Amended November 4, 2003 by Apache County Board of Supervisors

ARTICLE 13

ARTICLE 13. ADMINISTRATION AND ENFORCEMENT

This Zoning Ordinance is adopted for the unincorporated areas of Apache County pursuant to the authority granted to Counties in A.R.S. § 11-815.

Section 1301. Purpose

This Article establishes the duties and responsibilities for the enforcement officer, building official, and other officials and agencies, with respect to the administration of this Zoning Ordinance, Subdivision Ordinance, Minor Land Division, Building Codes, and related Apache County Ordinances and delegated agreements with State agencies. The code enforcement officer, designees, and deputy zoning enforcement officers, and building official, deputies and designees, and Sheriff and deputies shall be referred to in this Article as the "enforcement officer."

Section1302. Zoning Inspection and Enforcement

A. Duties. It shall be the duty of the code enforcement officer, building official, the Apache County Sheriff, and all Apache County officials otherwise charged with the enforcement of the law to enforce all the provisions of this Ordinance.

~~**B.** Application and permits. The Director or designee shall receive applications required by this Ordinance and issue permits. The enforcement officer shall examine premises where permits were issued and shall make necessary inspections to ensure compliance with this Ordinance.~~

C. Violations:

I. The code enforcement officer shall, when requested by the Board of Supervisors, or when the interests of Apache County so require, investigate any matter referred to in this Ordinance and make a written report. To enforce compliance with this Ordinance, the code enforcement officer shall issue notices, citations, or **recurrence** ~~recall~~ notices as may be necessary.

II. Anyone who resides within Apache County may lodge a complaint against any property that they deem not to be in compliance with the Apache County Zoning Ordinances and/or the Apache County Building Ordinances. A complaint form, ~~known as the Referral of Non-Conforming Use~~, must be obtained from, filled out and filed with the Apache County Community Development Department by the person(s) wishing to lodge a complaint against any properties within the county.

III. Policy for Receiving Complaints:

a. A complaint form~~, "Referral of Non-Conforming Use" (RNCU),~~ must be filled out and filed with the Community Development Department by the person(s) wishing to lodge a complaint against any property within the County. This form must be filled out with all information necessary for an investigation to begin. ~~A map of directions to the property must be submitted along with the RNCU form.~~

b. Complaints or concerns received by the Community Development Department

may only pertain to the following: Zoning Ordinance, Building Ordinance, and Flood Plain Issues.

c. All complaints received by the Community Development Department will be processed using a procedure that is in place for handling complaints

d. Any person filing a complaint may be required to appear in a ~~zoning~~ **code enforcement** hearing or a court of law, as determined by a Hearing Officer.

D. Procedure for Processing Complaints

1. Upon receiving a complaint, the Enforcement Officer or designee ~~will~~ **can** assist the person filing the complaint to make sure that all required information on the ~~'Referral of Non-Conforming Use' (RNCU)~~ **complaint** form is complete and accurate. ~~Also, that a detailed map, with sufficient information to locate the property, has been submitted.~~
2. The complaint will be assigned a case number, and the completed complaint form will be entered into the ~~RNCU~~ computer log. The original paper complaint form ~~will~~ **s h a l l** be kept on file also.
3. ~~A notice to proceed with an inspection will be issued to~~ The Enforcement Officer ~~to~~ **s h a l l** begin the process of investigation of the complaint. ~~The notice to proceed will include the following:~~

~~One copy of the Enforcement Notice (EN) form.~~

a. A completed copy of the ~~RNCU form~~ **complaint form.**

b. A detailed map with directions to the property.

c. Any additional information filed with the ~~RNCU form~~ **the complaint form.**

d. One copy of the ~~'investigation of Non-Conforming Use' (INCU) form with lines 1-8 previously filled out by office personnel. Remaining lines to be filled out by Enforcement Officer.~~ **case action/activity log.**

~~e. If there is doubt of a violation the case will be noted as Further Investigation, and the investigator will use all resources to determine whether to Close Case or to Violate Case, and will contact owner with findings.~~

f. When a case is determined to be in Violation, the investigator will refer to section 1302(**D**)(1) of this Article for procedure. The investigator will also use the 'On-Site Violation Notification' ~~(OSVN)~~ form.

g. A copy of all investigation information will be ~~**on**~~ in permanent file by ~~case number~~ **parcel number** with the Department.

~~**E.** Rules. The Director may adopt rules and policies consistent with this Ordinance for carrying into effect the Community Development Department's responsibilities. All adopted rules and policies shall be recommended by the Apache County Planning and Zoning Commission and approved by the Board of Supervisors.~~

F. Notices and citations:

1. Notice. Should the code enforcement officer determine that a violation is occurring on the subject property, the code enforcement officer shall serve a notice of the violation to the property owner and alleged violator. The notice shall include:
    a. A street address or legal description sufficient for identification of the

subject property;
b. The Section of the Ordinance violated;
c. A brief and concise description of the violation;
~~d. Information on possible penalties if the violation is not corrected;~~
e. Steps necessary or actions required to bring the subject property into compliance with the Ordinance;
f. A reasonable time frame in which all necessary actions should be completed to correct the violation.
g. A warning that noncompliance with the notice will result in the issuance of a citation. **Information on possible penalties if the violation is not corrected.**
h. A notice of violation may be appealed within ten (10) days of the notice to the Board of Adjustment and Appeals per Article 12 of the Zoning Ordinance when the meaning of any word, phrase, or section of any requirement that is the subject of the notice is in doubt. The enforcement process will be stayed until the Bua process is completed, including an appeal to the Superior Court. Failure to appeal the interpretation of the enforcement officer to the BoAA precludes interpretation from being an issue in further enforcement proceedings.

2. Extension. The code enforcement officer may grant an extension ~~not to exceed thirty (30) days~~ **maximum of one hundred and eighty (180) days** if convinced an attempt is being made to correct the violation **with inspection and guidance from the code enforcement officer**.
3. Citation. The code enforcement officer shall reinspect the subject property after the deadline stated in the notice. If the violation still exists, the code enforcement officer shall issue a citation to the property owner and alleged violator for each specific section of the Ordinance that has been violated. Service of the citation shall be completed at least fourteen (14) days before the initial hearing on the alleged violation, or the party issued the citation may request in writing a new initial hearing date ~~be set within thirty (30) days from the date of the request~~ **be set for the next available hearing date**. The citation shall include:
    a. A street address or legal description sufficient for identification of the subject property;
    b. The Section of the Ordinance violated;
    c. A brief and concise description of the violation; and
    d. Notification of the specific time, date, and location for the initial hearing, where the alleged violator must appear before the hearing official to submit a plea.
4. Those entitled to service of notices and citations. Notices shall be served upon the recorded owner of the property and the alleged violator if different from the property owner. Citations shall be served upon the recorded owner of the property, the alleged violator, ~~and each of the following, if known by the code enforcement~~

~~officer or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or land on which it is located. Failure of the code enforcement officer to serve notices or citations on any party shall not invalidate any proceedings as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Article or this Ordinance.~~

5. Method of service. Service of notices and citations shall be made by personal service, any form of mail requiring a signed and returned receipt, or in the same manner prescribed by the Arizona Rules of Civil Procedure. The failure of any person or entity to receive such notification shall not affect the validity of any proceedings taken under this Article or this Ordinance.

G. Penalties:

1. ~~Civil. It shall be unlawful, and considered a public nuisance per se, to make use of any lot, parcel, or piece of property in conflict with this Ordinance, or to erect, construct, reconstruct, alter, or use a building or any other structure that does not conform to the criteria stated in this Ordinance. Individuals or entities determined by the hearing official or an appropriate court to be violating any provision of this Ordinance shall be responsible for a civil violation. The penalty for the civil violation shall not exceed the monetary fine for a class 2 misdemeanor per day for each violation under A.R.S. § 11-808. Each day in violation constitutes a separate violation.~~ **Civil Penalties: Any person, firm, or corporation, whether as principal, owner, agent, tenant, employee or otherwise, who violates any provisions of this Ordinance shall be subject to a civil penalty. Each day of a continuing violation is a separate violation for the purpose of imposing a separate penalty. The civil penalty for violations of this Ordinance shall be established this Article under Section 1303 (E) ~~by separate resolution of the Board of Supervisors~~ but shall not exceed the amount of the maximum fine for a Class 2 Misdemeanor. An alleged violator shall be entitled to an administrative hearing on his liability, and a review by the Board of Supervisors or Board of Adjustment as provided in A.R.S. §11-815.**

~~2.~~ Administrative. ~~The county may withhold, and may request other governmental entities to withhold, all building, zoning, and other permits for properties on which a use of the property, building, or any other structure exists that does not meet the standards or requirements of this Ordinance. Individuals or entities from the date notice of violation forward, or hearing officer upon the filing of a citation, or appropriate court following filing of a civil or criminal complaint may be subject to administrative penalty as determined by the Director.~~ **A.R.S. §11-815 The county zoning ordinance shall provide for its enforcement within a zoned territory by means of withholding building permits, and for those purposes may establish the position of county zoning inspector and deputy inspectors as may be required, who shall be appointed by the board.**

3. ~~Criminal. Violation of any standard or requirement of this Ordinance is a Class 2 misdemeanor. At the discretion of the Apache County attorney, criminal charges may be filed instead of civil citations. Furthermore, if any person or enterprise fails or refuses to obey the judgment of the hearing official, criminal charges for failing to obey an order may be filed.~~ **Criminal Penalties: Any person, firm, or corporation, whether as principal, owner, agent, tenant, employee or otherwise, who violates any provision of this Ordinance or violates or fails to comply with any order or regulation made hereunder is guilty of a Class 2 Misdemeanor pursuant to A.R.S. § 11-815. Each and every day during which the illegal activity, use or violation continues is a separate offense.**

H. Hearing official. A hearing official may be an employee of the county and shall be appointed by, and serve at the discretion of, the Board of Supervisors

I. Appeals. A review of the hearing official's decisions shall be available to any party to the hearing by filing an appeal to the Board of ~~Supervisors~~ **Adjustments and Appeals.** Any party may appeal **decision made by** the Board of ~~Supervisors'~~ **Adjustments and Appeals** ~~decision~~ to the Superior Court.

J. Records. The code enforcement officer shall keep careful and comprehensive records of all complaints including but not limited to original complaint form, maps, photos, violations, citations and all research material. ~~of applications, or permits issued of inspections made, of reports tendered, and of notices, citations, and recall notices issued. All such records shall be removed from the Community Development Department.~~

~~**K.** Monthly reports. The code enforcement officer shall make a report to the Director each month, or more often if requested. The report shall include a statement of the permits, notices, citations, and recall notices issued.~~

L. Cooperation of other officials. The code enforcement officer may request and shall receive, so far as may be necessary in the discharge of duties, the assistance and cooperation of all Apache County departments, agencies, officials, and public employees vested with the duty or authority to issue permits or licenses, or to enforce the regulations of this Ordinance.

M. Void permits and licenses. Permits or licenses for uses, buildings, or purposes that conflict with the regulations of any Apache County Ordinance or other published requirement shall be null and void.

Section 1303. Hearings

A. Hearing official procedure:

1. Commencement. Every action or proceeding brought before the hearing official for an Ordinance violation shall be commenced by the code enforcement officer filing a citation. No notice or citation shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific violation if the notice or citation contains either a written description of the violation or

reference to the applicable section of the Ordinance pertaining to the violation.

2. Notice of hearing. Notice of the hearing shall be personally served on the alleged violator by the code enforcement officer at least fourteen (14) days prior to the hearing. If the code enforcement officer is unable to personally serve the notice, the notice may be served in the same manner prescribed for alternative methods of service by the Arizona Rules of Civil Procedure. A notice served upon the alleged violator other than by personal service shall be served at least thirty (30) days prior to the hearing.
3. Right to counsel. The notice shall include information regarding the alleged violator's right to be represented by counsel. The alleged violator must notify the hearing official in writing at least ten (10) days before the violation hearing date of the alleged violator's choice to be represented by counsel. Failure of the alleged violator to provide written notification constitutes a waiver of that right.
4. Discovery. No prehearing discovery shall be permitted absent **in** extraordinary circumstances.
5. Continuance. The hearing official may, upon any motion of any party or on its own motion, continue the hearing for a period not exceeding ~~sixty (60) days~~ **next scheduled hearing date available** if it appears that the interests of justice so require. Absent extraordinary circumstances, no hearing shall be continued by the hearing official without notice to both parties. The hearing official, or the hearing official's designated administrative assistant, shall notify both parties in writing of the new hearing date.

~~**B.** Initial hearing:~~

1. ~~First appearance. Under subsections 3103(F)(3) through 3103(F)(3)(d) of this Ordinance, the alleged violator or counsel shall appear at the initial hearing by the date and time specified in the citation for the initial hearing to enter a plea of responsible or not responsible.~~
2. ~~Admission of responsibility. At the initial hearing the alleged violator may admit responsibility by appearing in person on or before the initial hearing by providing by mail or otherwise to the hearing official a short statement signed by the alleged violator or the alleged violator's counsel admitting the allegation in the citation. Once a formal admission of responsibility is received by the hearing official, the hearing official shall set a time and place to determine the penalty for the violation ("penalty hearing").~~
3. ~~Denial of responsibility. A denial of responsibility may be made by appearing in person or on or before the initial hearing by providing by mail or otherwise to the hearing official a denial signed by the alleged violator or the alleged violator's counsel. The hearing official shall schedule the matter for a hearing ("violation hearing) and notify the alleged violator or the alleged violator's counsel and the code enforcement officer of the date, time, and place for the violation hearing once the hearing official receives a formal denial. Upon appearance, or if~~

~~providing a signed denial, it shall be the responsibility of the alleged violator or the alleged violator's counsel to notify the hearing official of an incorrect address or any address different from what is stated on the citation.~~

4. ~~Failure to appear. If the alleged violator fails to appear for the initial hearing, or who fails to provide an admission or denial by mail or otherwise, by the date and time specified in the citation, the allegations filed against the alleged violator shall be deemed admitted, and the hearing official shall enter default judgment for the County and schedule a penalty hearing. At the penalty hearing, the hearing official shall impose a civil penalty subject to subsection (E)(5).~~

~~C. Violation~~ **Hearing**~~:~~

1. The alleged violator or counsel shall appear at the hearing by the date and time specified in the citation for the hearing to enter a plea of responsible or not responsible.
2. Witnesses and evidence. At least ten (10) days prior to the ~~violation~~ hearing, both parties shall produce for inspection by the opposing party a list of witnesses and prepared exhibits. The prepared exhibits are to be filed at the Community Development Department. Failure to comply with this provision may result, at the hearing official's discretion, in the granting of a continuance to permit inspection or denial of the admission of the evidence.
3. **A notice of the hearing shall be publicly posted at least 24 hours before the hearing.**
4. Order of procedure. The order of the violation hearing shall be as follows:
   a. The hearing official shall call the case and briefly describe the procedures to be followed.
   b. ~~The County makes its statement~~. **Statement from the County.**
   c. The testimony of the county's witnesses ~~is presented.~~
   d. ~~The respondent's statement is made.~~ **Statement from respondent.**
   e. The testimony of the respondent's witnesses ~~is presented.~~
   ~~f. The statements and testimony of other attendees are presented at the discretion of the hearing official.~~
   g. ~~The respondent's rebuttal is presented.~~ **County's rebuttal of witnesses, if any.**
   h. ~~The county's rebuttal is presented.~~ **Respondent's rebuttal of witnesses, if any.**
   i. The respondent's closing statement is given.
   j. The county's closing statement is given.
   k. A ruling is made by the hearing official. At the conclusion of the ~~violation~~ hearing, the hearing official shall determine whether an Ordinance violation exists. If a violation is found to exist, the hearing official shall ~~schedule a penalty hearing to~~ impose civil penalties in accordance with ~~subsections~~ **Section 1302** (E) ~~through (E)(5).~~
5. Written ruling. The hearing official shall issue a written ruling within ten (10)

working days of the ~~violation~~ hearing. The written ruling shall include the findings, conclusion, and opinion of the hearing official.

6. Cross examination. Cross examination of witnesses shall be strictly limited to subjects or evidence elicited during direct testimony.

7. Continuance. The hearing official, at **their** ~~hearing official's~~ discretion, may continue a ~~violation~~ hearing up to ~~sixty (60) days~~ **next scheduled hearing date available** if it appears that the interest of justice so requires. The hearing official shall not continue a ~~violation~~ hearing without first giving written notice to both parties of the new ~~violation~~ hearing date.

8. Questions by hearing official. The hearing official may question witnesses, parties, or representatives of either party.

9. Rules of evidence. The Arizona Rules of Evidence shall not apply before a hearing official. The hearing official may admit any evidence offered subject to a determination by the hearing official that the offered evidence is both relevant and reliable.

10. Recording of ~~violation~~ hearing. The ~~violation~~ hearing shall be audio recorded . The ~~compact disc~~ **audio** shall be kept on record by the Community Development Department ~~for a period of one year~~ **as prescribed by the State of Arizona Library Record Retention Schedule**. In addition, a record of the proceedings may be made by a court reporter if requested and paid for by the alleged violator.

11. Failure to appear:
    a. Alleged violator. A ~~violation~~ hearing shall be conducted in absentia if the alleged violator fails to appear.
    b. County. If no witness for the County, excluding the alleged violator, appears at the set time for the ~~violation~~ hearing, the hearing official shall dismiss the citation unless the hearing official, for good cause shown, continues the ~~violation~~ hearing to another date.

12. Vacating findings. At any time, the hearing official may set aside a finding entered upon a failure to appear if the hearing official deems that the alleged violator was not served a citation, or for any other reason necessary to prevent an injustice.

13. Summons. The hearing official shall have the power to issue summons to compel the attendance of witnesses at any hearing.

14. Oaths. The hearing official shall administer oaths to all witnesses.

D. ~~Penalty hearing: The penalty hearing will occur within seven (7) days of an admission of responsibility or completion of a violation hearing. At the penalty hearing, both the alleged violator and code enforcement officer shall be given an opportunity to state their position on the amount of the penalty the hearing official should impose. The alleged violator shall correct the Ordinance violation within thirty (30) days from the penalty hearing date. Only in extraordinary circumstances may the hearing official grant an extension.~~

E. Finding of responsible/civil penalties:

1. ~~If the hearing official finds the alleged violator responsible for the Ordinance~~

~~violation, the hearing official shall enter a finding for the County and may impose a civil penalty not to exceed the maximum fine for a Class 2 misdemeanor per violation, per day. The hearing official should follow the guidelines set forth in subsection (E)(5) when imposing the civil penalty.~~

2. The hearing official has the option of dismissing or suspending the initial civil penalty, should extenuating circumstances exist.
3. The hearing official shall outline in the judgment a noncompliance and daily civil penalty schedule to accrue, should the violation not be abated by the compliance date specified by the hearing official. ~~The hearing official should follow the guidelines set forth in subsection (E)(5) when imposing the noncompliance and daily civil penalty.~~
4. The hearing official may attach a penalty for "recurrence" to a parcel for a maximum of ~~two (2) years~~ **three (3) years** from the ~~violation~~ hearing date. A Section of the Ordinance addressed in the ~~violation~~ hearing proceedings occurs within a time specified in the judgment. The code enforcement officer, after observing a recurrence, shall issue a ~~recall~~ **recurrence** notice. The recall notice shall set forth the earliest possible date for the respondent to appear before the hearing official.
5. ~~The following guidelines shall be used when assessing civil penalties:~~ **If the hearing official finds the alleged violator responsible for the Ordinance violation, the hearing official shall enter a finding for the County and may impose a civil penalty not to exceed the maximum fine for a Class 2 misdemeanor per violation, per day. Following A.R.S. § 11-815 the hearing official has the authority to levy fines in accordance with a Class 2 Misdemeanor, up to $750.00 per day, per violation.**

MINIMUM PENALTY	**Agricultural/Residential**	**Commercial/Industrial**
~~Initial~~	~~$100~~	~~$300~~
Noncompliance	$200	$500
Daily	$100	$200
Recurrence	$300	$500
MAXIMUM cumulative amount of daily penalty	$1,500	$3,000

6. Should the cumulative daily civil penalty balance exceed $1,500 for agriculture/residential use or $3,000 for commercial/industrial use, the hearing official shall forward the matter to the county attorney's office for

further legal action. ~~All payments will be made to the County General Fund.~~ ~~**Ten thousand dollars ($10,000) for any enterprise, corporation, association, labor union, or other legal entity, pursuant to A.R.S. § 13-803(A)(3).**~~

7. The alleged violator, if found responsible for the Ordinance violation and penalized with a civil penalty, shall not be relieved from the responsibility of correcting any prohibited condition. ~~Unless appealed to the Board of Supervisors within the seven-day appeal period, the violator shall correct the Ordinance violation within 30 days from the date of the penalty hearing.~~
8. ~~Hearing officer may also impose administrative penalty per 3103G2.~~

F. Collection of Civil Penalties

1. Payment of Penalties. Any civil penalty lawfully imposed under this Article shall be paid to Apache County within thirty (30) calendar days after the penalty becomes final and payable, unless a different deadline is established by law or stated in the final order. The order shall identify the amount due, the payment deadline, and the method for payment.

2. Collection of Unpaid Penalties. If a responsible party fails to pay a penalty by the required deadline, the County may pursue lawful collection remedies, including referral to the County's designated finance or collection office and referral to the County Attorney for appropriate legal action.

G. Appeal to the Board of ~~Supervisors~~ **Adjustments and Appeals:**

1. Any party may appeal to the Board of ~~Supervisors~~ **Adjustments and Appeals** the final finding of the hearing official. A written notice of appeal shall be filed with the hearing official within seven days, including weekends, after the hearing official issues the written finding.

The notice of appeal shall identify the ~~finding appealed from~~ **hearing procedures that were not followed correctly**. It shall be signed by the appellant or the appellant's counsel, and shall contain the names, addresses, and telephone numbers of all parties and their counsels. When a party appeals, the hearing official shall send a copy of the notice of appeal to the other party or the other party's counsel.

2. Appeals shall be limited to the record of the proceeding before the hearing official, and no new evidence may be introduced. The record of the proceedings shall include all materials in the hearing official's file, all evidence admitted at the hearing, and a transcript of the official record ~~per subsection (D)(8).~~ The cost of the transcript shall be assessed against the appealing party.

3. A fee shall be charged, as established from time to time by the Board of Supervisors, none of which is refundable, and all other legal and administrative requirements of this Article shall be complied with before the Board of Adjustments and Appeals can take any action on an appeal request. Fee Schedule: All applicable fees shall be established by resolution of the Apache County Board of Supervisors and shall be maintained and made

available to the public by the Apache County Planning and Zoning Department, as amended from time to time.

4. Upon receiving the notice of appeal, the ~~hearing official~~ **Community Development Department** shall prepare and transmit the record and schedule the appeal before the Board of ~~Supervisors~~ **Adjustments and Appeals** within ~~30~~ **6 0** days.
5. The parties may stipulate that the appeal may be heard on less than a complete record or upon stipulated facts. The designation of the stipulated record shall be in writing, filed with the hearing official within 15 days after the notice of appeal.
6. Upon sending the record to the Board of ~~Supervisors~~ **Adjustments and Appeals** the hearing official shall notify both parties by letter that they have five days from the date of the letter to submit a memorandum stating the parties' position to be submitted at the Board of ~~Supervisors'~~ **Adjustments and Appeals'** hearing. The memorandum shall be submitted to the ~~Clerk of the Board~~ **Community Development Office** and shall not exceed five pages, double-spaced, in length **with no smaller font size than 12.**
7. A notice of the appeal before the ~~Board of Supervisors~~ **Adjustments and Appeals** shall be posted at least 24 hours before the hearing. The hearing official shall mail a notice of the hearing to both parties not less than five days before the meeting.
8. The chair or acting chair of the Board of ~~Supervisors~~ **Adjustments and Appeals** shall preside at the appeal and shall decide all questions concerning procedure. Final decisions on the merits of the case shall be made upon motion and majority vote of the quorum.
9. At the Board of ~~Supervisors'~~ **Adjustments and Appeals** hearing, arguments on appeal shall be limited to five minutes for each party unless extended by the chair or acting chair of the Board of ~~Supervisors~~ **Adjustments and Appeals.**
10. After consideration of the merits of an appeal, and finding of an abuse of discretion by the hearing official, the Board of ~~Supervisors~~ **Adjustments and Appeals** may increase, decrease, or modify any civil penalty imposed by the hearing official and may:
    a. Affirm the action of the hearing official;
    b. Affirm in part and reverse in part and, if necessary, remand for further proceedings; or
    c. Reverse the action of the hearing official and, if necessary, remand for further proceedings.

H. ~~Recall~~: **Recurrence**

1. ~~Recall of a case may occur when the violator has not met the conditions or compliance time frame set out in the hearing official's judgment. The violator's case remains open until complete compliance has been reached as outlined in the hearing official's written ruling.~~ **Recurrence may occur when the violator within three (3) years develops a situation of noncompliance with Apache County Ordinance. The hearing officer may include a penalty per Section**

1303(C).

2. ~~If the penalty ruling includes a penalty for recurrence, a recall notice may be served only if the term of the recurrence penalty has not expired.~~
3. Service of the ~~recall~~ **recurrence** notice shall be completed in person, by any form of mail requiring a signed and returned receipt, or by alternative methods of service as prescribed in the Arizona Rules of Civil Procedure not less than 14 days before the ~~recall~~ **recurrence** hearing date.

Section 1304 – Conditional Use Permit Violations

Conditional Use Permit Violations. Violations of an approved Conditional Use Permit, including violations of any conditions of approval, shall not be subject to the enforcement procedures established in this Article unless otherwise specifically provided by the Zoning Ordinance or by the conditions of the Conditional Use Permit.

Enforcement of a Conditional Use Permit violation shall be addressed through the procedures established for the review, modification, suspension, or revocation of the Conditional Use Permit, Article 11 Section ~~1106(L).~~ **1107(L).**

Nothing in this Section shall limit the County's authority to enforce any violation of the Zoning Ordinance, applicable law, or other County requirement that is independent of the Conditional Use Permit.

Section 1305. Building Permits

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit. See R105.2 of the Building Code for exemptions. Violations of the Apache County Building Codes will be processed as outlined in this Article.