

Chapter 1.17

ADMINISTRATIVE CODE ENFORCEMENT REMEDIES

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Section 1.17.005 Statement of purpose and intent.

A. Administrative Code Enforcement Remedies.

The City Council has determined that the enforcement of the Riverside Municipal Code throughout the City is an important public service and is vital to the protection of the public's health, safety and quality of life. The City Council has determined a need for alternative methods of code enforcement and that a comprehensive code enforcement system uses a combination of judicial and administrative remedies to gain compliance with code regulations. The City Council finds a need to draft precise regulations that can be effectively applied in judicial and administrative proceedings and further finds that there is a need to establish uniform procedures for the proper application of administrative code enforcement remedies and administrative hearings to resolve administrative code enforcement cases and appeals.

B. Administrative Enforcement and Appeal Hearings

It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative enforcement action. Due process of law includes adequate notice of the violation and enforcement remedy chosen by the City, an adequate explanation of the reasons justifying the administrative enforcement action taken by the City, and an opportunity to participate in the appropriate administrative enforcement or appeal hearing. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised by any administrative enforcement action.

C. Policies and Procedures.

The City Manager, or the designated representative thereof, is authorized to develop and implement policies and procedures relating to the qualifications, appointment and compensation of administrative hearing officers; the powers of administrative hearing officers; and all other matters relating to conducting administrative hearings as provided in this code. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.010 General provisions.

Sections 1.17.010 through 1.17.190 shall be deemed the general provisions of this chapter. These sections shall apply to both the administrative citation and administrative civil penalties processes, each of which constitute separate remedies, as set forth in this chapter; and to other provisions of this code where incorporated therein by reference. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.020 Definitions.

The following definitions shall apply in interpretation and enforcement of this chapter.

A. "Administrative Costs" means all costs incurred by or on behalf of the City from the first discovery of the violation of the Riverside Municipal Code through the appeal process and until compliance is achieved, including but not limited to, staff time in investigating the violation, inspecting the property where the violation occurred, preparing investigation reports, sending notices, preparing for and attending any appeal hearing, attorneys' fees, and fees paid to the Administrative Hearing Officer. "Administrative Costs" shall not mean the administrative citation fines and the administrative civil penalties assessed pursuant to this chapter. "Administrative Costs" shall not mean late payment charges that accrue, or collection costs incurred, as a result of unpaid administrative citation fines.

B. "Administrative Code Enforcement Remedies" means administrative abatement, summary abatement, administrative citations, and administrative civil penalties as provided in this code; and recordation of any notice, including notice of pendency of administrative proceeding, to the property owner and all other interested parties of violations of any provisions contained in the Riverside Municipal Code.

C. "Administrative Hearing Officer" shall mean any person appointed by the City Manager to preside at administrative hearings.

D. "City Manager" means the City Manager of the City of Riverside and his or her designee.

E. "Enforcement Officer" shall mean any City employee or agent of the City with the authority to enforce any provision of this code.

F. "Person" shall mean any individual or legal entity, including but not limited to, a corporation, partnership, or trust.

G. "Responsible Party" means each person committing the violation or causing a condition on a parcel of real property located within the City of Riverside to violate the Riverside Municipal Code; each person who has an ownership interest in that property; and each person who although not an owner, nevertheless has a legal right or a legal obligation to exercise possession and control over that property. In the event the person who commits the violation or causes the violating condition is a minor, then the minor's parents or legal guardian shall be deemed the responsible party. In the event the violation or violating condition is most reasonably attributable to a business and not to an employee, then that business, to the extent it is a legal entity such that it can sue and be sued in its own name, and each person who is an owner of that business shall each be deemed responsible parties.

H. "Riverside Municipal Code," and "this code" shall mean the Riverside Municipal Code, including all pertinent provisions of state codes as adopted therein, enacted by the City Council of the City of Riverside acting pursuant to authority granted under the City Charter or other applicable law. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.030 General enforcement authority.

Notwithstanding any other provision of the Riverside Municipal Code, an Enforcement Officer shall have the power to use the provisions of this chapter to enforce any and all provisions of this code and to use whatever judicial and administrative remedies are available under this code. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.040 Service of notice.

A. Notwithstanding any other provision of this code, any notice required to be given under the Riverside Municipal Code may be served by any of the following methods:

1. Personal service; or
2. Proof of mail, and first class mail to each Responsible Party at his or her last known address as it appears on the public records related to title or ownership of the property that is the subject of an administrative enforcement action; or
3. As to only those Responsible Parties who reside at or occupy the property that is the subject of an administrative enforcement action, as determined through diligent investigation; by posting the notice conspicuously on or in front of the subject property and mailing a copy of the notice to them by first class mail.

B. Service by Proof of Mail or first class mail in the manner described above shall be effective on the date of mailing.

C. The failure of any Responsible Party or other person with a legal or equitable interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this code. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.050 Authority to inspect.

Enforcement Officers are authorized to enter upon any property or premises within the City to ascertain whether the property or premises is in compliance with the Riverside Municipal Code, and to make any inspection as may be necessary in the performance of their enforcement duties. These inspections may include the taking of photographs, samples or other physical evidence, and the making of video and/or audio recordings. All such entries and inspections shall be done in a reasonable manner. If an owner, lawful occupant, or the respective agent thereof refuses permission to enter and/or inspect, the Enforcement Officer

may seek an administrative inspection warrant pursuant to the procedures provided by California Code of Civil Procedure Section 1822.50 through 1822.59, as may be amended from time to time, or the successor provisions thereto. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.060 Notice of pending administrative enforcement action.

For the purposes of this chapter:

A. The "Enforcement Officer" may record with the County Recorder's Office a notice against a property that is the subject of an administrative enforcement action pending with the City of Riverside.

B. A "Notice of Pendency" or other notice of pending administrative action shall use a form approved by the City Manager or his/her designee and shall describe the nature of the administrative action and refer to the applicable provisions of the Riverside Municipal Code governing the pending administrative action. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.070 Administrative code enforcement remedies not exclusive.

The procedures established in this chapter for the use of administrative citations and the administrative civil penalties process, and the procedures established in other chapters of this code for administrative abatement and summary abatement, as means for addressing violations of this code shall be in addition to criminal, civil or other legal or equitable remedies established by law that may be pursued to address violations of this code and the use of this chapter shall be at the sole discretion of the City. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.080 Continuing violations.

Each day a violation of this Code continues to exist shall constitute a new, separate, and distinct violation. (Ord. 6963 §2, 2007)

Section 1.17.090 Collection of unpaid fines, penalties and related costs.

A. Unpaid fines or penalties and their related costs, arising from administrative citations, administrative civil penalties actions or other administrative enforcement actions as provided by this code shall be a debt to the City and subject to all remedies for debt collection as allowed by law. The City shall be entitled to interest from the date the order becomes final or thirty (30) days after the first billing whichever date is later.

B. When a violation involves real property and the fines, penalties, and related costs are not paid within the prescribed time, the amount of those fines, penalties, and their related costs may be recorded as a lien upon and against the real property without further hearing, subject to notice of the lien as required by law.

C. The notice of lien shall be in this form:

NOTICE OF LIEN

Claim of the City of Riverside, California.

Pursuant to the authority vested by Section 1.17.090 of the Riverside Municipal Code, the amount of uncollected fines, penalties, and related costs may be recorded as a lien upon and against the real property where the violation of law occurred and which is the subject of the administrative enforcement action(s) resulting in the award, imposition, or assessment of a fine, penalty and all costs associated therewith.

On _____ (date) an Administrative Hearing Officer conducted (as an evidentiary proceeding) an administrative hearing, pursuant to the applicable provisions of the Riverside Municipal Code. Following the presentation of evidence and the issuance of a ruling in the matter, the Administrative Hearing Officer upheld a fine or awarded, imposed, or assessed a monetary penalty in the amount of _____ and assessed administrative costs in the amount of _____ as set forth in the _____ (type of administrative hearing order) issued on _____ (date). Whereby the City of Riverside does hereby claim a lien for these sums as yet unpaid in the amount of _____ and this sum shall be a lien upon the parcel of real property identified herein until that principal sum, and the sum of any interest upon that principal as may be allowed by law and calculated at the then existing legal rate, has been paid in full and discharged of record.

The real property upon which this lien is claimed is that certain parcel of land, the structures thereon and any appurtenances connected thereto and located within the City of Riverside, County of Riverside, State of California, and particularly described as follows:

(Legal Description)
(Street address, if any)
(Assessor's Parcel Number)

Further, the City of Riverside gives NOTICE that this Notice of Lien shall not be deemed or construed to prohibit the City of Riverside from making additional claims and giving and recording one or more Notices of Lien thereon as may be required in those cases where the principal sum claimed, as a fine or penalty awarded, imposed, or assessed, is subject to a cumulative accrual at a fixed daily rate until the date the violations are corrected in full to the satisfaction of the City, or the legal maximum limit (cap) of that penalty has been reached, or the total amount of the lien has been paid in full.

DATED this _____ day of _____, _____ (year).

City Clerk of the City of Riverside, California.

D. Alternatively, unpaid fines or penalties and their related costs, arising from administrative citations, administrative civil penalties actions or other administrative enforcement actions as provided by this code, involving real property may also constitute assessment liens and be collected as special assessments by the Riverside County Treasurer-Tax Collector as set forth in Chapter 6.15 of the Riverside Municipal Code. (Ord. 6963 §2, 2007)

Section 1.17.100 Administrative enforcement and appeal hearings.

A. There shall be two general types of administrative hearing: the enforcement hearing and the appeal hearing, in order to effect a proper enforcement of the Riverside Municipal Code and provide for the procedural and substantive due process rights of all persons subject to enforcement of this code through the application of its administrative code enforcement remedies.

B. Where this code requires the City to seek an administrative hearing as the means of enforcing this code through the imposition of an administrative penalty for a responsible party's failure or refusal to comply with the appropriate notice for his violation of the code, the hearing shall be an administrative enforcement hearing.

C. Where an aggrieved, responsible party seeks to appeal from an administrative decision, or an administrative enforcement action not requiring an administrative enforcement hearing, the hearing shall be an administrative appeal hearing. Both types of hearing shall provide for judicial review. The procedures set forth at Section 1.17.130 apply to both administrative enforcement and appeal hearings conducted pursuant to this code. (Ord. 6963 §2, 2007; Ord. 6724 §2, 2004; Ord. 6479 §1, 1999)

Section 1.17.110 Procedures for notification of administrative enforcement hearing.

A. Where the action or proceeding for an administrative code enforcement remedy authorized by this chapter, or elsewhere in this Code, provides for or requires an administrative enforcement hearing; the Code Enforcement Division shall schedule the date, time, and place for that hearing before an Administrative Hearing Officer when so required by the particular remedy involved.

B. A written notice of the administrative enforcement hearing setting forth the date, time, and place of that hearing shall be served on the Responsible Party at least ten calendar days prior to the date set for that hearing.

C. The Notice of Hearing shall be served by any of the methods of services listed in Section 1.17.040 of this chapter.

D. The Notice of Hearing shall include an itemized statement of administrative costs which the City seeks to be assessed in addition to the amount of administrative civil penalties the City seeks to be assessed by the Administrative Hearing Officer. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.120 Procedure for requesting an administrative appeal hearing.

A. Right of Appeal. Every administrative code enforcement action initiated pursuant to this code is subject to appeal according to the procedures governing the particular administrative code enforcement remedy used; as identified below.

B. Administrative Citation. The appeal process is set forth at Section 1.17.250 of this chapter.

C. Administrative Civil Penalties Enforcement Order. The "appeal" process is a petition for judicial review pursuant to Code of Civil Procedure Section 1094.6 as set forth at Section 1.17.350 of this chapter.

D. Disabled Access Determination. The appeal process for a disabled access determination initiated pursuant to Chapter 16.08 of this code is set forth at Section 2.40.030 of this code.

E. Notice to Abate. The appeal process for a notice to abate a public nuisance pursuant to Chapter 6.15 is set forth at Section 6.15.030.

F. Police Service Fee (Police response to loud or large parties). The appeal process for is set forth at Section 9.07.070.

G. Other Administrative Action. The appeal process for any other notice or notice and order issued pursuant to Chapter 16.08 of this code; for any notice or notice and order issued for a violation of Chapters 16.09 or 16.10 order; and for any notice or notice and order for an enforcement action not otherwise listed in this section or which is listed elsewhere in this code in the applicable section providing for the remedy sought, other than an administrative civil penalties notice and order issued to address any violation of this code, shall be the same as set forth at Section 16.04.590 of this code. (Ord. 6963 §2, 2007; Ord. 6724 §2, 2004; Ord. 6479 §1,

1999)

Section 1.17.130 General procedures for all administrative hearings.

A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. Other than copies of citations, notices, notice and orders, and inspection reports served on the responsible parties as part of the enforcement action giving rise to the hearing, no pre-hearing discovery of the City's evidence shall be permitted.

B. The City bears the burden of proof at an administrative hearing to establish the existence of a violation of this Code.

C. A preponderance of the evidence shall be the standard of proof used by the Administrative Hearing Officer in deciding the issues at an administrative hearing.

D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

E. The only evidence that shall be permitted at the hearing and considered by the Administrative Hearing Officer in reaching a decision is that evidence that is relevant to the proof or disproof of:

1. ownership of the subject property, when applicable;
2. whether a person noticed by the City as a Responsible Party is, in fact, a Responsible Party;
3. whether a violation of this code occurred and/or continues to occur on the date or dates specified in the citation, notice, or notice and order;
4. whether the Responsible Party has caused, maintained or permitted a violation of this code on the date or dates specified in the citation, notice, or notice and order; and in the event of an administrative enforcement hearing on an Administrative Civil Penalties Notice and Order, whether the amount of civil penalties proposed by the Enforcement Officer to be assessed pursuant to the procedures and criteria set forth in this chapter are reasonable. (Ord. 6963 §2, 2007; Ord. 6724 §§1, 2, 2004; Ord. 6479 §1, 1999)

Section 1.17.140 Failure to attend administrative hearing.

Any Responsible Party whose property or actions are the subject of an administrative hearing and who fails to appear at the hearing shall be deemed to have waived the right to a hearing; the adjudication of the issues related to the hearing, any and all rights afforded under this code; and shall be deemed to have failed to exhaust their administrative remedies, provided that proper notice of the hearing as required by this or other applicable chapter of this code has been served. (Ord. 6963 §2, 2007; Ord. 6724 §§1, 2, 2004; Ord. 6479 §1, 1999)

Section 1.17.150 Administrative Hearing Order.

The written decision of the Administrative Hearing Officer setting forth the findings and ruling in a particular case shall be entitled "Administrative Hearing Order," unless a different title is imposed by this or other applicable chapter of this code, and conform to the requirements set forth therein. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.160 Administrative Hearing Officer.

A. Qualifications. The City Manager or the designated representative thereof shall promulgate rules and procedures as are necessary to contract with qualified persons capable of acting as Administrative Hearing Officers.

B. Independent Authority. The employment, performance evaluation, compensation and benefits of the Administrative Hearing Officer shall not be directly or indirectly conditioned upon

the amount of the administrative fines or penalties upheld, awarded, imposed, or assessed by the Administrative Hearing Officer.

C. Disqualification. Any person designated to serve as an Administrative Hearing Officer is subject to disqualification for bias, prejudice, interest, or for other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of an Administrative Hearing Officer based upon a showing of actual bias, prejudice, interest, or other reason shall be promulgated by the City Manager or the City Manager's designee.

D. Powers. The Administrative Hearing Officer shall have the power to:

1. conduct administrative enforcement hearings and administrative appeal hearings as provided under the authority of this code;

2. continue a hearing based on good cause shown by one of the parties to the hearing or upon his own independent determination that due process has not been adequately afforded to a Responsible Party;

3. exercise continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Civil Penalties Enforcement Order, modifying an Administrative Civil Penalties Enforcement Order, or where extraordinary circumstances exist, granting a new administrative enforcement hearing;

4. require and direct a Responsible Party to post a Performance Bond to ensure compliance with an Administrative Civil Penalties Enforcement Order;

5. rule upon the merits of an administrative appeal hearing or an administrative enforcement hearing upon consideration of the evidence submitted and issue a written decision resolving the case;

6. uphold, award, impose, assess, or deny a fine or penalty authorized under this code;

7. assess administrative costs according to proof;

8. set, increase, or decrease, according to proof, the amount of fine or penalty or the daily rate of such fine or penalty sought by the City to be awarded, imposed, or assessed in those cases where the fine or penalty is not fixed but is subject to a range as otherwise established by this code;

9. in those cases where the fine or penalty is not fixed but is subject to a range as otherwise established by this code, determine the date certain upon which the assessment of civil penalties shall begin; and, where the corrections are subsequently completed to the City's satisfaction, the date certain upon which the assessment of civil penalties shall end. If the violations have not been so corrected, the daily accrual of the penalties assessed shall continue until the violations are corrected or the legal maximum limit is reached;

10. where appropriate in administrative enforcement actions arising from the issuance of an Administrative Civil Penalties Notice and Order and as a condition of compliance in correcting the violations at issue; impose upon each Responsible Party who has ownership, possession, or control of the parcel of real property that is the subject of the administrative enforcement action, the obligation to participate in and successfully complete the City's Crime Free Multi-Housing Program (or its successor program). Further, each such Responsible Party shall have the obligation to maintain the currency of any certification issued as part of that program for the period of ownership, possession, or control of the subject property; and

11. where appropriate in administrative enforcement actions arising from the issuance of an Administrative Civil Penalties Notice and Order and as a condition of compliance in correcting the violations at issue; require each Responsible Party to cease violating this code and to make all necessary corrections as specified by the City. (Ord. 6963 §2, 2007; Ord. 6724 § 2, 2004; Ord. 6479 §1, 1999)

Section 1.17.170 Liability of Responsible Parties.

For the purposes of this chapter, each Responsible Party shall be jointly and severally liable for any and all administrative fines, administrative civil penalties, and related administrative costs awarded, upheld, assessed, or imposed under this chapter. (Ord. 6963 §2, 2007)

Section 1.17.180 Reserved.

Section 1.17.190 Reserved.

Section 1.17.200 Administrative citations.

For the purposes of this chapter:

A. Any person violating any provision of this Code may be issued an administrative citation by an Enforcement Officer as provided for in this chapter.

B. A citation fine shall be assessed by means of an administrative citation issued by the Enforcement Officer and shall be payable directly to the City of Riverside.

C. Fines assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this chapter. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.210 Administrative citation procedures.

A. Upon discovering a violation of this code, an Enforcement Officer may issue an administrative citation to a Responsible Party in the manner prescribed in this Chapter. The administrative citation shall be issued on a form approved by the City Manager.

B. If the Responsible Party is a business, the Enforcement Officer shall attempt to locate the owner and issue the owner an administrative citation. If the Enforcement Officer can only locate the manager or on-site supervisor or employee, the administrative citation may be issued in the name of the business and given to the manager or on-site supervisor or employee. A copy of the administrative citation shall also be mailed to the owner in the manner prescribed in Section 1.17.040 of this Chapter.

C. Once the Responsible Party is located, the Enforcement Officer shall attempt to obtain the signature of that person on the administrative citation. If the Responsible Party refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

D. If the Enforcement Officer is unable to locate the Responsible Party for the violation at the property where the violation exists, then the administrative citation shall be mailed to the Responsible Party in the manner prescribed in Section 1.17.040 of this Chapter, and posted in a conspicuous place on or near the property.

E. The administrative citation shall also contain the printed name, identification number and phone extension of the Enforcement Officer.

F. The failure of any person with an ownership interest in the property to receive notice shall not affect the validity of any proceedings taken under this Chapter. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.220 Contents of citation.

A. The administrative citation shall refer to the date and location of the violations and the approximate time, if applicable, that the violations were observed.

B. The administrative citation shall identify each violation by the applicable section number of this code and by either the section's title or a brief descriptive caption.

- C. The administrative citation may describe the action required to correct the violations.
- D. The administrative citation shall require the Responsible Party to correct the violations within the time stated in the citation and shall explain the consequences of failure to correct the violations.
- E. The administrative citation shall state the amount of the fine imposed for the violations.
- F. The administrative citation shall explain how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine.
- G. The administrative citation shall identify all appeal rights.
- H. The administrative citation shall contain the printed name, identification number, and phone extension of the Enforcement Officer and the signature of the Responsible Party, if he/she can be located, as outlined in Section 1.17.110. If the Responsible Party refuses to sign the administrative citation, then the Enforcement Officer shall write "refused" on the signature line for the Responsible Party. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.230 Administrative citation fines; assessment and amounts.

- A. Unless otherwise provided in this code, the amount of fine to be imposed for a violation of this code and assessed by means of an administrative citation shall be one hundred dollars (\$100.00) for the first occurrence of a violation, two hundred dollars (\$200.00) for the second occurrence of the same type of violation, and five hundred dollars (\$500.00) for the third and each subsequent occurrence of the same type of violation. Notwithstanding this section, the amount of fine to be assessed by means of an administrative citation may be established by resolution of the City Council.
- B. All fines assessed shall be payable to the City within thirty (30) calendar days from the date of the administrative citation.
- C. Any person who fails to pay to the City any fine imposed pursuant to the provisions of this Chapter on or before the date that the fine is due shall also be liable for the payment of any applicable late payment charges set forth in the schedules of fines.
- D. The City may collect any past due administrative citation fine or late payment charge by use of any available legal means. The City may also recover its collection costs.
- E. Any administrative citation fine paid pursuant to Subsection A shall be refunded in accordance with Section 1.17.150 if it is determined, after a hearing, that the person charged in the Administrative Citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
- F. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.
- G. If the Responsible Party fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the fine shall increase at a rate specified by resolution of the City Council. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.240 Failure to pay administrative citation fines.

The failure of any person to pay the fines assessed by an administrative citation within the time specified on the citation may result in the City filing a claim with the Superior Court of California, County of Riverside, Small Claims Division or other appropriate Division. Alternatively, the City may pursue any other legal remedy to collect the citation fines. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.250 Appeal of administrative citation.

- A. Any recipient of an administrative citation may contest the citation by completing a request for hearing form and returning it to the City within thirty (30) calendar days from the date

of the administrative citation, together with an advance deposit of the fine or notice that a request for advance deposit hardship waiver has been filed pursuant to subsection (E) of this Section.

B. A request for hearing form may be obtained from the department specified on the administrative citation.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

D. Advance Deposit Hardship Waiver

1. Any person who intends to request a hearing to contest that there was a violation of the Code or that he or she is the Responsible Party and who is financially unable to make the advance deposit of the fine as required may file a request for an advance deposit hardship waiver.

2. The request shall be filed with the department specified on the administrative citation on an advance deposit hardship waiver application form available from the department specified on the administrative citation, within ten days of the date of the administrative citation.

3. The requirement of depositing the full amount of the fine as required shall be stayed unless or until the designee of the department specified on the administrative citation makes a determination not to issue the advance deposit hardship waiver.

4. The designee of the department specified on the administrative citation may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited party submits to the department specified on the administrative citation a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the designee of the department specified on the administrative citation the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

5. If the designee of the department specified on the administrative citation determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the City within ten days of the date of that decision or thirty days from the date of the administrative citation, whichever is later.

6. The designee of the department specified in the administrative citation shall issue a written determination listing the reasons for the determination to issue or not issue the advance deposit hardship waiver. The written determination of the designee of the department specified in the administrative citation shall be final.

7. The written determination of the designee of the department specified on the administrative citation shall be served upon the person who applied for the advance deposit hardship waiver. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.260 Administrative citation appeal hearing procedures.

A. No hearing to contest an administrative citation before an Administrative Hearing Officer shall be held unless the fine has been deposited in advance or an advance deposit hardship waiver has been issued.

B. Subject to the limitation imposed by Paragraph A above, a hearing before the Administrative Hearing Officer shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for hearing is filed.

C. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

D. The failure of any Responsible Party who is subject to an Administrative Citation to appear at the appeal hearing shall constitute a forfeiture of the citation fine and a failure to exhaust his administrative remedies.

E. The administrative citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

F. The Administrative Hearing Officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the administrative citation prior to issuing a written decision. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.270 Administrative citation appeal ruling.

A. After considering all of the testimony and evidence submitted at the hearing, the Administrative Hearing Officer shall issue a written decision (“Administrative Citation Appeal Ruling”) to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision.

B. If the Administrative Hearing Officer determines that the administrative citation should be upheld, then the amount of the fine set forth in the citation shall not be reduced or waived for any reason.

C. If the Administrative Hearing Officer determines that the administrative citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.

D. If the Administrative Hearing Officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the Administrative Hearing Officer shall set forth in the decision a payment schedule for the fine.

E. If the Administrative Hearing Officer determines that the administrative citation should be canceled and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the City's portfolio for the period of time that the fine amount was held by the City.

F. The recipient of the administrative citation shall be served with a copy of the Administrative Hearing Officer's written decision.

G. The Administrative Hearing Officer's written decision shall become final on the date of mailing of the notice of decision.

H. The Administrative Civil Penalties Enforcement Order shall be served on all parties by any one of the methods listed in Section 1.17.060 of this Chapter. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.280 Judicial review of administrative citation appeal ruling.

Once the Administrative Hearing Officer's written decision becomes final as provided in this chapter, the time in which judicial review of the order must be sought shall be governed by California Government Code Section 53069.4, as that section may be amended from time to time, or the successor provision thereto. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.290 Reserved.

Section 1.17.300 Administrative civil penalties; authority.

A. The process for the assessment of administrative civil penalties established in this chapter is in addition to any other administrative or judicial remedy established by law that may be pursued to address violations of the Riverside Municipal Code.

B. Any person violating any provision of this code may be subject to the assessment of administrative civil penalties and related administrative costs pursuant to the procedures set forth in this chapter.

C. Administrative civil penalties, if awarded, assessed, or imposed; shall be assessed at a daily rate, the amount of which shall be determined by the Administrative Hearing Officer and set forth in an Administrative Civil Penalties Enforcement Order following the presentation of evidence at an administrative enforcement hearing according to the procedures established in this chapter.

D. The maximum legal rate for administrative civil penalties shall be one thousand dollars (\$1,000.00) per day, per violation. The maximum legal amount of administrative civil penalties shall be one hundred thousand dollars (\$100,000.00), plus interest on unpaid penalties as provided in Section 1.17.090, per parcel of real property, including any structures located thereon, for all violations of this code, including continuing violations, existing at the time the Administrative Civil Penalties Notice and Order is issued by the Code Enforcement Division or other authorized City department. Violations first occurring after the issuance of an Administrative Civil Penalties Notice and Order shall be subject to enforcement through the issuance of a separate Administrative Civil Penalties Notice and Order. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.310 Administrative Civil Penalties Notice and Order; contents and procedures.

A. Whenever an Enforcement Officer determines that a violation of one or more provisions of the Riverside Municipal Code has occurred or continues to exist, a written Administrative Civil Penalties Notice and Order may be issued to each Responsible Party.

B. The Administrative Civil Penalties Notice and Order shall specify all of the following, required information:

1. Date of mailing by certified and First Class Mail.
2. Identification by name and last known mailing address of each Responsible Party.
3. Identification of the parcel or parcels of real property subject to the Administrative Civil Penalties Notice and Order by street address and assessor parcel number (i.e., "APN") for improved parcels and by APN for unimproved parcels not assigned a street address.
4. Notice, in boldface type, that this chapter authorizes the imposition or assessment of administrative civil penalties up to \$1,000.00 dollars per day, per violation of any section of the Riverside Municipal Code.
5. Notice that the subject property is in violation of one or more sections of the Riverside Municipal Code as described in the inspection report(s) attached to the Administrative Civil Penalties Notice and Order. The inspection report shall identify each violation by the applicable section number and by either the section's title or a brief descriptive caption; specifically indicate where on the subject property or structure the violation occurred; the date(s) of occurrence; a brief description of how each section was violated; a brief description of the remedial or corrective action required to permanently correct the violation(s); and a compliance deadline date for the completion of all required corrections.
6. A demand and order to cease and desist from further action causing the violations and to permanently correct the violations by completing the action(s) specified in the inspection reports(s) attached to the Administrative Civil Penalties Notice and Order by a calendar date certain (the compliance deadline).
7. Notice that each Responsible Party is subject to an order requiring the payment of administrative civil penalties for each violation not corrected by the compliance deadline, in an amount determined by the Administrative Hearing Officer.
8. A list of each violation identified by the applicable section number and the daily amount of administrative civil penalties proposed for each violation.
9. Identification of the specific factors that were used to determine the proposed daily amount of administrative civil penalties, pursuant to the criteria in Section 1.17.320 of this

chapter, to be sought by the City in the event the corrective action required is not completed prior to the compliance deadline.

10. Notice of the date the amount of administrative civil penalties sought shall begin to accrue, and that any administrative civil penalties subsequently assessed shall continue on a daily basis at the daily assessed rate until the violations have been permanently corrected as determined by the City or the maximum amount has been reached.

11. Notice that administrative costs, in addition to any administrative civil penalties that may be imposed, may also be assessed by the Administrative Hearing Officer.

12. Notice and a brief description of the consequences of a Responsible Party's failure or refusal to appear at an administrative enforcement hearing on the Administrative Civil Penalties Notice and Order, and a Responsible Party's failure or refusal to pay the assessed administrative civil penalties and costs as provided in this chapter.

13. Notice and a brief description of any other consequences arising from a Responsible Party's failure or refusal to comply with the terms and deadlines as prescribed in the Administrative Civil Penalties Notice and Order.

14. Notice and a brief description of the administrative enforcement hearing procedures as set forth in this chapter.

15. Notice that a Responsible Party may seek judicial review of the Administrative Civil Penalties Enforcement Order pursuant to California Code of Civil Procedure Section 1094.6.

C. The Administrative Civil Penalties Notice and Order shall be served upon each Responsible Party in the manner required under this chapter.

D. More than one Administrative Civil Penalties Notice and Order may be issued against the same Responsible Party if each such subsequent notice and order concerns different dates, different violations, or different locations. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.320 Determination of administrative civil penalties; accrual and amount.

A. In determining the date when administrative civil penalties start to accrue, an Enforcement Officer may consider the date when the City first discovered the violation as evidenced by the issuance of an administrative citation, Administrative Civil Penalties Notice and Order, or any other written notice or correspondence to any Responsible Party.

B. In determining the amount of administrative civil penalties to be assessed on a daily rate, an Enforcement Officer may consider some or all of the following factors:

1. The duration of the violation.
2. The frequency of recurrence of the violation.
3. The seriousness of the violation.
4. The history of the violation.
5. The Responsible Party's conduct after issuance of the Notice and Order.
6. The good faith effort by the Responsible Party to comply.
7. The economic impact of the penalty on the Responsible Party.
8. The impact of the violation upon the community.
9. Any other factors that justice may require.

C. The City Manager, or the designated representative thereof, shall have the authority, but not the obligation, to establish a penalty schedule for Administrative Hearing Officers to use as a guideline in determining the amount of administrative civil penalties in appropriate cases; and to establish procedures for the use of this penalty schedule. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.330 Administrative costs.

The Administrative Hearing Officer is authorized to assess any reasonable administrative costs as set forth in an itemized statement of administrative costs presented at the administrative enforcement hearing on the Administrative Civil Penalties Notice and Order. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.340 Failure to comply with an Administrative Civil Penalties Notice and Order; administrative enforcement hearing.

When the Responsible Party fails to comply with the terms of the Administrative Civil Penalties Notice and Order by correcting the violation(s) and bringing the property into compliance with this code, an Enforcement Officer may schedule an administrative enforcement hearing as provided in this chapter. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.350 Administrative Civil Penalties Enforcement Order.

A. Within fifteen calendar days of the completion of the administrative enforcement hearing on an Administrative Civil Penalties Notice and Order, the Administrative Hearing Officer shall exercise the powers conferred under Section 1.17.160 and issue an Administrative Civil Penalties Enforcement Order.

B. The Administrative Civil Penalties Enforcement Order shall contain the following information:

1. Date of administrative enforcement hearing.
2. Identification by name of each Enforcement Officer, Responsible Party, and all other witnesses attending the hearing.
3. Determination of sufficiency of notice for due process purposes.
4. Summary of evidence presented by each witness, including exhibits.
5. Findings of fact, analysis of applicable sections of the Riverside Municipal Code, and conclusions of law as to the issues specified at Section 1.17.130 F of this chapter.
6. Determination and assessment of administrative civil penalties and costs to be awarded to the City, if any.
7. Notice of appeal rights and judicial review pursuant to Code of Civil Procedure 1094.6.
8. Signature of the Administrative Hearing Officer and the signature date.

C. The Administrative Civil Penalties Enforcement Order shall become final and take effect on the date it is signed by the Administrative Hearing Officer.

D. The Administrative Civil Penalties Enforcement Order shall be served on all Responsible Parties in the manner required under Section 1.17.060 of this chapter. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.360 Failure to comply with the Administrative Civil Penalties Enforcement Order.

Upon the failure of the Responsible Party to comply with terms and deadlines set forth in the Administrative Civil Penalties Enforcement Order, the Enforcement Officer may use all appropriate legal means to recover the administrative civil penalties and administrative costs assessed and obtain compliance with the Administrative Civil Penalties Enforcement Order. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.370 Duty to verify correction and compliance.

After the Administrative Hearing Officer issues an Administrative Civil Penalties Enforcement Order, the Enforcement Officer shall periodically and regularly inspect the subject

property to determine whether the subject property has been brought into compliance with the Administrative Civil Penalties Enforcement Order. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)

Section 1.17.380 Judicial review of an Administrative Civil Penalties Enforcement Order.

Any Responsible Party aggrieved by an Administrative Civil Penalties Enforcement Order may obtain judicial review of that order by filing a petition for review with the Superior Court of Riverside County in accordance with the timelines and provisions set forth in California Code of Civil Procedure section 1094.6. (Ord. 6963 §2, 2007; Ord. 6479 § 1, 1999)

Section 1.17.390 Failure to comply with an Administrative Civil Penalties Enforcement Order; alternative remedies.

A. It is unlawful for a Responsible Party who has been served with a copy of the final Administration Enforcement Order pursuant to this chapter to fail to comply with that order.

B. Failure to comply with a final Administrative Enforcement Order may be prosecuted as an infraction or misdemeanor at the discretion of the City Attorney.

C. Failure to comply with a final Administrative Enforcement Order may result in alternative remedies, such as civil injunction, abatement, receivership or any other legal remedy. (Ord. 6963 §2, 2007; Ord. 6479 §1, 1999)