Larry Gossett

CODEENF.MMc

Introduced by Brian Derdowski

Proposed No.: 93-682

MLCS - Final
July 14, 1998
clerk 9/9/98

ORDINANCE NO. 13263

AN ORDINANCE relating to code compliance and abatement of civil code violations and public nuisances; revising title 23 prescribing code compliance methods, enforcement, civil penalties and collections; adding a new section to King County chapter 2.16 relating to receivable accounts; repealing Ordinance 2909, Sections 101 through 109, Sections 201-208, Sections 301-302, Sections 401-408, Section 501, Section 601; Ordinance 4569, Sections 2 through 4; Ordinance 7846, Sections 1 through 11; Ordinance 9614, Section 120; and K.C.C. 23.04.010; K.C.C. 23.08.010 through 23.08.120; K.C.C. 23.12.010 through 23.12.080; K.C.C. 23.16.010 through 23.16.020; K.C.C. 23.20.010 through 23.20.080; K.C.C. 23.24.010; all as amended; amending Ordinance 4461, Section 2 and K.C.C. 20.24.080A and adding new sections to K.C.C. 12.18, 12.20 and 12.22.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW CHAPTER. CHAPTER 1. NAME AND PURPOSE.

NEW SECTION. SECTION 1. There is hereby added to K.C.C. 23 a new section to read as follows:

NAME AND PURPOSE. A. This title shall be known as "Code Compliance". The purpose of this title is to identify processes and methods to encourage compliance with county laws and regulations that King County has adopted pursuant to Article XI, section 11 of the Washington Constitution and other

state laws to promote and protect the general public health, safety and environment of county residents. This title declares certain acts to be civil violations and establishes non-penal enforcement procedures and civil penalties. This title also declares certain acts to be misdemeanors.

B. It is the intention of the county to pursue code compliance actively and vigorously in order to protect the health, safety and welfare of the general public. This county intention is to be pursued in a way that is consistent with adherence to, and respectful of, fundamental constitutional principles.

C. While this title does authorize King County to take action to enforce county laws and regulations, it shall not be construed as placing responsibility for code compliance or enforcement upon King County in any particular case, or as creating any duty on the part of King County to any particular person or class of persons.

NEW SECTION. SECTION 2. There is hereby added to K.C.C. 23 a new section to read as follows:

STATEMENT OF GOALS. It is the policy of King County to emphasize code compliance by education and prevention as a first step. This policy is designed to ensure code compliance and timely action that is available to all persons and uniform in its implementation. While warnings and voluntary compliance are desirable as a first step, enforcement and civil penalties should be used for remedial purposes as needed to assure and effect code compliance. Abatement or remediation should be pursued when appropriate and feasible. Uniform and efficient

procedures, with consistent application tailored by regulation to each department's mission, should be used to accomplish these goals.

NEW CHAPTER. CHAPTER 2. GENERAL PROVISIONS.

NEW SECTION. SECTION 3. There is hereby added to K.C.C. 23 a new section to read as follows:

DEFINITIONS. The words and phrases designated in this section shall be defined for the purposes of this title as follows: A. Abate. "Abate" means to take whatever steps are deemed necessary by the director to return a property to the condition in which it existed before a civil code violation occurred or to assure that the property complies with applicable code requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.

B. Civil Code Violation. "Civil Code Violation" means and includes an act or omission contrary to:

1. any ordinance, resolution, regulation or public rule of the county that regulates or protects the public health or the use and development of land or water, whether or not such ordinance, resolution or regulation is codified; and/or

2. the conditions of any permit, notice and order or stop work order issued pursuant to any such ordinance, resolution, regulation or public rule.

C. Director. "Director" means, depending on the code violated:

1. the director of the department of development and environmental services;

2. the director of the Seattle-King County department of public health (the "local health officer" as that term is used in Chapter 70.05 RCW);

3. the director of the department of natural resources;

4. the director of any other county department authorized to enforce civil code compliance;

5. authorized representatives of a director, including but not limited to, the compliance officers and inspectors whose responsibility includes the detection and reporting of civil code violations; and/or

6. such other person as the council shall by ordinance authorize to utilize the provisions of this title.

D. Hearing Examiner. "Hearing Examiner" means the King County hearing examiner, as provided in K.C.C. Chapter 20.24.

E. Mitigate. ''Mitigate'' means to take measures, subject to county approval, to minimize the harmful effects of the violation where remediation is either impossible or unreasonably burdensome.

F. Permit. "Permit" means any form of certificate, approval, registration, license or any other written permission issued by King County. All conditions of approval, and all easements and use limitations shown on the face of a approved final plat map which are intended to serve or protect the general public are deemed conditions applicable to all subsequent plat property owners and their tenants and agents as permit requirements enforceable under this title.

G. Person. "Person" means any individual, association, partnership, corporation or legal entity, public or private, and the agents and assigns of such individual, association, partnership, corporation or legal entity.

H. Person responsible for code compliance. ''Person responsible for code compliance'' means the person who caused the violation, if that can be determined, and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy property where a civil code violation occurs.

I. Remediate. ''Remediate'' means to restore a site to a condition that complies with sensitive area or other regulatory requirements as they existed when the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the public health, safety or welfare.

J. Resolution. "Resolution" for purposes of this title means any law enacted by resolution of the board of county commissioners prior to the establishment of the charter, or any health rule adopted by resolution of the board of health.

K. Public rule. ``Public rule'' means any rule properly promulgated to implement code provisions.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. 23 a new section to read as follows:

DECLARATION OF PUBLIC NUISANCE, MISDEMEANOR. A. All civil code violations are hereby determined to be detrimental to the public health, safety and environment and are hereby declared public nuisances. All conditions determined to be civil code violations shall be subject to and enforced pursuant to the

provisions of this title except where specifically excluded by law or regulation.

B. Any person who willfully or knowingly causes, aids or abets a civil code violation pursuant to this title by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine not to exceed one thousand dollars and/or imprisonment in the county jail for a term not to exceed ninety days. Each week (seven days) such violation continues shall be considered a separate misdemeanor offense. As an alternative, or in addition to any other judicial or administrative remedy provided in this title or by law or other regulation, a director may request that the prosecuting attorney consider filing a misdemeanor complaint against the persons responsible for code compliance when the director has documentation or evidence that the violation was willful and knowing.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. 23 a new section to read as follows:

ENFORCEMENT AUTHORITY AND ADMINISTRATION. A. In order to discourage public nuisances and otherwise promote compliance with applicable code provisions, a director may, in response to field observations or reliable complaints, determine that civil code violations have occurred or are occurring and may:

1. Enter into voluntary compliance agreements with persons responsible for code compliance;

2. Issue citations and assess civil penalties as authorized by chapter 3 of this ordinance;

3. Issue notice & orders, assess civil penalties and fines and recover costs as authorized by chapter 4 of this ordinance;

4. Order abatement by means of a notice and order, and if such abatement is not timely completed by the person responsible for code compliance, undertake the abatement and charge the reasonable costs of such work as authorized by chapter 4 of this ordinance;

5. Allow a person responsible for code compliance to perform community service in lieu of paying civil penalties as authorized by chapter 4 of this ordinance;

6. Order work stopped at a site by means of a stop work order, and if such order is not complied with, assess civil penalties, as authorized by chapter 5 of this ordinance; and/or

7. Suspend, revoke or modify any permit previously issued by a director or deny a permit application as authorized by chapter 4 of this ordinance when other efforts to achieve compliance have failed.

B. Should violations occur involving multiple agencies, a lead agency shall be designated by the executive to coordinate the county's response. Unless otherwise determined by the directors of the affected departments, the department of development and environmental services shall serve as the lead agency.

C. The procedures set forth in this title are not exclusive. These procedures shall not in any manner limit or restrict the county from remedying civil code violations or

abating civil code violations in any other manner authorized by law. This ordinance shall not be construed to affect the authority of the King County board of health in enforcement of the King County board of health code or regulations.

D. In addition or as an alternative to utilizing the procedures set forth in this title, a director may seek legal or equitable relief to abate any conditions or enjoin any acts or practices which constitute a civil code violation.

E. In addition or as an alternative to utilizing the procedures set forth in this ordinance, a director may assess or recover civil penalties accruing under this title by legal action filed in King County superior court by the prosecuting attorney on behalf of King County.

F. The provisions of this title shall in no way adversely affect the rights of the owner, lessee or occupant of any property to recover all costs and expenses incurred and required by this title from any person causing such violation.

G. A director may use the services of a collection agency in order to collect any fines, penalties, fees or costs owing under this title.

H. In administering the provisions for code enforcement, the director shall have the authority to waive any one or more such provisions so as to avoid substantial injustice by application thereof to the acts or omissions of a public or private entity or individual, or acts or omissions on public or private property including, for example, property belonging to public or private utilities, where no apparent benefit has accrued to such entity or individual from a code violation and

any necessary remediation is being promptly provided. For purposes of this clause, substantial injustice cannot be based on economic hardship.

I. The provisions of this chapter detailing county department administration of code compliance procedures are intended only for the purpose of providing guidance to county employees and are not to be construed as creating a basis for appeal or a defense of any kind to an alleged violation.

J. The provisions of this ordinance authorizing the enforcement of non-codified ordinances are intended to assure compliance with conditions of approval on plats, unclassified use permits, zone reclassifications and other similar permits or approvals which may have been granted by ordinances which have not been codified, and to enforce new regulatory ordinances which are not yet codified. Departments should be sensitive to the possibility that citizens may not be aware of these ordinances, and should give warnings prior to enforcing such ordinances, except in high risk cases.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. 23 a new section to read as follows:

GUIDELINES FOR DEPARTMENTAL RESPONSES TO COMPLAINTS. A. The following guidelines should be applied by the departments, subject to departmental resource limitations, when responding to code compliance complaints. The timelines identified below may be modified by departmental rule, subject to council review and approval.

1. High risk investigations needing an urgent response (within twenty-four hours to one week) include any cases in which:

a. there is an imminent likelihood of or actual bodily harm, damage to public resources or facilities, damage to real or personal property, public health exposure, or environmental damage or contamination; or

b. the sites and/or persons responsible for code compliance have a history of prior high or moderate risk violations.

2. Moderate risk investigations needing a prompt response (within seventy-two hours to ten days) include cases where:

a. there is risk of bodily harm, damage to public resources and/or facilities, damage to real or personal property, or environmental damage or contamination; or

b. the subject sites and/or persons responsible for code compliance have a history of prior low risk violations; or

c. there are ongoing moderate or low risk violations; or

d. more than five wrecked, dismantled or inoperative vehicles are found.

3. Low risk investigations needing response as time permits (within two to four weeks of violation being identified by code compliance staff) include cases where:

a. the violation is non-emergent, does not fit within the high risk or moderate risk categories and has only minor public impacts; and

b. the violation is an isolated incident.

B. The response times set out in this section are not jurisdictional, and failure to meet them in any particular case shall not affect the county's authority to enforce county code provisions with regard to that case.

NEW SECTION. SECTION 7. There is hereby added to K.C.C. 23 a new section to read as follows:

INITIAL INVESTIGATION. This section sets forth guidelines for more specific procedures to be used by each department in implementing this ordinance. The guidelines set forth in this section are not jurisdictional, and failure to meet them in any particular case shall not affect the county's authority to enforce county code provisions with regard to that case.

A. Field verification.

Except in emergencies and for low risk case complaints, field verification should be made if possible prior to, concurrent with or shortly after notifying the owner, occupant, and/or other person responsible for code compliance of the potential or alleged violation. Low risk case complaints should be acknowledged by sending an informal letter to the person(s) responsible for code compliance. The letter should state that a violation may have occurred, but has not been verified, and should ask the recipient to contact the department issuing the letter.

B. Advising interested parties of receipt of complaint and/or field investigation.

1. The owner, occupant and person responsible for code compliance (if not an owner or occupant) should be advised

of any complaint by personal contact, phone, posting and/or mail.

2. The complainant should be contacted by phone and, if possible, in person during the field visit.

C. To the extent possible, all departments with compliance requirement authority should record land-based violations in a database system, which should be accessible to all other departments.

D. To the extent possible, the department shall check its own records and the records of other agencies for previous violations on the site of the alleged violation or by the owner or occupant of the site or such other person as may be responsible for code compliance. Each department should develop and/or maintain a database system for tracking violations of its codes that is designed, to the extent possible, to be used in coordination with other departments.

E. Staff undertaking field investigations shall comply with the provisions of this title regarding right of entry.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. 23 a new section to read as follows:

PROCEDURES WHEN PROBABLE VIOLATION IDENTIFIED. A. The department shall determine, based on information derived from sources such as field observations, the statements of witnesses, relevant documents and data systems for tracking violations and applicable county codes, whether or not a violation has occurred. As soon as a department has reasonable cause to determine that a violation has occurred, it shall

document the violation and promptly notify the owner, occupant and/or other person responsible for code compliance.

B. Except as provided in subsection C, a warning shall be issued verbally or in writing promptly when a field inspection reveals a violation, or as soon as the department otherwise determines that a violation has occurred. The warning shall inform the person determined to be responsible for code compliance of the violation and allow the person an opportunity to correct it or enter into a voluntary compliance agreement as provided for by this title. Verbal warnings shall be logged and followed up with a written warning within two weeks, and the site shall be re-inspected within thirty days.

C. The guidelines set forth in this section for warnings, notifications and re-inspections are not jurisdictional, and failure to meet them in any particular case shall not affect the county's authority to enforce county code provisions with regard to that case.

D. No warning need be issued in high risk cases, emergencies, repeat violation cases, cases that are already subject to a voluntary compliance agreement, cases where the violation creates a situation or condition that is not likely to be corrected within a short period of time, cases where a stop work order is necessary, or when the person responsible for code compliance knows or reasonably should have known that the action was a civil code violation.

E. Citations may be issued in moderate and low risk cases, provided that the department determines it is probable that

violation can likely be fully corrected in a short period of time.

F. Notice and orders should be issued in all high risk cases in which a voluntary compliance agreement has not been entered into. Notice and orders may be issued in moderate and low risk cases where the department determines that the violation is unlikely be fully corrected in a short period of time.

G. The department shall use all reasonable means to determine and cite the person or persons actually responsible for the violation occurring when the owner has not directly or indirectly caused the violation.

H. If the violation is not corrected or a voluntary compliance agreement is not achieved within a reasonable time period, a citation, notice and order or stop work order should be issued. As a guideline, citations should be issued within sixty days from receipt of a complaint, and notice and orders should be issued within one hundred twenty days from receipt of a complaint. Stop work orders should be issued promptly upon discovery of a violation in progress.

I. Any complainant who provides a mailing address and requests to be kept advised of enforcement efforts should be mailed a copy of all written warnings, voluntary compliance agreements, citations, notice and orders, stop work orders and notices of settlement conferences issued by a department with regard to the alleged violation. Any complainant who is an aggrieved person may appeal a citation, notice and order, stop work order, a determination to enter into a voluntary

compliance agreement or a determination not to issue a citation or order pursuant to the provisions of K.C.C. 20.24, provided that the appeal shall be considered a civil proceeding, and any decision to pursue criminal sanctions shall remain the obligation of the prosecuting attorney, as set out in Section 4 of this ordinance.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. 23 a new section to read as follows:

SERVICE. -- CITATION, NOTICE AND ORDER, AND STOP WORK ORDER. A. Service of a citation or notice and order shall be made on a person responsible for code compliance by one or more of the following methods:

1. Personal service of a citation or notice and order may be made on the person identified by the department as being responsible for code compliance, or by leaving a copy of the citation or notice and order at that person's house of usual abode with a person of suitable age and discretion who resides there.

2. Service directed to the landowner and/or occupant of the property may be made by posting the citation or notice and order in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available.

3. Service by mail may be made for a citation or a notice and order by mailing two copies, postage prepaid, one by ordinary first class mail and the other by certified mail, to the person responsible for code compliance at his or her last known address, at the address of the violation, or at the

address of the place of business of the person responsible for code compliance. The taxpayer's address as shown on the tax records of the county shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day upon which the citation or notice and order was placed in the mail.

B. For notice and orders only, when the address of the person responsible for code compliance cannot reasonably be determined, service may be made by publication once in a local newspaper with general circulation.

C. Service of a stop work order on a person responsible for code compliance may be made by posting the stop work order in a conspicuous place on the property where the violation occurred or by serving the stop work order in any other manner permitted by this section.

D. The failure of the director to make or attempt service on any person named in the citation, notice and order or stop work order shall not invalidate any proceedings as to any other person duly served.

NEW SECTION. SECTION 10. There is hereby added to K.C.C. 23 a new section to read as follows:

VOLUNTARY COMPLIANCE AGREEMENT - AUTHORITY. A. Whenever the applicable department determines that a code violation has occurred or is occurring, the department shall make reasonable efforts to secure voluntary compliance from the person responsible for code compliance. Upon contacting the person

responsible for code compliance, the department may enter into a voluntary compliance agreement as provided for in this section.

B. A voluntary compliance agreement may be entered into at any time after issuance of a verbal or written warning, a citation, a notice and order or a stop work order and before an appeal is decided pursuant to K.C.C. 20.24.

C. The voluntary compliance agreement is a commitment by the person responsible for code compliance under which such person agrees to abate the violation, remediate the site, and/or mitigate the impacts of the violation. The voluntary compliance agreement shall include the following:

1. The name and address of the person responsible for code compliance; and

2. The address or other identification of the location of the violation; and

3. A description of the violation and a reference to the provision(s) of the ordinance, resolution or regulation which has been violated; and

4. A description of the necessary corrective action to be taken and identification of the date or time by which compliance must be completed; and

5. The amount of the civil penalty that will be imposed pursuant to chapter 6 of this ordinance if the voluntary compliance agreement is not satisfied; and

6. An acknowledgment that the voluntary compliance agreement will be recorded against the property in the office

of records and elections, said recording to be accomplished as provided for in notice and order cases; and

7. An acknowledgment that if the department determines that the terms of the voluntary compliance agreement are not met, the county may, without issuing a citation, notice and order or stop work order, impose any remedy authorized by this title, which includes the assessment of the civil penalties identified in the voluntary compliance agreement, abatement of the violation, assessment of the costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit; and

8. An acknowledgment that if any assessed penalty, fee or cost is not paid, a director may charge the unpaid amount as a lien against the property where the civil code violation occurred if owned by the person responsible for code compliance, and that the unpaid amount may be a joint and several personal obligation of all persons responsible for code compliance; and

9. An acknowledgment that by entering into the voluntary compliance agreement the person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and that if the department determines the terms of the voluntary compliance agreement are not met, the person is subject to and liable for any remedy authorized by this

title,which includes the assessment of the civil penalties identified in the voluntary compliance agreement, abatement of the violation, assessment of the costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit; and

10. An acknowledgment that the person responsible for code compliance understands that he or she has the right to be served with a citation, notice and order or stop work order for any violation identified in the voluntary compliance agreement, has the right to administratively appeal any such citation, notice and order or stop work order, and that he or she is knowingly, voluntarily and intelligently waiving those rights.

D. Upon entering into a voluntary compliance agreement, a person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and agrees that if the department determines the terms of the voluntary compliance agreement are not met, he or she is liable for the civil penalty available under chapter 6 of this title and identified in the voluntary compliance agreement, is liable for the costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses as provided for in chapter 4 of this ordinance and is subject to all other remedies provided for in this title.

E. The voluntary compliance agreement shall incorporate the shortest reasonable time period for compliance as

determined by the department. An extension of the time limit for compliance or a modification of the required corrective action may be granted by the department if the person responsible for code compliance has shown due diligence or substantial progress in correcting the violation, but circumstances render full and timely compliance under the original conditions unattainable.

F. The voluntary compliance agreement is not a settlement agreement.

NEW SECTION. SECTION 11. There is hereby added to K.C.C. 23 a new section to read as follows:

FAILURE TO MEET TERMS OF VOLUNTARY COMPLIANCE AGREEMENT. A. If the terms of the voluntary compliance agreement are not completely met, the department may abate the violation in accordance with the provisions of this title, and the person responsible for code compliance may, without being issued a citation, notice and order or stop work order, be assessed a civil fine or penalty commencing on the day after the deadline for compliance, in accordance with the penalty provisions of this title, plus all costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses as provided for in this title, and may be subject to other remedies authorized by this title. Penalties imposed when a voluntary compliance agreement is not met accrue from the date that an appeal of any preceding citation, notice and order or stop work order was required to have been filed or from the date the voluntary compliance agreement was entered

into if there was no preceding stop work order, citation or notice and order.

B. The department may issue a citation, notice and order or stop work order for failure to meet the terms of a voluntary compliance agreement.

NEW SECTION. SECTION 12. There is hereby added to K.C.C. 23 a new section to read as follows:

RIGHT OF ENTRY. It is the intention of the council that any entry made to private property for the purpose of inspection for code violations be accomplished in strict conformity with constitutional and statutory constraints on entry, and the holdings of relevant court cases regarding entry. The right-of-entry granted by this ordinance shall not supersede those legal constraints. The director is authorized to enter upon any property for the purpose of administering this title provided that, the director shall make entry only if such entry is consistent with the constitutions and laws of the United States and the state of Washington. If so required by the constitutions and laws of the United States or the state of Washington, the director shall apply to a court of competent jurisdiction for a search warrant authorizing access to such property for such purpose. The court may upon such application issue the search warrant for the purpose requested.

NEW SECTION. SECTION 13. There is hereby added to K.C.C. 23 a new section to read as follows:

TRAINING AND RULEMAKING. A. In order to ensure strict conformity with the constraints on entry imposed by state and federal law and to assure that county employees deal with the

public in a manner which respects the rights of private property owners, the directors of the department of development and environmental services, natural resources and other departments, as needed, shall develop and adopt internal procedures, protocols and training programs governing the conduct of searches by code compliance officers which shall be issued within nine months of the adoption of this ordinance.

B. Each department operating under this chapter shall adopt procedures to implement the provisions of this ordinance, and specifically the guidelines set out in this chapter describing reasonable and appropriate protocols for investigating code violations.

NEW SECTION. SECTION 14. There is hereby added to K.C.C. 23 a new section to read as follows:

OBLIGATIONS OF PERSONS RESPONSIBLE FOR CODE COMPLIANCE.

A. It shall be the responsibility of any person identified as responsible for code compliance to bring the property into a safe and reasonable condition to achieve code compliance. Payment of fines, applications for permits, acknowledgment of stop-work orders and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the extent reasonably possible under the circumstances.

B. Persons determined to be responsible for code compliance pursuant to a citation or notice and order shall be liable for the payment of any civil fines, penalties and abatement costs, provided, however, that if a property owner affirmatively demonstrates that the action which resulted in

the violation was taken without the owner's knowledge or consent by someone other than the owner or someone acting on the owner's behalf, that owner shall be responsible only for bringing the property into compliance to the extent reasonably feasible under the circumstances. Should the owner not correct the violation, only those abatement costs necessary to bring the property into a safe and reasonable condition , as determined by the director, shall be assessed by the county. No civil fines or penalties shall be assessed against such an owner or his or her property interest.

NEW CHAPTER. CHAPTER 3. CITATIONS.

NEW SECTION. SECTION 15. There is hereby added to K.C.C. 23 a new section to read as follows:

CITATION -- AUTHORITY. Whenever a director has determined, based on investigation of documents and/or physical evidence, that a civil code violation has occurred, the director may issue a citation to any person responsible for code compliance. The director shall make a determination whether or not to issue a citation within sixty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist. Subsequent complaints shall be treated as new complaints for purposes of this section.

NEW SECTION. SECTION 16. There is hereby added to K.C.C. 23 a new section to read as follows:

CITATION -- EFFECT. A. Subject to the appeal provisions of Chapter 7, a citation represents a determination that a

civil code violation has occurred and that the cited party is a person responsible for code compliance.

B. Subject to the provisions of Section 14, a citation subjects the person responsible for code compliance to the civil fine prescribed by chapter 6 of this ordinance.

C. Subject to the provisions of Section 14, the person responsible for code compliance shall either pay the civil fine assessed within twenty-one days of the date of issuance of the citation or appeal the citation according to the procedures described in chapter 7 of this ordinance.

D. Failure to appeal the citation within twenty-one days shall render the citation a final determination that the conditions described in the citation existed and constituted a civil code violation and that the cited party is liable as a person responsible for code compliance.

E. Imposition of a civil fine creates a joint and several personal obligation in all persons responsible for code compliance who are served with notice of the violation. The prosecuting attorney on behalf of King County may collect the civil fines assessed by any appropriate legal means.

F. Issuance of a citation in no way limits a director's authority to issue a notice and order or stop work order to the same person responsible for code compliance pursuant to this title. Payment of the civil fine assessed under the citation does not relieve a person responsible for code compliance of his or her duty to correct the violation and/or to pay any and all civil penalties accruing under a notice and order or stop work order issued pursuant to this title.

NEW SECTION. SECTION 17. There is hereby added to K.C.C. 23 a new section to read as follows:

CITATION -- CONTENTS. The citation shall include all of the following information: A. Identification of the location of the violation;

B. A brief description of the violation or violations found;

C. A statement of the specific ordinance, resolution, regulation, public rule, permit condition, notice and order provision, or stop work order provision that was violated;

D. A statement that the citation represents a determination that a civil code violation has occurred and that the cited party is subject to civil fines;

E. A statement of the amount of the civil fine assessed and that the fine must be paid within 21 days;

F. A statement of the options provided in this title for responding to the citation and the procedures necessary to exercise these options;

G. A statement that failure to appeal the citation within twenty-one days renders the citation a final determination that the conditions described in the citation existed and constituted a civil code violation and that the cited party is liable as a person responsible for code compliance; and

H. A statement advising that a failure to respond or appeal may be referred to the prosecuting attorney for prosecution.

NEW SECTION. SECTION 18. There is hereby added to K.C.C. 23 a new section to read as follows:

CITATION -- REVOCATION. A director may revoke or modify a citation issued under this title if the original citation was issued in error or if a party to a citation was incorrectly named. Such revocation or modification shall identify the reasons and underlying facts for revocation.

NEW SECTION. SECTION 19. There is hereby added to K.C.C. 23 a new section to read as follows:

CITATION REMEDY -- CIVIL FINES. A citation shall carry a civil fine to be determined with reference to the schedule contained in chapter 6 of this ordinance. The payment of civil fines does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation.

NEW CHAPTER. CHAPTER 4. NOTICE AND ORDERS.

NEW SECTION. SECTION 20. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER -- AUTHORITY. Whenever a director has reason to believe, based on investigation of documents and/or physical evidence, that a civil code violation exists or has occurred, or that the civil code violations cited in a citation have not been corrected, or that the terms of a voluntary compliance agreement have not been met, the director is authorized to issue a notice and order to any person responsible for code compliance. The director shall make a determination whether or not to issue a notice and order within one hundred twenty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist, or within thirty days of the end of a voluntary compliance agreement time period which has not been

met. Subsequent complaints shall be treated as new complaints for purposes of this section. Issuance of a citation is not a condition precedent to the issuance of a notice and order.

NEW SECTION. SECTION 21. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER -- EFFECT. A. Subject to the appeal provisions of Chapter 7, a notice and order represents a determination that a civil code violation has occurred, that the cited party is a person responsible for code compliance, and that the violations set out in the notice and order require the assessment of penalties and costs and other remedies specified in the notice and order.

B. Failure to correct the civil code violation in the manner prescribed by the notice and order subjects the person to whom the notice and order is directed to the use of any of the compliance remedies provided by this title, including:

1. additional civil penalties and costs;

2. a requirement that abatement, remediation and/or mitigation be performed;

3. an agreement to perform community service as prescribed by chapter 4 of this ordinance;

4. permit suspension, revocation, modification and/or denial as prescribed by chapter 4 of this ordinance; and/or

5. abatement by a director and recovery of the costs of abatement according to the procedures described in chapter 4 of this ordinance.

C. Any person identified in the notice and order as responsible for code compliance may appeal the notice and order

within twenty-one days according to the procedures described in chapter 7 of this ordinance.

D. Failure to appeal the notice and order within the applicable time limits shall render the notice and order a final determination that the conditions described in the notice and order existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance.

E. Issuance of a notice and order in no way limits a director's authority to issue a citation or stop work order to a person previously cited through the notice and order process pursuant to this title. Payment of the civil penalties assessed under the notice and order does not relieve a person found to be responsible for code compliance of his or her duty to correct the violation and/or to pay any and all civil fines or penalties accruing under citations or stop work orders issued pursuant to this title.

NEW SECTION. SECTION 22. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER -- CONTENTS. The notice and order shall contain the following information:

A. The address, when available, or location of the civil code violation;

B. A legal description of the real property or the King County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators;

C. A statement that the director has found the named person to have committed a civil code violation and a brief description of the violation or violations found;

D. A statement of the specific provisions of the ordinance, resolution, regulation, public rule, permit condition, notice and order provision or stop work order that was or is being violated;

E. The dollar amount of the civil penalty per separate violation;

F. A statement advising that any costs of enforcement that exceed the amount of the penalty may also be assessed against the person to whom the notice and order is directed;

G. A statement advising that the notice and order will be recorded against the property in the King County office of records and elections subsequent to service;

H. A statement of the corrective or abatement action required to be taken and that all required permits to perform the corrective action must be obtained from the proper issuing agency;

I. A statement advising that, if any required work is not commenced or completed within the time specified by the notice and order, a director may proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and several personal obligation of any persons responsible for code compliance;

J. A statement advising that, if any assessed penalty, fee or cost is not paid on or before the due date, a director may charge the unpaid amount as a lien against the property

where the civil code violation occurred if owned by a person responsible for code compliance and as a joint and several personal obligation of all persons responsible for code compliance;

K. A statement advising that any person named in the notice and order or having any record or equitable title in the property against which the notice and order is recorded may appeal from the notice and order to the hearing examiner within twenty-one days of the date of service of the notice and order;

L. A statement advising that a failure to correct the violations cited in the notice and order could lead to the denial of subsequent King County permit applications on the subject property;

M. A statement advising that a failure to appeal the notice and order within the applicable time limits renders the notice and order a final determination that the conditions described in the notice and order existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance; and

N. A statement advising the person responsible for code compliance of his or her duty to notify the director of any actions taken to achieve compliance with the notice and order.

NEW SECTION. SECTION 23. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER -- RECORDING. A. Whenever a notice and order is served on a person responsible for code compliance, the director shall file a copy of the same with the King County office of records and elections.

B. When all violations specified in the notice and order have been corrected or abated the director shall file a certificate of compliance with the King County office of records and elections. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil penalties for which liens have been filed are still outstanding and continue as liens on the property.

NEW SECTION. SECTION 24. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER - SUPPLEMENTATION, REVOCATION, MODIFICATION. A. Whenever there is new information or a change in circumstances, a director may add to, rescind in whole or part or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notice and orders contained in this title.

B. A director may revoke or modify a notice and order issued under this title if the original notice and order was issued in error or if a party to an order was incorrectly named. Such revocation or modification shall identify the reasons and underlying facts for revocation and shall be filed with the King County office of records and elections.

NEW SECTION. SECTION 25. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER -- ADMINISTRATIVE CONFERENCE. An informal administrative conference may be conducted by a director at any time for the purpose of facilitating

communication among concerned persons and providing a forum for efficient resolution of any violation. Interested parties shall not unreasonably be excluded from such conferences.

NEW SECTION. SECTION 26. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- CIVIL PENALTIES -- AUTHORITY AND GENERAL PROVISIONS. A. Failure to correct a civil code violation in the manner and within the time frame specified by the notice and order subjects the person responsible for code compliance to civil penalties calculated with reference to the schedule contained in chapter 6 of this ordinance.

B. Civil penalties assessed create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of King County may collect the civil penalties assessed by any appropriate legal means.

C. Civil penalties assessed also authorize King County to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.

D. The payment of penalties does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation.

NEW SECTION. SECTION 27. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- COMMUNITY SERVICE

A director is authorized to allow a person responsible for code compliance who accumulates civil penalties as the result

of a notice and order to voluntarily participate in community service projects in lieu of paying all or a portion of the assessed civil penalties. Community service may include, but is not limited to, abatement, restoration or education programs. The amount of community service will reasonably relate to the comparable value of penalties assessed against the violator. The director shall take into consideration the severity of the violation, any history of previous violations and practical and legal impediments in considering whether to allow community service in lieu of paying penalties.

NEW SECTION. SECTION 28. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- COST RECOVERY

A. In addition to the other remedies available under this title, a director may charge the costs of pursuing code compliance and abatement incurred to correct a code violation to the person responsible for code compliance, including legal and incidental expenses to the extent these costs exceed the amount of the penalty paid. Such costs are due and payable thirty days from mailing of the invoice.

B. For purposes of this section, "legal and incidental expenses" shall include but are not limited to:

1. personnel costs, both direct and indirect, including attorney's fees and costs incurred to document the violation as soon as the violation occurs;

2. hauling, storage and disposal expenses;

3. actual expenses and costs of the county in preparing notices, specifications and contracts and in

accomplishing or contracting and inspecting the work and the costs of any required printing or mailing; and

4. Interest on the costs of abatement incurred by the county.

C. All costs assessed by the county in pursuing code compliance and/or abatement create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of King County may collect the costs of code compliance efforts by any appropriate legal means.

D. King County may take a lien for the value of the costs of pursuing code compliance against the real property of the person responsible for code compliance.

NEW SECTION. SECTION 29. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- SUSPENSION, REVOCATION OR LIMITATION OF PERMIT. A. A director may suspend, revoke or limit any permit issued by such director whenever:

1. the permit holder has committed a code violation in the course of performing activities subject to that permit;

2. the permit holder has interfered with a director in the performance of his or her duties relating to that permit;

3. the permit was issued in error or on the basis of materially incorrect information supplied to the county;

4. permit fees or costs were paid to the county by check and returned from a financial institution marked non-sufficient funds (NSF) or canceled; or

5. for a permit or approval that is subject to sensitive area review, the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant's ability to meet the permit or approval conditions or which makes inaccurate the sensitive area study that was the basis for establishing permit or approval conditions.

B. Such suspension, revocation or modification shall be carried out through the notice and order provisions of this chapter and shall be effective upon the compliance date established by the notice and order. Such revocation, suspension or cancellation may be appealed to the hearing examiner using the appeal provisions of this title.

C. Notwithstanding any other provision of this title, a director may immediately suspend operations under any permit by issuing a stop work order pursuant to chapter 5 of this ordinance.

NEW SECTION. SECTION 30. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- DENIAL OF PERMIT. A. The county may deny a development proposal permit, when, with regard to the site or project for which the permit application is submitted:

1. any person has been found in violation and remains in violation of any ordinance, resolution, regulation or public rule of the county that regulates or protects the public health or the use and development of land or water,

whether or not such ordinance, resolution, regulation or public rule is codified;

2. any person has been found in violation and remains in violation of the conditions of any permit, notice and order or stop work order issued pursuant to any such ordinance, resolution, regulation or public rule; and/or

3. for any property which has been found in violation and remains in violation of K.C.C. 21.54 or K.C.C. 21A.24 or of any rule, permit, approval, order, easement, plan or agreement issued thereunder.

B. In order to further the remedial purposes of this title, such denial may continue until the violation is cured by restoration accepted as complete by the county and by payment of any civil penalty imposed for the violation, except that permits or approvals shall be granted to the extent necessary to accomplish any required restoration or cure.

C. For the purposes of this section, "found in violation" means:

1. that a citation, notice and order or stop work order has been issued and not timely appealed; or

2. that a voluntary compliance agreement has been entered into; or

3. that the hearing examiner has determined that the violation has occurred and such determination has not been stayed or reversed on appeal.

NEW SECTION. SECTION 31. There is hereby added to K.C.C. 23 a new section to read as follow:

NOTICE AND ORDER REMEDIES -- ABATEMENT -- AUTHORIZED. In addition to or as an alternative to any other judicial or administrative remedy, a director may use the notice and order provisions of this title to order any person responsible for code compliance to abate the violation and to complete the work at such time and under such conditions as a director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, a director may proceed to abate the violation.

NEW SECTION. SECTION 32. There is hereby added to K.C.C. 23 a new section to read as follows:

NOTICE AND ORDER REMEDIES -- ABATEMENT COST RECOVERY. A. Abatement costs may be recovered pursuant to Chapter 4 of this ordinance.

B. The director shall keep an itemized account of costs incurred by the county in the abatement of any violation under this title. Upon completion of any abatement work, the director shall prepare a report specifying a legal description of the real property where the abatement work occurred, the work done for each property, the itemized costs of the work, including legal and incidental expenses, and interest accrued.

NEW SECTION. SECTION 33. There is hereby added to K.C.C. 23 a new section to read as follows:

CODE COMPLIANCE AND ABATEMENT FUND -- AUTHORIZED. All monies collected from the assessment of civil penalties and for abatement costs and work, except those monies designated for the Sensitive Areas Mitigation Fund as set forth in K.C.C. 21.54 and K.C.C. 21A.24, shall be allocated to support

expenditures for abatement, and shall be accounted for through either creation of a fund or other appropriate accounting mechanism in the department issuing the notice and order under which the abatement occurred.

NEW CHAPTER. CHAPTER 5. STOP WORK ORDERS.

NEW SECTION. SECTION 34. There is hereby added to K.C.C. 23 a new section to read as follows:

STOP WORK ORDER -- AUTHORIZED. A. A director is authorized to issue a stop work order to a person responsible for code compliance. Issuance of a citation or a notice and order is not a condition precedent to the issuance of the stop work order.

NEW SECTION. SECTION 35. There is hereby added to K.C.C. 23 a new section to read as follows:

STOP WORK ORDER -- EFFECT. A. A stop work order represents a determination that a civil code violation has occurred and that any work or activity that is causing or contributing to the violation on the property where the violation has occurred or is occurring must cease.

B. A stop work order requires the immediate cessation of the specified work or activity on the named property. Work or activity may not resume unless specifically authorized by the director issuing the stop work order.

C. A stop work order may be appealed according to the procedures prescribed by chapter 7 of this ordinance.

D. Failure to appeal the stop work order within the applicable time limits renders the stop work order a final

determination that the civil code violation occurred and that work was properly ordered to cease.

E. Failure to comply with the terms of a stop work order subjects the person responsible for code compliance to civil penalties and costs.

NEW SECTION. SECTION 36. There is hereby added to K.C.C. 23 a new section to read as follows:

STOP WORK ORDER REMEDY -- CIVIL PENALTIES. A. In addition to any other judicial or administrative remedy, a director may assess civil penalties for the violation of any stop work order according to the civil penalty schedule established in chapter 6 of this ordinance.

B. Civil penalties for the violation of any stop work order shall begin to accrue on the first day the stop work order is violated and shall cease on the day the work is actually stopped.

C. Violation of a stop work order shall be a separate violation from any other civil code violation. Civil penalties assessed create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of King County may collect the civil penalties assessed by any appropriate legal means.

D. Civil penalties assessed also authorize King County to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.

NEW CHAPTER. CHAPTER 6. CIVIL FINES AND CIVIL PENALTIES.

NEW SECTION. SECTION 37. There is hereby added to K.C.C. 23 a new section to read as follows:

CIVIL FINES AND CIVIL PENALTIES -- ASSESSMENT SCHEDULE.

A. Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each violation identified in a citation, notice and order or stop work order pursuant to the following schedule:

1. Citations $100

2. Notice and Orders and Stop Work Orders

a. Basic initial penalty $500

b. Additional initial penalties may be added in the following amounts for violations where there is:

i. public health risk +$100-500 depending on severity

ii. environmental damage +$100-500 depending on severity

iii. damage to property +$100-500 depending on severity

iv. history of similar violations (less than three) +$200

v. history of similar violations (three or more) +$500

vi. economic benefit to person responsible for violation +$200

c. The above penalties may be offset by the following credits for efforts to comply:

i. entering into a voluntary compliance agreement -$100

ii. full compliance with voluntary compliance agreement and no history of prior violations -$300

iii. full compliance with voluntary compliance agreement & history of less than three prior violations -$200

B. The total initial penalties assessed for notice and orders and stop work orders pursuant to this section shall apply for the first thirty day period following the issuance of the order, unless another time period is specified in the voluntary compliance agreement. If a voluntary compliance agreement is not entered into within that time period, and no appeal is filed, the penalties for the next fifteen day period shall be 150% of the initial penalties, and the penalties for the next fifteen day period shall be double the amount of the initial penalties.

C. Citations shall be subject to a one-time penalty only.

D. The director may suspend civil penalties if the person responsible for code compliance has entered into a voluntary compliance agreement. Penalties shall begin to accrue again pursuant to the terms of the voluntary compliance agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action identified in the voluntary compliance agreement is not completed as specified.

NEW SECTION. SECTION 38. **There is hereby added to K.C.C. 23 a new section to read as follows:**

CIVIL PENALTY - DEFINITIONS.

For the purposes of assessing civil fines and penalties, "found in violation" means that:

1. a citation, notice and order or stop work order has been issued and not timely appealed; or

2. a voluntary compliance agreement has been entered into; or

3. the hearing examiner has determined that the violation has occurred and such determination has not been stayed or reversed on appeal.

NEW SECTION. SECTION 39. **There is hereby added to K.C.C. 23 a new section to read as follows:**

CIVIL FINES AND CIVIL PENALTIES - DUTY TO COMPLY. A. Persons responsible for code compliance have a duty to notify the director of any actions taken to achieve compliance with the notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the person responsible for code compliance has come into compliance with the notice and order, voluntary compliance agreement, or stop work order and has notified the director of this compliance.

NEW SECTION. SECTION 40. There is hereby added to K.C.C. 23 a new section to read as follows:

CIVIL PENALTIES -- SENSITIVE AREAS A. The code compliance provisions for sensitive areas are intended to encourage compliance with K.C.C. 21.54 and K.C.C. 21A.24, to

protect sensitive areas and the general public from harm and to further the remedial purposes of this title. To achieve this, persons responsible for code compliance will not only be required to restore damaged sensitive areas, insofar as that is possible and beneficial, but will also be required to pay a civil penalty for the redress of ecological, recreation, and economic values lost or damaged due to their unlawful action.

B. The provisions in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law for other related violations.

C. Where feasible, the owner of the land on which the violation occurred shall be named as a party to the notice and order. In addition to any other persons who may be liable for a violation, and subject to the exceptions provided in Section 14, the owner shall be jointly and severally liable for the restoration of a site and payment of any civil penalties imposed.

D. For the purposes of this section, violation of the sensitive area ordinance means:

1. the violation of any provision of K.C.C. 21.54 or K.C.C. 21A.24 or of the administrative rules promulgated thereunder;

2. the failure to obtain a permit required for work in a sensitive area; or

3. the failure to comply with the conditions of any permit, approval, terms and conditions of any sensitive area

tract or setback area, easement or other covenant, plat restriction or binding assurance or any notice and order, stop work order, mitigation plan, contract or agreement issued or concluded pursuant to the above-mentioned provisions.

E. Any person in violation of the sensitive areas ordinance may be subject to civil penalties, costs and fees assessed as follows:

1. according to the civil penalty schedule included in this chapter of this title, provided that the exact amount of the penalty per violation shall be determined by the department based on the physical extent and severity of the violation; or

2. the greater of

a. an amount determined to be equivalent to the economic benefit that the person responsible for code compliance derives from the violation measured as the total of:

i. the resulting increase in market value of the property;

ii. the value received by the person responsible for code compliance; and

iii. the savings of construction costs realized by the person responsible for code compliance as a result of performing any act in violation of the chapter; or

b. code compliance costs (such amount not to exceed $25,000.00) incurred by the county to enforce K.C.C.

21.54 and/or K.C.C. 21A.24 against the person responsible for code compliance.

NEW SECTION. SECTION 41. There is hereby added to K.C.C. 23 a new section to read as follows:

CIVIL FINES AND CIVIL PENALTIES -- WAIVERS. A. Civil fines and civil penalties may be waived or reimbursed to the payor by the director, with the concurrence of the director of the department of finance, under the following circumstances:

1. the citation, notice and order or stop work order was issued in error; or

2. the civil fines or civil penalties were assessed in error; or

3. notice failed to reach the property owner due to unusual circumstances; or

4. new compelling information warranting waiver has been presented to the director since the citation, notice and order or stop work order was issued.

B. The director shall document the circumstances under which a decision was made to waive penalties and such statement shall become part of the public record unless privileged.

NEW SECTION. SECTION 42. There is hereby added to K.C.C. chapter 2.16 a new section to read as follows:

CIVIL FINES AND CIVIL PENALTIES--WRITE OFFS.

A. Receivable civil fines, civil penalties and abatement costs assessed pursuant to Title 23 may be written off by the director, with the concurrence of the director of the

Department of Finance (as defined in K.C.C. 2.16), under the following circumstances:

1. when the costs of the effort to collect the civil fine or penalty exceeds the recoupable fines and penalties, or

2. when the civil fine, penalty or abatement cost is determined to be uncollectable in the foreseeable future.

B. The director shall document the circumstances under which a decision was made to write off a civil fine, penalty or abatement cost.

NEW CHAPTER. CHAPTER 7. APPEALS AND JUDICIAL ENFORCEMENT

NEW SECTION. SECTION 43. There is hereby added to K.C.C. 23 a new section to read as follows:

ADMINISTRATIVE APPEAL -- FILING REQUIREMENTS. A. Any person issued a citation or named in a notice and order or stop work order, any owner of the land where the violation for which a citation, notice and order or stop work order is issued occurred and any complainant who is an aggrieved person pursuant to K.C.C. Title 20 and requests to be kept advised pursuant to section 8H of this ordinance may file a notice of appeal of a citation, notice and order, stop work order, determination to enter into a voluntary compliance agreement or a determination not to issue a citation or order within twenty-one days of the service of the citation, notice and order or stop work order or issuance of a voluntary compliance agreement or determination not to issue a citation or order with the issuing department.

B. Any person named in a citation may appeal the citation by signing the citation, indicating on the citation that a hearing is requested, and returning the citation to the issuing agency or department within twenty-one days of its service.

C. A notice of appeal shall comply with the form, content and service requirements of K.C.C. 20.20 and 20.24 and rules promulgated thereunder.

NEW SECTION. SECTION 44. There is hereby added to K.C.C. 23 a new section to read as follows:

ADMINISTRATIVE APPEAL -- PROCEDURES. A. The appeal hearing shall be conducted as provided for in K.C.C. 20.24, except that where specific provisions in this title conflict with K.C.C. 20.24, the provisions of this title shall govern.

B. Enforcement of any notice and order of a director issued pursuant to this title shall be stayed as to the appealing party during the pendency of any administrative appeal under this title, except when a director determines that the violation posés a significant threat of immediate and/or irreparable harm and so states in any notice and order issued.

C. Enforcement of any stop work order of a director issued pursuant to this title shall not be stayed during the pendency of any administrative appeal under this title.

D. When multiple citations, stop work orders, or notices and orders have been issued simultaneously for any set of facts constituting a violation, only one appeal of all the enforcement actions shall be allowed.

NEW SECTION. SECTION 45. There is hereby added to K.C.C. 23 a new section to read as follows:

ADMINISTRATIVE APPEAL -- FINAL ORDER. A. Following review of the evidence submitted, the hearing examiner shall make written findings and conclusions and shall affirm or modify the citation, notice and order or stop work order previously issued if the examiner finds that a violation has occurred. The examiner shall uphold the appeal and reverse the citation or order if the examiner finds that no violation has occurred.

B. If an owner of property where a violation has occurred has affirmatively demonstrated that the violation was caused by another person or entity not the agent of the property owner and without the property owner's knowledge or consent, such property owner shall be responsible only for abatement of the violation. Strict compliance with permit requirements may be waived regarding the performance of such an abatement in order to avoid doing substantial injustice to a non-culpable property owner.

C. The hearing examiner's final order shall be final and conclusive unless proceedings for review of the decision are properly commenced in superior court within the time period specified by state law.

D. A final order by the hearing examiner affirming or reinstating a citation, notice and order or stop work order renders such citation, notice and order or stop work order a final agency order.

NEW SECTION. SECTION 46. There is hereby added to K.C.C. 23 a new section to read as follows:

JUDICIAL ENFORCEMENT -- PETITION FOR ENFORCEMENT. A. In addition to any other judicial or administrative remedy, the prosecuting attorney on behalf of King County may seek enforcement of a director's order by filing a petition for enforcement in King County superior court.

B. The petition must name as respondent each alleged person against whom the director seeks to obtain civil enforcement.

C. A petition for civil enforcement may request monetary relief, declaratory relief, temporary or permanent injunctive relief and other civil remedy provided by law, or any combination of the foregoing.

NEW SECTION. SECTION 47. There is hereby added to K.C.C. 23 a new section to read as follows:

JUDICIAL ENFORCEMENT -- LIMITATION ON DEFENSES. A respondent in a proceeding by petition for enforcement may not assert as a defense any fact or issue that the respondent had an opportunity to assert before the hearing examiner and did not, or upon which the final determination of the hearing examiner was adverse to the respondent.

NEW CHAPTER. CHAPTER 8. LIENS

NEW SECTION. SECTION 48. There is hereby added to K.C.C. 23 a new section to read as follows:

LIEN -- FILING AND CONTENTS. A. Within ninety days from the date any civil penalty, civil fine, abatement cost, or enforcement cost is due pursuant to this title, a director may file a lien against the property of a person responsible for

code compliance for the amount owing with the King County office of records and elections.

B. The lien shall contain the following information:

1. the King County code provision violated;

2. a brief description of the violation and its duration at the date of filing;

3. a brief description of the abatement work done, if any, and who performed the abatement work;

4. the owner of the property, if known, or a statement that the owner is not known;

5. a legal description of the property;

6. the amount of penalties, fines or costs that are owing; and

7. a sworn statement signed by a director that the director believes the claim is just.

NEW SECTION. SECTION 49. There is hereby added to K.C.C. 23 a new section to read as follows:

LIEN -- SUPPLEMENTAL. A director may file supplemental liens with the King County office of records and elections to update information regarding penalties, fines, costs or fees contained in any existing lien.

NEW SECTION. SECTION 50. There is hereby added to K.C.C. 23 a new section to read as follows:

ABATEMENT LIEN -- TAX BILL AUTHORIZED. A. The metropolitan King County council finds that there exist within the unincorporated areas of the county dwellings that are unfit for human habitation, and buildings, structures and premises or portions thereof that are unfit for other uses due to

conditions that are inimical to the health and welfare of county residents.

B. In the case of such unfit dwellings, buildings, structures, and premises or portions thereof, a director, as an alternative to any other remedy provided in this title, may have abatement costs certified, entered and collected by the King County finance division as taxes according to the procedures and limitations set forth in RCW 35.80.030.

NEW SECTION. SECTION 51. There is hereby added to K.C.C. 23 a new section to read as follows:

LIEN - LIMITATION OF ACTION - DURATION. A. No lien created by this title binds the property subject to the lien for a period longer than three years after the lien claim has been recorded, unless an action to enforce that lien is commenced in the proper court within three years after such recording.

A. When all penalties and/or abatement costs assessed against the property owner have been paid, the director shall expeditiously file a satisfaction of lien with the King County office of records and elections. The satisfaction shall include a legal description of the property where the violation occurred.

NEW CHAPTER. CHAPTER 9. MISCELLANEOUS PROVISIONS.

NEW SECTION. SECTION 52. There is hereby added to K.C.C. 12.18 a new section to be read as follows:

FAIR EMPLOYMENT CODE COMPLIANCE. Whenever a complaint has been filed pursuant to the provisions of K.C.C. 12.18, the director of the department of information and administrative

services, or his or her designee, shall initiate an investigation under the provisions of the chapter.

Whenever a director has determined that a violation of the fair employment ordinance or any rules and regulations adopted thereunder is about to occur or has occurred, he or she shall issue an order pursuant to the provisions of K.C.C. 12.18. With respect to violations of K.C.C. 12.18, the notice, service and hearings provisions contained in K.C.C. 12.18 shall control over K.C.C. 23.

NEW SECTION. SECTION 53. There is hereby added to K.C.C. 12.20 a new section to be read as follows:

FAIR HOUSING CODE COMPLIANCE. Whenever a complaint has been filed pursuant to the provisions of K.C.C. 12.20, the director of the department of executive administration, or his or her designee, shall initiate an investigation under the provisions of that chapter.

Whenever a director has determined that a violation of the fair housing ordinance or any rules and regulations adopted thereunder is about to occur or has occurred, he or she shall issue an order pursuant to the provisions of K.C.C. 12.20. With respect to violations of K.C.C. 12.20, the notice, service and hearings provisions contained in K.C.C. 12.20 shall control over K.C.C. 23.

NEW SECTION. SECTION 54. There is hereby added to K.C.C. 12.22 a new section to be read as follows:

PUBLIC ACCOMMODATIONS CODE COMPLIANCE. Whenever a complaint has been filed pursuant to the provisions of K.C.C. 12.22, the director of the department of information and

administrative services, or his or her designee, shall initiate an investigation under the provisions of the chapter.

Whenever a director has determined that a violation of the fair housing ordinance or any rules and regulations adopted thereunder is about to occur or has occurred, he or she shall issue an order pursuant to the provisions of K.C.C. 12.22. With respect to violations of K.C.C. 12.22, the notice, service and hearings provisions contained in K.C.C. 12.22 shall control over K.C.C. 23.

NEW SECTION. SECTION 55. There is hereby added to K.C.C. 23 a new section to read as follows:

GRAMMATICAL CONSTRUCTION. Unless the context clearly indicates otherwise, words in any tense shall include the present, past and future tense.

NEW SECTION. SECTION 56. There is hereby added to K.C.C. 23 a new section to read as follows:

SEVERABILITY. Should any section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid or unenforceable for any reason, such decision shall not affect the validity of the remaining portions of this title which will remain in full force and effect.

SECTION 57. REPEALER. Ordinance 2909, Sections 101 through 109, Sections 201-208, Sections 301-302, Sections 401-408, Section 501, Section 601; Ordinance 4569, Sections 2, 3 and 4 as amended; Ordinance 7846, Sections 1 through 11, Ordinance 9614, Section 120, and K.C.C. 23.04.010; K.C.C. 23.08.010 through 23.08.120; K.C.C. 23.12.010 through

23.12.080; K.C.C. 23.16.010 through 23.16.020; K.C.C. 23.20.010 through 23.20.080 and K.C.C. 23.24.010 are each hereby repealed.

SECTION 58. Ordinance 4461, Section 2 as amended and K.C.C. 20.24.080 are each hereby amended to read as follows:

20.24.080 Final decisions by the examiner. A. The examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court as provided by Section 20.24.240, or to other designated authority in the following cases:

1. Appeals from the decisions of the administrator for short subdivisions, including those variance decisions of the road engineer made pursuant to K.C.C. 14.42.060 with regard to road circulation in the subject short divisions;

((~~1.a.~~)) 2. Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses which are appealable to the state ((~~S~~))shoreline ((~~H~~))hearings ((~~B~~)) board;

3. Appeals from citations, notices and orders and stop work orders issued pursuant to Title 23 of this code or the Rules and Regulations VII of the King County department of public health;

((~~3.~~)) 4. Appeals from decisions regarding the abatement of a nonconformance;

((~~4.~~)) 5. Appeals from decisions of the director of the department of public works on requests for rate adjustments to surface and storm management rates and charges;

((~~5.~~)) 6. Appeals from department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW 69.50.505.

((~~6.~~)) 7. Appeals from notices and certifications of junk vehicles to be removed as a public nuisance as provided in K.C.C. title 21A and chapter 23.10;

(~~(7. Appeals from enforcement actions under K.C.C. 23,08.120;))~~

8. Appeals from the department's final decisions regarding transportation concurrency, mitigation payment system and intersection standards provisions of Title 14;

9. Other applications or appeals which the council may prescribe by ordinance.

B. The examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications and restrictions as the examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including chapter 43.21C RCW, and the regulations, policies, objectives and goals of the comprehensive plan, the community plans, subarea or neighborhood plans, the zoning code, the subdivision code and other official laws, policies and objectives of King County. In case of any conflict between the King County Comprehensive

Plan and a community, subarea or neighborhood plan, the ((C))comprehensive ((P))plan shall govern.

SECTION 59. This ordinance shall become effective on the sixtieth day after council approval.

SECTION 60. The county executive is directed to provide an annual report by September 30 of each year on the status of code violation investigations which have been and are continuing to be processed in the department of development and environmental services, the department of natural resources and the health department. The report shall indicate the types of violations that are being investigated, steps taken to enforce county codes, including voluntary compliance agreements, citations, notice and orders, abatements, judgments, and civil penalties collected, and time-frame indicators for the handling of cases. The executive shall also report on outstanding fines,

penalties, abatement costs, judicial actions and liens, including amounts waived and written-off, and educational efforts undertaken by enforcing agencies.

INTRODUCED and READ for the first time this 1st day of November, 1993.

PASSED by a vote of 11 to 0 this 8th day of September, 1998.

KING COUNTY COUNCIL

KING COUNTY, WASHINGTON

VICE Chair

ATTEST:

Clerk of the Council

APPROVED this 11 day of September, 1998.

King County Executive

Attachments
None