verified his thoughts about applications being reviewed and properly prepared before being brought before the planning commission.

Planning Director Cook confirmed Member Watt's thoughts.

Member Wilson continued to state that Planning Director Cook's decisions and enforcement of Code was questionable. He asks the Deputy Attorney if she agrees.

Deputy Attorney Christoffersen explained that it is solely the Planning Director's decision and responsibility how to interpret and enforce code.

8. Approval of minutes

Motion by Member King

Second, by Member Telford. The vote was unanimous. Motion carried.

9. Adjourn

Motion by Member Wilson

Second, by Member King. The vote was unanimous. Motion carried.

Approved: _____ Date: _____
Chairman, Maddie Maloney

Judy Vogel, Transcriptionist
Planning and Development Services