

TITLE 17.

PROVO CITY ADMINISTRATIVE ENFORCEMENT PROGRAM

- Chapter 17.01. Administrative Enforcement Program.
- Chapter 17.02. Administrative Enforcement Hearing Procedures.
- Chapter 17.03. Administrative Abatement.
- Chapter 17.04. Emergency Abatement.
- Chapter 17.05. Administrative Citations.
- Chapter 17.06. Costs and Fees.

Chapter 17.01. Administrative Enforcement Program.

- 17.01.010. Short Title.
- 17.01.020. Purpose.
- 17.01.030. Scope.
- 17.01.040. Existing Law Continued.
- 17.01.050. Criminal Prosecution Right.
- 17.01.060. Effect of Headings.
- 17.01.070. Severability.
- 17.01.080. Civil Liability.
- 17.01.090. General Rules of Interpretation.
- 17.01.100. Definitions Applicable to Title Generally.
- 17.01.110. Acts Include Causing, Aiding, and Abetting.
- 17.01.120. Service of Notice Requirements.
- 17.01.130. General Enforcement Authority.
- 17.01.140. Adoption of Policy and Procedures.
- 17.01.150. Authority to Inspect.
- 17.01.160. False Information or Refusal Prohibited.
- 17.01.170. Failure to Obey a Subpoena.

17.01.010. Short Title.

This Title shall be known as the "Administrative Enforcement Program." This Title shall also be known as Title 17 of the Provo City Code. It may be cited and pleaded under either designation. (Enacted 1999-40)

17.01.020. Purpose.

The Municipal Council finds that the enforcement of the Provo City Code and applicable state codes is an important public activity. Code enforcement is vital to the protection of the public's health, safety, welfare, and quality of life. The Municipal Council recognizes that code enforcement is effective only when done quickly and fairly. The Municipal Council further finds that an enforcement system that allows a combination of judicial and administrative remedies is effective in correcting violations. (Enacted 1999-40)

17.01.030. Scope.

The provisions of this Title may be applied to all violations of the Provo City Code or applicable state codes which occur within Provo City limits and such territory outside Provo City limits over which the City has jurisdiction or control by virtue of any constitutional provision or law. This Title establishes as an additional remedy that may be used by the City to achieve compliance with applicable codes. (Enacted 1999-40)

17.01.040. Existing Law Continued.

The provisions of this Title shall not invalidate any other title, chapter, or ordinance of the Provo City Code, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as an additional remedy for enforcement of violations thereof. (Enacted 1999-40)

17.01.050. Criminal Prosecution Right.

The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or applicable code requirements. The enactment of this Title shall not be construed to limit the City's right to prosecute any violation as a criminal offense. If the City chooses to file both an administrative action and criminal charges for the same violation on the same day, no civil fees shall be assessed in the administrative action, but all other remedies contained herein shall be available. (Enacted 1999-40)

17.01.060. Effect of Headings.

Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Title. (Enacted 1999-40)

17.01.070. Severability.

If any section, subsection, sentence, clause, phrase, portion, or provision of this Title is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Municipal Council hereby declares that it would have adopted this Title and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one (1) or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments made to this Title. (Enacted 1999-40)

17.01.080. Civil Liability.

By establishing performance standards or by establishing obligations to act, it is the intent of the Municipal Council that Provo City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability. (Enacted 1999-40)

17.01.090. General Rules of Interpretation.

For purposes of this Title:

- (1) Any gender includes the other gender.
- (2) "Shall" is mandatory; "may" is permissive.
- (3) The singular number includes the plural, and the plural the singular.
- (4) Words used in the present tense include the past and future tense, and vice versa.
- (5) Words and phrases used in this Title and not specifically defined shall be construed according to the context and ordinary usage of the language.
- (6) Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Title as a whole. (Enacted 1999-40)

17.01.100. Definitions Applicable to Title Generally.

In the construction of this Title, the following words and phrases shall be as defined as set forth in this section unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

"**Administrative Citation**" means a citation issued to a responsible person which gives notice of a violation and the civil fee for such violation.

"**Administrative Enforcement Hearing**" means a hearing held pursuant to the procedures established by this Title and at the request of a responsible person.

"**Administrative Enforcement Order**" means an order issued by a hearing examiner. The order may include an order to abate the violation, pay civil fees and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.

"**City**" means the City of Provo, Utah, including the Mayor, Chief Administrative Officer, and all other employees of the administrative branch of the City.

"**Director**" means the Community Development Department Director or the Director's designee.

"**Enforcement Official**" means any person authorized by the City to enforce violations of the Provo City Code or applicable state codes including, but not limited to, zoning officers, police officers, building inspection officials, fire marshal, and animal control officers.

"**Hearing Examiner**" means a person appointed by the Mayor or the Mayor's designee to preside over administrative enforcement hearings.

"**Imminent Life Safety Hazard**" means any condition that creates a serious and immediate danger to life, property, health, or public safety.

"**Mayor**" means the Mayor of Provo City.

"**Municipal Council**" means the Municipal Council of Provo City.

"**Notice of Compliance**" means a document or form approved by the Community Development Department Director which indicates that a property complies with the requirements outlined in a notice of violation.

"**Notice of Emergency Abatement**" means a written notice that informs a responsible person of emergency abatement actions taken by the City and the costs of those actions, and orders payment for those costs.

"**Notice of Itemized Bill for Costs**" means a written notice to a responsible person, itemizing the City's costs and ordering payment of those costs.

"**Notice of Violation**" means a written notice that informs a responsible person of code violations and orders certain steps to correct the violations.

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

"**Property owner**" means the record owner of real property as shown on the records of the Utah County Assessor.

"**Responsible Person**" means the person(s) determined by the City who is responsible for causing or maintaining a violation of the Provo City Code or applicable state codes. The term "Responsible Person" shall include, but is not limited to, a property owner, agent, tenant, lessee, occupant, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Provo City Code or applicable state codes.

"**Written**" includes handwritten, typewritten, photocopied, computer printed, or facsimile. (Enacted 1999-40)

17.01.110. Acts Include Causing, Aiding, and Abetting.

Whenever any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting such act or omission. (Enacted 1999-40)

17.01.120. Service of Notice Requirements.

(1) Whenever a notice is required to be given under this Title, the notice shall be served by one (1) of the following methods, unless different provisions are otherwise specifically stated to apply:

- (a) Personal service;
- (b) Regular mail, postage prepaid, to the last known address of a responsible person;

(c) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the Director; or

(d) Published in a newspaper of general circulation.

(2) Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.

(3) Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.

(4) The failure of a person, other than a responsible person, to be served notice in accordance with this Section shall not affect the validity of any proceeding taken hereunder. (Enacted 1999-40, Am 2006-50)

17.01.130. General Enforcement Authority.

Whenever an enforcement official finds that a violation of the Provo City Code or applicable state codes has occurred or continues to exist, the enforcement officer may undertake any of the procedures herein. The Director or any designated enforcement official shall have the authority to gain compliance with the provisions of the Provo City Code and applicable state codes subject to the provisions of this Title. Such authority shall include the power to issue notices of violation and administrative citations, inspect public and private property, abate nuisances on public and private property, and to use any remedy available under this Title or law. (Enacted 1999-40, Am 2006-50)

17.01.140. Adoption of Policy and Procedures.

The Mayor shall establish policies and procedures for the holding of administrative enforcement hearings, the appointment of hearing examiners, and the use of the administrative procedures herein by enforcement officials. (Enacted 1999-40)

17.01.150. Authority to Inspect.

Enforcement officials are hereby authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of the Provo City Code or applicable state codes are being obeyed and to make any reasonable examination or survey necessary to determine compliance with the Provo City Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If a property owner or responsible person refuses to allow an enforcement official to enter property, the enforcement official shall obtain a search warrant before entering the property. (Enacted 1999-40)

17.01.160. False Information or Refusal Prohibited.

It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with an enforcement officer when in the performance of the enforcement officer's official duties under the provisions of this Title. A violation of this Section shall be a class B misdemeanor. (Enacted 1999-40, Am 2006-50)

17.01.170. Failure to Obey a Subpoena.

It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative enforcement hearing. A violation of this Section shall be a class B misdemeanor. (Enacted 1999-40)

Chapter 17.02. Administrative Enforcement Hearing Procedures.

17.02.010. Administrative Enforcement Hearings.

- 17.02.020. Request for Administrative Enforcement Hearing.
- 17.02.030. Notification of Administrative Enforcement Hearing.
- 17.02.040. Appointment and Qualifications of Hearing Examiner.
- 17.02.050. Powers of Hearing Examiner.
- 17.02.060. Procedures at Administrative Enforcement Hearing.
- 17.02.070. Failure to Attend Administrative Enforcement Hearing.
- 17.02.080. Administrative Enforcement Order.
- 17.02.090. Failure to Comply.
- 17.02.100. Appeal.

(b) May be a City employee. (Enacted 1999-40, Am 2006-50)

17.02.010. Administrative Enforcement Hearings.

It is the purpose and intent of the Municipal Council that any responsible person shall be afforded due process of law during the enforcement process. Due process of law shall require adequate notice, an opportunity to request and to participate in any hearing, and an adequate explanation of the reasons justifying any resulting action. The following procedures are intended to establish a forum to resolve and correct violations of the Provo City Code and applicable state code fairly, quickly, and efficiently while providing due process. (Enacted 1999-40)

17.02.020. Request for Administrative Enforcement Hearing.

(1) A responsible person served with one (1) of the following documents or notices shall have the right to request an administrative enforcement hearing, if the request is filed within ten (10) calendar days from the date of service of one of the following notices:

- (a) notice of violation;
- (b) notice of itemized bill for costs;
- (c) administrative citation; or
- (d) notice of emergency abatement.

(2) The request for an administrative enforcement hearing shall be made in writing.

(3) As soon as practicable after receiving the written notice of the request for an administrative enforcement hearing, the Mayor or the Mayor’s designee shall appoint a hearing examiner who shall schedule a date, time, and place for the administrative enforcement hearing.

(4) Failure to request an administrative enforcement hearing within ten (10) calendar days from the date of service of any of the notices in Subsection (1) above shall constitute a waiver of the right to an administrative enforcement hearing and the right to an appeal.

(5) Within twenty (20) days of the issuance of a Notice of Violation, the City may request an administrative enforcement hearing for the purpose of compelling a responsible person to comply with correction required on a Notice of Violation.

(6) If a responsible person fails to request a hearing after being issued a Notice of Violation as provided herein, the corrective action detailed on the Notice of Violation shall be considered the administrative enforcement order pursuant to Section 17.02.080, Provo City Code. (Enacted 1999-40, Am 2001-30, Am 2006-40)

17.02.030. Notification of Administrative Enforcement Hearing.

(1) Written notice of the date, time, and place of the administrative enforcement hearing shall be served to the responsible person as soon as practicable prior to its date.

(2) The notice shall be served by any of the methods of service set forth in Section 17.01.120 of this Title. (Enacted 1999-40)

17.02.040. Appointment and Qualifications of Hearing Examiner.

(1) The Mayor or the Mayor’s designee shall appoint hearing examiners to preside at administrative enforcement hearings.

- (2) A hearing examiner:
 - (a) Shall have no personal or financial interest in the matter for which the hearing examiner is conducting a hearing; and

17.02.050. Powers of Hearing Examiner.

(1) A hearing examiner shall have authority to hold an administrative enforcement hearing for violations of the Provo City Code and applicable state codes.

(2) A hearing examiner may continue a hearing for good cause shown by one (1) of the parties or if the hearing examiner independently determines that due process has not been adequately afforded to such party.

(3) At the request of any party to an administrative enforcement hearing, a hearing examiner may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful by the hearing examiner to decide issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.

(4) A hearing examiner has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative enforcement order; ensuring compliance of that order, which includes authorizing the City to enter and abate a violation; modifying an administrative enforcement order; or, where extraordinary circumstances exist, granting a new hearing.

(5) A hearing examiner may require a responsible person to post a performance bond to ensure compliance with an administrative enforcement order, but only if agreed to by the enforcement official handling the matter for the City.

(6) A hearing examiner shall not make determinations as to the existence of nonconforming rights. If a responsible person claims a nonconforming right as a defense, the Hearing examiner shall continue the administrative enforcement hearing and shall refer the matter to the Provo City Board of Adjustment for a determination as to the existence of the nonconforming right. The Board of Adjustment’s decision shall be binding on the hearing examiner. The responsible person shall bear the costs of the appeal to the Board of Adjustment. (Enacted 1999-40, Am 2001-30)

17.02.060. Procedures at Administrative Enforcement Hearing.

(1) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be required. Any such request shall be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the administrative enforcement hearing shall follow duly adopted policies and procedures.

(2) The City shall bear the burden of proof to establish the existence of a violation of the Provo City Code or applicable state codes.

(3) Such proof shall be established by a preponderance of the evidence.

(4) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of the party’s case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.

(5) All administrative enforcement hearings shall be open to the public and shall be recorded by audio tape. In the discretion of the hearing examiner, administrative enforcement hearings may be held at the location of the violation.

(6) The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney’s name, address, and telephone

number shall be given to the City at least one (1) day prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person.

(7) The burden to prove any raised defenses shall be upon the party raising any such defense. (Enacted 1999-40, Am 2006-50)

17.02.070. Failure to Attend Administrative Enforcement Hearing.

A responsible person who fails to appear at an administrative enforcement hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, provided that proper notice of the hearing has been given as provided in Section 17.01.120, Provo City Code. (Enacted 1999-40, Am 2006-50)

17.02.080. Administrative Enforcement Order.

(1) A responsible person and the City may enter into a stipulated agreement, which shall be signed by both parties. Such agreement shall be entered as an administrative enforcement order. Entry of such agreement shall constitute a waiver of the right to an administrative enforcement hearing and the right to appeal.

(2) After all evidence and testimony are presented, the hearing examiner shall issue a written administrative enforcement order that affirms or rejects the notice or citation.

(3) A hearing examiner may issue an administrative enforcement order that requires a responsible person to cease from violating the Provo City Code or applicable state codes and to take any necessary corrective action.

(4) A hearing examiner may order the City to enter the property and abate all violations, including the removal of animals in violation of an applicable code requirement.

(5) A hearing examiner may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Provo City Code.

(6) As part of an administrative enforcement order, a hearing examiner may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil fees on the responsible person's ability to take necessary corrective actions by specified deadlines.

(7) A hearing examiner may issue an administrative enforcement order imposing civil fees. Such fees shall continue to accrue until the responsible person complies with the hearing examiner's decision and corrects the violation.

(8) A hearing examiner may schedule subsequent review hearings as may be necessary or as requested by the City to ensure compliance with an administrative enforcement order.

(9) A hearing examiner may order a responsible person to post a performance bond to ensure compliance with an administrative enforcement order, but only if agreed to by the enforcement official handling the matter for the City.

(10) An administrative enforcement order shall become final on the date of signing by a hearing examiner.

(11) An administrative enforcement order shall be served on all parties by any one (1) of the methods listed in Section 17.01.120 of this Title. When required by this Title, the Director shall record the administrative enforcement order with the Utah County Recorder's Office.

(12) After a hearing examiner has issued an administrative enforcement order, the Director shall monitor the matter for compliance with the administrative enforcement order. (Enacted 1999-40, Am 2001-30)

17.02.090. Failure to Comply.

It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a final administrative enforcement order. A violation of this Section shall be a class B misdemeanor. (Enacted 1999-40)

17.02.100. Appeal.

(1) Any responsible person adversely affected by a final administrative enforcement order made in the exercise of the provisions of this Title may file a petition for review in the district court.

(2) The petition shall be barred unless it is filed within thirty (30) days after the administrative enforcement order is final.

(3) In the petition, the plaintiff may only allege that the administrative enforcement order was arbitrary, capricious or illegal.

(4) The court shall:

(a) presume that the administrative enforcement order is valid;

(b) review the record to determine whether the order was arbitrary, capricious, or illegal; and

(c) affirm the administrative enforcement order if it is supported by substantial evidence in the record.

(5) The record of the proceedings including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this Subsection.

(6) If there is a record, court review shall be limited to the record of the proceeding. The court may not accept or consider any evidence outside such record unless that evidence was offered to the hearing examiner and the court determines that it was improperly excluded by the hearing examiner. The court may call witnesses and take evidence if there is no record.

(7) The filing of a petition does not stay execution of an administrative enforcement order. Before filing a petition, a responsible person may request the hearing examiner to stay an administrative enforcement order. Upon receipt of a request to stay, the hearing examiner may order the administrative enforcement order to be stayed pending district court review if the hearing examiner finds such stay to be in the best interest of the City. (Enacted 1999-40, Am 2001-30)

Chapter 17.03. Administrative Abatement.

17.03.010. Administrative Abatement.

17.03.020. Notice of Violation.

17.03.030. Requesting Hearings.

17.03.040. Failure to Correct.

17.03.050. Inspections.

17.03.060. Authority to Abate.

17.03.070. Procedures for Abatement.

17.03.080. Procedures for Recordation.

17.03.090. Notice of Compliance.

17.03.100. Prohibition Against Issuance of Municipal Permits.

17.03.110. Civil Fees.

17.03.010. Administrative Abatement.

Any condition caused, maintained, or permitted to exist in violation of any provision of the Provo City Code or applicable state codes may be abated by the City pursuant to the procedures set forth in this Chapter. (Enacted 1999-40)

17.03.020. Notice of Violation.

(1) Whenever an enforcement official determines that a violation of the Provo City Code or applicable state codes has occurred or continues to exist, a notice of violation may be issued to the

responsible person. The notice of violation shall include the following information:

- (a) Name of the responsible person.
 - (b) Street address of violation.
 - (c) Date violation observed.
 - (d) All code sections violated and a description of the condition that violates the applicable code.
 - (e) All remedial action required to permanently correct any violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
 - (f) Specific date to correct the violation set forth in a notice of violation.
 - (g) Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to: criminal prosecution; civil fees; revocation of permits; recordation of the notice of violation; withholding of municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies.
 - (h) Statement that civil fees will begin to accrue immediately on expiration of the date to correct violation.
 - (i) The amount of the civil fee for each violation and a statement that the civil fee shall accrue daily until the violation is corrected.
 - (j) Demand that the responsible person cease and desist from further action causing the violation and commence and complete all action to correct violations as directed by the City.
 - (k) Procedures to request an administrative enforcement hearing, and consequences for failure to request such hearing.
 - (l) Statement that when the violation is brought into compliance the responsible person must request an inspection.
- (2) The notice of violation shall be served by one of the methods of service listed in Section 17.01.120 of this Title. (Enacted 1999-40, Am 2001-30)

17.03.030. Requesting Hearings.

A responsible person shall have the right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of violation. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal. (Enacted 1999-40)

17.03.040. Failure to Correct.

It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a notice of violation. A violation of this Section shall be a class B misdemeanor. (Enacted 1999-40)

17.03.050. Inspections.

It shall be the duty of the responsible person to request an inspection when a violation has been corrected. If no inspection is requested, it shall be deemed prima facie evidence that the violation remains uncorrected. If more than one (1) inspection is necessary, an inspection fee of thirty dollars (\$30.00) shall be assessed for each subsequent inspection. (Enacted 1999-40)

17.03.060. Authority to Abate.

The Director is hereby authorized to enter upon any property or premises to abate a violation of the Provo City Code and applicable state codes as set forth in Section 17.01.150, Provo City Code. The Director shall assess all costs for abatement to the responsible person and may use any remedy available under the law to collect such costs. If additional abatement is necessary within two (2) years, treble

costs shall be assessed against the responsible person for the actual abatement. (Enacted 1999-40, Am 2006-50)

17.03.070. Procedures for Abatement.

- (1) Violations may be abated by City personnel or by a private contractor acting under the direction of the City.
- (2) City personnel or a private contractor may enter upon private property in a reasonable manner to abate a violation as specified in the notice of violation or administrative enforcement order.
- (3) If a responsible person abates the violation before the City abates the violation pursuant to a notice of violation or administrative enforcement order, the Director shall nevertheless assess all costs actually incurred by the City against the responsible person.
- (4) When abatement is completed, the Director shall prepare a notice of itemized bill for costs.
- (5) The Director shall serve the notice of itemized bill for costs by registered mail to the last known address of the responsible person. The notice shall demand full payment within twenty (20) days to the Provo City Finance Department.
- (6) The responsible person shall have a right to an administrative enforcement hearing to contest the notice of itemized bill for costs. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to such hearing and a waiver of the right to appeal. (Enacted 1999-40)

17.03.080. Procedures for Recordation.

- (1) For violations of Titles 14 and 15 of the Provo City Code and any other applicable code, when a notice of violation has been served on a responsible person, and the violation remains uncorrected after the date to correct set forth in the notice of violation, and a request for an administrative enforcement hearing has not been timely requested, the Director shall record the notice of violation with the Utah County Recorder's Office.
- (2) If an administrative enforcement hearing is held, and an administrative enforcement order is issued, the Director shall record the administrative enforcement order with the Utah County Recorder's Office.
- (3) The recordation of an administrative enforcement order shall not be deemed an encumbrance on the property, but shall merely place interested parties on notice of any continuing violation found upon the property.
- (4) Notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in Section 17.01.120 of this Title. (Enacted 1999-40)

17.03.090. Notice of Compliance.

- (1) When a violation is corrected, a responsible person shall request an inspection from the Director.
- (2) When the Director receives such request, the Director shall reinspect the property as soon as practicable to determine whether the violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
- (3) The Director shall serve a notice of compliance to the responsible person and property owner in the manner provided in Section 17.01.120, Provo City Code, if the Director determines that:
 - (a) all violations listed in the recorded notice of violation or administrative enforcement order have been corrected;
 - (b) all necessary permits have been issued and finalized;
 - (c) all assessed civil fees have been paid; and
 - (d) all assessed administrative fees and costs have been paid.

(4) The Director shall record the notice of compliance with the Utah County Recorder's Office. Recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation. (Enacted 1999-40, Am 2006-50)

17.03.100. Prohibition Against Issuance of Municipal Permits.

The City shall withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure where a violation is located. The City shall withhold such permits until a notice of compliance has been issued by the Director. The City shall not withhold permits necessary to obtain a notice of compliance or to correct serious health and safety violations. (Enacted 1999-40)

17.03.110. Civil Fees.

(1) If a responsible person fails to correct a violation by the correction date listed in a notice of violation or in an administrative enforcement order, civil fees shall be owed to the City as follows:

(a) for any violation set forth on Table 1 - Civil Fees, the civil fee shall be as shown on the table.

(b) for any other violation not included on Table 1 - Civil Fees the civil fee for each violation shall be thirty dollars (\$30.00) plus an additional civil fee of thirty dollars (\$30.00) for each and every subsequent day of violation for each separate violation until the violation is corrected. The maximum amount of civil fees accruable under this Subsection (b) for each violation listed in a notice of violation or in an administrative enforcement order shall be six hundred dollars (\$600.00).

(2) Payment of any civil fee shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City.

(3) Civil fees shall be paid to the Provo City Finance Department.

Table 1 - Civil Fees					
Type of Violation	Reference	Civil Fee per Day, First Offense	First Offense, Maximum Civil Fee	Civil Fee per Day, Second Offense	Second Offense, Maximum Civil Fee
No building permit; no business license	Chapter 14.02, Title 6	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Home occupation	Chapter 14.41	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Parking	Chapter 14.37	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Nuisances, as defined	Title 7	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Non-permitted uses	Title 14	\$50.00	\$2,000.00	\$100.00	\$4,000.00
Failure to comply with Board of Adjustment, Planning Commission, or Hearing Examiner Order	Chapter 14.02, Title 17	\$30.00	\$1,200.00	\$40.00	\$2,400.00

(Enacted 1999-40, Am 2001-30)

Chapter 17.04. Emergency Abatement.

17.04.010. Emergency Abatement.

17.04.020. Procedures.

17.04.030. Notice of Emergency Abatement.

17.04.010. Emergency Abatement.

(1) Whenever the Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Director shall exercise the following powers without prior notice to the responsible person:

- (a) Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
- (b) Post the premises as unsafe, substandard, or dangerous;
- (c) Board, fence, or secure the building or site;
- (d) Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
- (e) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- (f) Take any other action appropriate to eliminate the emergency.

(2) The Director may, based on probable cause, enter property without a search warrant or court order to accomplish the above-listed acts. (Enacted 1999-40)

17.04.020. Procedures.

(1) The Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of a hazard. Costs incurred by the City during the emergency abatement process shall be assessed and recovered against the responsible person.

(2) The Director may also pursue any other administrative or judicial remedy to abate any remaining violations.

Table 1 - Civil Fees					
Type of Violation	Reference	Civil Fee per Day, First Offense	First Offense, Maximum Civil Fee	Civil Fee per Day, Second Offense	Second Offense, Maximum Civil Fee
Occupancy violation	Title 14 per zone	\$25.00 per person	\$2,500.00 per person	\$50.00 per person	\$5,000.00 per person
Illegal accessory dwelling	Title 14 per zone	\$25.00	\$2,000.00	\$50.00	\$4,000.00
Junked or inoperable vehicles	Section 14.34.080	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Trash, junk, miscellaneous used materials	Section 14.34.080	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Weeds	Title 7	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Landscaping	Title 15	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Signs	Chapter 14.38	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Fences	Title 14 per zone	\$30.00	\$1,200.00	\$40.00	\$2,400.00
Dumping	Title 7	\$30.00	\$1,200.00	\$40.00	\$2,400.00

(3) After an emergency abatement, the City shall, within ten (10) days, serve a notice of itemized bill for costs to the responsible person for the abatement action taken. Such notice shall include a description of the imminent life safety hazard.

(4) A responsible person has the right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided herein shall constitute a waiver to an administrative enforcement hearing and a waiver to the right to appeal. (Enacted 1999-40)

Chapter 17.05. Administrative Citations.

- 17.05.010. Purpose.
- 17.05.020. Administrative Citations.
- 17.05.030. Contents of Citation.
- 17.05.040. Civil Fees Assessed.

17.05.010. Purpose.

The Municipal Council finds that an appropriate method of enforcement for violations of the Provo City Code and applicable state codes is by administrative citation. The procedures established in this Chapter shall be an alternative and in addition to those procedures set forth in Chapter 17.03 of this Title. (Enacted 1999-40)

17.05.020. Administrative Citations.

- (1) Upon discovering a violation of the Provo City Code or applicable state codes that does not require a notice of violation an enforcement official shall serve an administrative citation on the responsible person.
- (2) The administrative citation shall be served in the manner prescribed in Section 17.01.120.
- (3) The enforcement official shall attempt to obtain the signature of the responsible person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, such failure or refusal shall not affect the validity of the citation and subsequent proceedings. (Enacted 1999-40)

17.05.030. Contents of Citation.

Each administrative citation shall contain the following information:

- (1) The date and location of all violations;
- (2) Code sections violated;
- (3) The amount of the civil fee imposed for each violation;
- (4) An explanation of how the civil fee shall be paid, the time period in which the civil fee shall be paid, and the consequences of failure to pay the civil fee;
- (5) Identify the right to and the procedures for requesting an administrative enforcement hearing.
- (6) The signature of the enforcement official and, if possible, the signature of the responsible person. (Enacted 1999-40)

17.05.040. Civil Fees Assessed.

- (1) Civil fees shall be due and payable immediately upon service of an administrative citation.
- (2) The civil fee for each violation listed on the administrative citation shall be twenty five dollars (\$25.00) if paid within ten (10) days of service.
- (3) Civil fees shall be double if paid after ten (10) days but within twenty (20) days of service.
- (4) Civil fees shall be triple if paid after twenty (20) days but within thirty (30) days of service.

(5) Payment of any civil fee shall not excuse a failure to correct a violation or any reoccurrence of the violation, nor shall it bar further enforcement action by the City.

(6) Civil fees shall be paid to the Provo City Finance Department. (Enacted 1999-40)

Chapter 17.06. Costs and Fees.

- 17.06.010. Purpose.
- 17.06.020. Assessment of Costs.
- 17.06.030. Failure to Timely Pay Costs.
- 17.06.040. Administrative Cost Fund.
- 17.06.050. Allocation of Civil Fees.

17.06.010. Purpose.

- (1) The Municipal Council finds that costs incurred by enforcement officials and other City personnel to correct violations should be recovered from the responsible person.
- (2) The Municipal Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspection fees, filing fees, attorney fees, hearing examiner fees, title search, and any additional actual costs incurred by the City for each individual case. The assessment and collection of costs shall not preclude the imposition of any judicial fees or fines for violations of the Provo City Code or applicable state codes. (Enacted 1999-40)

17.06.020. Assessment of Costs.

- (1) Whenever actual costs are incurred by the City to enforce the Provo City Code and applicable state codes, such costs shall be assessed against the responsible person.
- (2) The Director shall serve the responsible person with a notice of itemized bill for costs.
- (3) The responsible person shall have a right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal. (Enacted 1999-40)

17.06.030. Failure to Timely Pay Costs.

The failure of any person to pay assessed costs by the deadline specified in an invoice shall result in a late fee calculated at the rate of one and one-half percent (1½%) per month. (Enacted 1999-40)

17.06.040. Administrative Cost Fund.

Administrative costs and fees collected pursuant to this Title shall be deposited in a fund, as established by the City for the enhancement of the City's code enforcement efforts and to reimburse City departments for costs associated with the administration of this Title. Fees and costs deposited in this fund shall be allocated pursuant to the City's budget process and as authorized by applicable law. (Enacted 1999-40)

17.06.050. Allocation of Civil Fees.

Civil fees collected pursuant to this Title shall be deposited in the Provo City general fund. Civil fees deposited in the general fund may be allocated pursuant to the City's budget process and as authorized by applicable law. (Enacted 1999-40)

This page intentionally left blank.