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Introduced by: Councilman Owen
74-627

ORDINANCE NO. 2165

AN ORDINANCE relating to adoption of
rules of practice and procedure by
county agencies.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION I. It is the intent of the King County Council to
adopt a policy with regard to rulemaking by agencies of county
government which will be consistent with the spirit and law of
Initiative measure 276, passed by a vote of the people November 7,
1972 at the state general election, which measure is designated
as Laws of 1973, Regular Session, Chapter 1. It is the further
intent of the Council that rules adopted by county government
shall be consistent with the "Open Public Meetings Act" adopted
by the Legislature as Laws of the First Extra Session of 1971,
Chapter 250 (RCW 42.30). Finally, it is the intent of the Council
that rules shall be adopted by county government in such a manner
as to promote efficiency of government and also afford citizens
fair notice and due process.

SECTION 2. Definitions. For the purpose of this ordinance:

(1) "Agency" means any county administrative office,
executive department, board, commission, officer, political
subdivision or other agency of the county authorized by law to
make rules or to adjudicate contested cases, except those in the
legislative branch (which are subject to rules of procedure
required by King County Charter, section 220.40).

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1 (2) "Rule" means any agency order, directive or regulation
2 of general applicability (a) the violation of which subjects a
3 person outside County Employment to a penalty or administrative
4 sanction; (b) which establishes, alters or revokes any procedure,
5 practice or requirement relating to agency hearings; or (c) which
6 establishes, alters or revokes any qualifications or standards
7 for the issuance, suspension, or revocation of licenses to
8 pursue any commercial activity, trade or profession. The term
9 does not include rules, regulations and policy concerning only
10 the internal management of an agency.

11 (3) "Contested case" means a proceeding before an agency in
12 which an opportunity for a hearing before such agency is required
13 by law or constitutional right prior or subsequent to the
14 determination by the agency of the legal rights, duties, or
15 privileges of specific parties. Contested cases shall also
16 include cases in which the granting of an application is
17 contested by a person having standing to contest under the law
18 or agency rules.

19 SECTION 3.

20 (1) Each agency shall adopt rules, as defined in Section 2
21 of this ordinance, and shall file such rules with the Clerk of
22 the King County Council.

23 (2) In addition, each agency shall file with the Clerk of
24 the King County Council and shall prominently display and make
25 available for inspection and copying at the central office of
26 such agency, for guidance of the public:

27 (a) descriptions of its central and field organization
28 and the established places at which the employees from whom,
29 and the methods whereby, the public may obtain information, make
30 submittals or requests, or obtain copies of agency decisions;

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1 (b) statements of the general course and method by which
2 its operations are channeled and determined, including the nature
3 and requirements of all formal and informal procedures available;

4 (c) rules of procedure;

5 (d) substantive rules of general applicability adopted
6 as authorized by law, and statements of general policy or inter-
7 pretations of general applicability formulated and adopted by
8 the agency; and

9 (e) each amendment or revision to, or repeal of any of
10 the foregoing.

11 (3) Except to the extent that he has actual and timely
12 notice of the terms thereof, a person may not in any manner
13 be required to resort to, or be adversely affected by, a matter
14 required to be published or displayed and not so published or
15 displayed.

16 SECTION 4.

17 (1) Each agency shall maintain and make available for public
18 inspection and copying a current index providing identifying
19 information as to the following records issued, adopted, or
20 promulgated after June 30, 1972:

21 (a) final opinions, including concurring and dissenting
22 opinions, as well as orders, made in the adjudication of cases;

23 (b) those statements of policy and interpretations
24 of policy, statute and the Constitution which have been adopted
25 by the agency;

26 (c) administrative staff manuals and instructions to
27 staff that affect a member of the public;

28 (d) planning policies and goals, and interim and final
29 planning decisions;

1 (e) factual staff reports and studies, factual
2 consultant's reports and studies, scientific reports and studies,
3 and any other factual information derived from tests, studies,
4 reports or surveys, whether conducted by public employees or
5 others; and

6 (f) correspondence, and materials referred to therein,
7 by and with the agency relating to any regulatory, supervisory
8 or enforcement responsibilities of the agency, whereby the agency
9 determines, or opines upon, or is asked to determine or opine
10 upon, the rights of the state, the public, a subdivision of state
11 government, or of any private party

12 (2) An agency need not maintain such an index, if to do so
13 would be unduly burdensome, but it shall in that event:

14 (a) issue and publish a formal order specifying the
15 reasons why and the extent to which compliance would unduly
16 burden or interfere with agency operations; and

17 (b) make available for public inspection and copying all
18 indexes maintained for agency use.

19 SECTION 5.

20 (1) The following shall be exempt from public inspection
21 and copying:

22 (a) Personal information in any files maintained for
23 students in public schools, patients or clients of public insti-
24 tutions or public health agencies, welfare recipients, prisoners,
25 probationers or parolees.

26 (b) Personal information in files maintained for
27 employees, appointees or elected officials of any public agency
28 to the extent that disclosure would violate their right to
29 privacy.

1 (c) Information required of any taxpayer in connection
2 with the assessment or collection of any tax if the disclosure
3 of the information to other persons would violate the taxpayer's
4 right to privacy or would result in unfair competitive dis-
5 advantage to such taxpayer.

6 (d) Specific intelligence information and specific
7 investigative files compiled by investigative, law enforcement
8 and penology agencies, and county agencies vested with the
9 responsibility to discipline members of any profession, the
10 nondisclosure of which is essential to effective law enforcement
11 or for the protection of any person's right to privacy.

12 (e) Information revealing the identity of persons who
13 file complaints with investigative, law enforcement or penology
14 agencies, except as the complainant may authorize.

15 (f) Test questions, scoring keys, and other examination
16 data used to administer a license, employment or academic
17 examination.

18 (g) Except as provided by chap. 8.26 RCW, the contents
19 of real estate appraisals, made for or by any agency relative
20 to the acquisition of property, until the project is abandoned
21 or until such time as all of the property has been acquired, but
22 in no event shall disclosure be denied for more than three years
23 after the appraisal.

24 (h) Valuable formulae, designs, drawings and research
25 data obtained by any agency within five years of the request
26 for disclosure when disclosure would produce private gain and
27 public loss.

1 (i) Preliminary drafts, notes, recommendations, and
2 intraagency memorandums in which opinions are expressed or
3 policies formulated or recommended except that a specific record
4 shall not be exempt when publicly cited by an agency in connection
5 with any agency action.

6 (j) Records which are relevant to a controversy to
7 which an agency is a party but which records would not be avail-
8 able to another party under the rules or pretrial discovery for
9 causes pending in the superior courts.

10 (2) The exemptions of this section shall be inapplicable
11 to the extent that information, the disclosure of which would
12 violate personal privacy or vital governmental interests, can
13 be deleted from the specific records sought. No exemption shall
14 be construed to permit the nondisclosure of statistical informa-
15 tion not descriptive of any readily identifiable person or persons.

16 SECTION 6.

17 (1) Prior to the adoption, amendment or repeal of any rule,
18 each agency shall give at least twenty days notice of its
19 intended action by filing the notice with the Clerk of the King
20 County Council, mailing the notice to all persons or agencies
21 who have made timely request of the agency for advance notice
22 of its rulemaking proceedings on a specific topic, and giving
23 public notice by one publication in the official newspaper of
24 King County. Such notice shall include:

25 (a) reference to the authority under which the rule
26 is proposed;

27 (b) a statement of either the terms or substance of
28 the proposed rule or a description of the subjects and issues
29 involved; and

30 (c) the time when, the place where, and the manner in
31 which interested persons may present their views thereon.

1 (2) No rule hereafter adopted is valid unless adopted in
2 substantial compliance with this section, or, if an emergency
3 rule designated as such, adopted in substantial compliance
4 with Section 7 of this ordinance, as now or hereafter amended.
5 In any proceeding a rule cannot be contested on the ground of
6 noncompliance with the procedural requirements of this section,
7 or of Section 7 of this ordinance, as now or hereafter amended,
8 after two years have elapsed from the effective date of the
9 rule.

10 SECTION 7. If the agency finds that immediate adoption
11 or amendment of a rule is necessary for the preservation of the
12 public health, safety, or general welfare, and that observance
13 of the requirements of notice and opportunity to present views
14 on the proposed action would be contrary to the public interest,
15 the agency may dispense with such requirements and adopt the
16 rule or amendment as an emergency rule or amendment. The agency's
17 finding and a brief statement of the reasons for its finding
18 shall be incorporated in the emergency rule or amendment as filed
19 with the Clerk of the King County Council. An emergency rule or
20 amendment shall not remain in effect for longer than ninety days.
21 This section does not relieve any agency from compliance with
22 any law requiring that its rules be approved by designated
23 persons or bodies before they become effective.

24 SECTION 8.

25 (1) Emergency rules adopted under Section 7 shall become
26 effective upon filing with the Clerk of the Council. All other
27 rules hereafter adopted shall become effective upon the
28 expiration of thirty days after the date of filing, unless a
29 later date is required by statute or specified in the rule.
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1 (2) The Clerk of the King County Council shall, as soon as
2 practicable after the effective date of this ordinance, compile
3 and index all rules adopted by each agency. Compilations shall
4 be supplemental or revised as often as necessary and at least
5 once every two years.

6 (3) To continue effective, all rules adopted prior to the
7 passage of this Ordinance must be filed with the Clerk of the
8 Council within sixty days of the effective date of this
9 Ordinance.

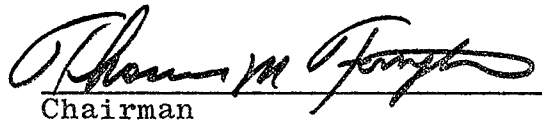
10 SECTION 9. SEVERABILITY. If any provision of this
11 ordinance or its application to any person or circumstance is
12 held invalid the remainder of the ordinance, or the application
13 of the provision to other persons or circumstances is not
14 affected.

15 SECTION 10. This ordinance shall become effective sixty
16 days after its enactment.

17 INTRODUCED AND READ for the first time this 22nd day
18 of July, 1974.

19 PASSED this 9th day of September, 1974.

21 KING COUNTY COUNCIL
22 KING COUNTY, WASHINGTON

23 
24 Chairman

25 THOMAS M. FORSYTHE

26 ATTEST:

27 
28 Clerk of the Council

29 DEEMED ENACTED WITHOUT
30 COUNTY EXECUTIVE SIGNATURE.

31 APPROVED this _____ day of DATED: Sept. 19th, 1974

32 _____
33 King County Executive