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15 July 1976

Introduced by: BERNICE STERN

ORDINANCE NO. 2909 76 - 674

AN ORDINANCE relating to the uniform and efficient enforcement of violations of land use and public health ordinances; prescribing civil penalties, misdemeanors, abatements and additional enforcement; providing for a single administrative procedure, including notice, orders, and appeal hearings; establishing an enforcement technical review committee; providing for recovery of civil penalty and cost of abatement by use of liens and all other appropriate legal remedies; eliminating certain hearings by the board of appeals; and creating a new title in the King County Code entitled "Enforcement."

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

CHAPTER 1 - GENERALLY

SECTION 101. DEFINITIONS.

1. "Director" as used in this Ordinance shall mean the Director of the Department of Planning and Community Development, the Director of the Seattle-King County Department of Public Health (the "local health officer" as that term is used in RCW chap. 70.05), the Director of the Department of Public Works and Transportation, the King County Fire Marshal or such other person as the Council shall by ordinance authorize to utilize the provisions of this ordinance and shall also include any duly authorized representative of such Directors.

2. "Enforcement Technical Review Committee" shall mean the Committee established by Section 109 of this ordinance for the purpose of reviewing and coordinating enforcement actions by the Directors.

3. "Hearing Examiner" as used in this Ordinance shall mean the King County Zoning and Subdivision Examiner, as created by Ordinance 263, Article 5, King County Code (KCC) chapter 20.24, or his duly authorized representative.

1 4. "Land use ordinance" as used in this ordinance
2 shall include this ordinance and any other existing or future
3 ordinance or resolution of the county which regulates the use
4 and development of land, including but not limited to the
5 following ordinances and amendments which shall be enforced by
6 the Director of the Department of Planning and Community
7 Development or any duly authorized representative: the Zoning
8 Code, Resolution 25789 (KCC Title 21); the Subdivision Code,
9 Resolution 11048 (KCC Title 19); the Mobile Home Code,
10 Resolution 20433 (KCC Title 18); Building and Construction Code
11 (KCC Title 16) (part); Shoreline Management, Ordinance 1402
12 (KCC Ch. 20.40); surface water runoff, Ordinance 2281 (KCC Ch.
13 20.50); grading, Ordinance 1488 (KCC Ch. 16.82). "Land use
14 ordinance" shall also include the following ordinances to be
15 enforced by the Director of the Department of Public Works and
16 Transportation; the King County Fire Marshal or the Director
17 of the Seattle-King County Health Department, roads and bridges
18 (KCC Title 14), or by the King County Fire Marshal, Ordinance
19 2097 (KCC Ch. 17.04).

20 5. "Nuisance" as used in this Ordinance is defined
21 as unlawfully doing an act, or omitting to perform a duty, which
22 act or omission either annoys, injures or endangers the comfort,
23 repose, health or safety of others, offends decency, or unlawfully
24 interferes with, obstructs, or tends to obstruct, or render
25 dangerous for passage, any lake or navigable river, bay, stream,
26 canal or basin, or any public park, square, street or highway;
27 or in any way renders other persons insecure in life, or in the
28 use of property.

29 6. "Permit" means any form of certificate, approval,
30 registration, license, or other written permission given to any
31 person to engage in any activity as required by law, ordinance
32 or regulation.

1 7. "Person" as used in this Ordinance shall include
2 any natural person, organization, corporation or partnership
3 and their agents or assigns.

4 8. "Public Nuisance" as used in this Ordinance is
5 defined as a nuisance which affects the rights of an entire
6 community or neighborhood, although the extent of the nuisance
7 may be unequal.

8 9. "Public health ordinance" as used in this
9 ordinance shall include this ordinance and any other existing or
10 future ordinance or resolution of the county, rules and regula-
11 tions of the Board of Health, or provisions of the Washington
12 Administrative Code which regulate the public health, including
13 but not limited to the following ordinances and amendments which
14 shall be enforced by the Director of the Seattle-King County
15 Health Department or by the Director of the Department of Public
16 Works and Transportation where applicable: health and sanitation
17 (KCC Title 8); solid waste (KCC Title 10); rabies control (KCC
18 Ch. 11.12); water and sewer systems (KCC Title 13); Plumbing
19 Code (KCC Title 16) (part); Mobile Home Code (KCC Title 18) (part)
20 and Board of Health Rules and Regulations pertaining to food-
21 service establishments and on-site sewage disposal systems.

22 SECTION 102. ADMINISTRATION. The Directors are
23 hereby authorized to utilize the procedures of this ordinance
24 in order to enforce violations of any land use or public health
25 ordinance.

26 SECTION 103. DECLARATION OF INTENT. All violations
27 of land use and public health ordinances are determined to be
28 detrimental to the public health, safety, and welfare and are
29 hereby declared to be public nuisances. All conditions which are
30 determined by a Director to be in violation of any land use or
31 public health ordinance shall be subject to the provisions of
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1 this ordinance and shall be corrected by any reasonable and
2 lawful means as provided herein.

3 SECTION 104. RIGHT OF ENTRY.

4 1. Whenever necessary to make an inspection to
5 enforce or determine compliance with the provisions of any land
6 use or public health ordinance, or whenever a Director or his
7 duly authorized inspector has cause to believe that a violation
8 of any land use or public health ordinance has been or is being
9 committed, the inspector may enter any building, structure,
10 property or portion thereof at reasonable times to inspect
11 the same.

12 2. If such building, structure, property or portion
13 thereof is occupied, the inspector shall present identification
14 credentials, state the reason for the inspection, and demand
15 entry.

16 3. If such building, structure, property or portion
17 thereof is unoccupied, the inspector shall first make a reasonable
18 effort to locate the owner or other persons having charge or
19 control of the building, structure, property or portion thereof
20 and demand entry. If the inspector is unable to locate the owner
21 or such other persons and he has reason to believe that con-
22 ditions therein create an immediate and irreparable land use
23 or health hazard, then he shall make entry.

24 4. It shall be unlawful for any owner or occupant
25 or any other person having charge, care or control of any
26 building, structure, property or portion thereof to fail or
27 neglect after proper demand to permit prompt entry thereon
28 where the inspector has reason to believe that conditions therein
29 create an immediate and irreparable land use or health hazard.
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1 5. Unless entry is consented to by the owner or
2 person in control of any building, structure, property or
3 portion thereof or conditions are believed to exist which create
4 an immediate and irreparable land use or health hazard, the
5 inspector prior to entry shall obtain a search warrant as
6 authorized by the laws of the State of Washington.

7 SECTION 105. MISDEMEANOR. As an alternative to any
8 other judicial or administrative remedy provided herein or by
9 law or other ordinance, any person who wilfully or knowingly
10 violates any land use or public health ordinance, or rule and
11 regulation adopted thereunder, or any order issued pursuant to
12 this ordinance, or by each act of commission or omission procures,
13 aids or abets such violation, shall be guilty of a misdemeanor
14 and upon conviction, shall be punished by a fine not to exceed
15 five hundred dollars (\$500) and/or imprisonment in the county
16 jail for a term not to exceed 90 days. Each day such violation
17 continues shall be considered an additional misdemeanor offense.

18 SECTION 106. CIVIL PENALTY. In addition to or as an
19 alternative to any other judicial or administrative remedy
20 provided herein or by law or other ordinance, any person who
21 violates any land use or public health ordinance, or rules and
22 regulations adopted thereunder, or by each act of commission
23 or omission procures, aids or abets such violation shall be
24 subject to a civil penalty in an amount of ten dollars (\$10)
25 per day for each continuous violation to be directly assessed
26 by a Director until such violation is corrected. The penalty
27 shall be twenty dollars (\$20) per day for the second separate
28 violation and thirty dollars (\$30) per day for the third separate
29 violation of the same regulation within any five-year period.
30 All civil penalties assessed will be enforced and collected in
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1 accordance with the lien, personal obligation, and other
2 procedures specified in this ordinance.

3 SECTION 107. ABATEMENT. In addition to or as an
4 alternative to any other judicial or administrative remedy
5 provided herein or by law or other ordinance, a Director may
6 order a land use or public health ordinance violation to be
7 abated. A Director may order any person who creates or maintains
8 a violation of any land use or public health ordinance, or rules
9 and regulations adopted thereunder, to commence corrective work
10 and to complete the work within such time as a Director determines
11 reasonable under the circumstances. If the required corrective
12 work is not commenced or completed within the time specified,
13 a Director will proceed to abate the violation and cause the
14 work to be done. He will charge the costs thereof as a lien
15 against the property and as both a joint and separate personal
16 obligation of any person who is in violation.

17 SECTION 108. ADDITIONAL ENFORCEMENT. Notwithstanding
18 the existence or use of any other remedy, a Director may seek
19 legal or equitable relief to enjoin any acts or practices or
20 abate any conditions which constitute or will constitute a
21 violation of any land use or public health ordinance or rules
22 and regulations adopted thereunder.

23 SECTION 109. ENFORCEMENT TECHNICAL REVIEW COMMITTEE.

24 1. There is hereby established the "Enforcement
25 Technical Review Committee" consisting of one designated
26 representative from each of the following departments or offices:
27 The Department of Planning and Community Development, the Seattle-
28 King County Department of Public Health, the Department of Public
29 Works and Transportation, the Department of Public Safety and
30 the Office of the Prosecuting Attorney. The Committee shall
31 select one member as its chairperson. The Committee shall meet
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1 periodically and at such times as it deems necessary to carry
2 out the functions specified in this ordinance.

3 2. The functions of the Committee include the follow-
4 ing:

5 (a) assure coordinated enforcement in cases
6 involving multiple violations;

7 (b) review and recommend appropriate enforcement
8 actions in the case of complex or protracted violations or in
9 any other case consulted by a Director;

10 (c) develop efficient methods of identifying
11 and enforcing violations and avoiding duplication of enforcement
12 functions among county and other agencies.

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14 CHAPTER 2 - NOTICES AND ORDERS OF THE DIRECTOR

15 SECTION 201. COMMENCEMENT OF PROCEEDINGS.

16 1. Whenever a Director has reason to believe that a
17 use or condition exists in violation of any land use or public
18 health ordinance, or rules and regulations adopted thereunder,
19 he shall initiate enforcement action under Sections 105 or 108
20 and/or, at his option, he shall commence an administrative
21 notice and order proceeding under this chapter to cause the
22 assessment of a civil penalty pursuant to Section 106, abatement
23 pursuant to Section 107 or suspension and revocation of any
24 permits issued pursuant to chapter 3 of this ordinance.

25 2. Pending commencement and completion of the notice
26 and order procedure provided for in this chapter, a Director
27 may cause a "stop work order" to be posted on the subject
28 property or served on persons engaged in any work or activity
29 in violation of a land use or public health ordinance. The
30 effect of such a "stop work order" shall be to require the
31 immediate cessation of such work or activity until authorized by
32 a Director to proceed.

1 SECTION 202. NOTICE AND ORDER. Whenever a Director
2 has reason to believe that violation of a land use or public
3 health ordinance or any rules and regulations adopted thereunder
4 will be most promptly and equitably terminated by an administrative
5 notice and order proceeding, he shall issue a written notice and
6 order directed either to the owner or operator of the source of
7 the violation, the person in possession of the property where the
8 violation originates, or the person otherwise causing or respon-
9 sible for the violation. Such notice and order may be issued
10 by any Director alone or, where violations of more than one
11 county ordinance, rule or regulation exist, in conjunction with
12 a notice and order issued by another Director. The notice and
13 order shall contain:

14 (a) The street address when available and a legal
15 description of real property and/or description of personal
16 property sufficient for identification of where the violation
17 occurred or is located;

18 (b) A statement that a Director has found the person
19 to be in violation of a land use or public health ordinance with
20 a brief and concise description of the conditions found to be in
21 violation;

22 (c) A statement of the corrective action required to
23 be taken. If a Director has determined that corrective work is
24 required, the order shall require that all required permits be
25 secured and the work physically commence within such time and be
26 completed within such time as a Director shall determine is
27 reasonable under the circumstances;

28 (d) A statement specifying the amount of any civil
29 penalty assessed on account of the violation and, if applicable,
30 the conditions on which assessment of such civil penalty is
31 contingent;

1 (e) Statements advising that (i) if any required work
2 is not commenced or completed within the time specified, a Director
3 will proceed to abate the violation and cause the work to be done
4 and charge the costs thereof as a lien against the property and as
5 a joint and separate personal obligation of any person in viola-
6 tion; and (ii) if any assessed civil penalty is not paid, a Direc-
7 tor will charge the amount of the penalty as a lien against the
8 property and as a joint and separate personal obligation of any
9 person in violation;

10 (f) A statement advising that the order shall become
11 final unless, no later than ten days after the notice and order
12 are served, any person aggrieved by the order requests in writing
13 an appeal before the Hearing Examiner.

14 SECTION 203. METHOD OF SERVICE. Service of the
15 notice and order shall be made upon all persons identified in the
16 notice and order either personally or by mailing a copy of such
17 notice and order by certified mail, postage prepaid, return
18 receipt requested. If the address of any such person cannot
19 reasonably be ascertained, then a copy of the notice and order
20 shall be mailed to such person at the address of the location
21 of the violation. The failure of any such person to receive
22 such notice shall not affect the validity of any proceedings
23 taken under this chapter. Service by certified mail in the
24 manner herein provided shall be effective on the date of postmark.
25 The notice and order may, but is not required to, be posted
26 on the subject property.

27 SECTION 204. ADMINISTRATIVE CONFERENCES. An informal
28 administrative conference may be conducted at any time by a
29 Director for the purposes of bringing out all the facts and
30 circumstances related to an alleged violation, promoting
31 communications between concerned parties, and providing a forum
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1 for efficient resolution of any violation. A Director may call a
2 conference in response to a request from any person aggrieved by
3 the Director's order or the Director may call a conference on his
4 own motion. Attendance at the hearing shall be determined by
5 the Director and need not be limited to those named in a notice
6 and order. The Director may, but is not required to involve
7 the Enforcement Technical Review Committee. As a result of
8 information developed at the conference, the Director may affirm,
9 modify or revoke his order. The administrative conference is
10 optional with a Director and is not a prerequisite to utilization
11 of any of the enforcement provisions described in this ordinance.

12 SECTION 205. APPEALS.

13 1. Any person aggrieved by the order of a Director
14 may request in writing within ten days of the service of the
15 notice and order an appeal hearing before the King County
16 Hearing Examiner. The request shall cite the notice and order
17 appealed from and contain a brief statement of the reasons for
18 seeking the appeal hearing.

19 2. The appeal hearing shall be conducted on the
20 record and the Hearing Examiner shall have such rulemaking
21 and other powers necessary for conduct of the hearing as are
22 specified by KCC 20.24.150. Such appeal hearing shall be
23 conducted within a reasonable time after receipt of the request
24 for appeal. Written notice of the time and place of the
25 hearing shall be given at least ten days prior to the date of
26 the hearing to each appealing party, to the Director whose
27 order is being appealed, and to other interested persons who
28 have requested in writing that they be so notified. The
29 Director, whose order is being appealed, may submit a report
30 and other evidence indicating the basis for the enforcement
31 order.

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1 3. Each party shall have the following rights,
2 among others:

3 (i) To call and examine witnesses on any
4 matter relevant to the issues of the hearing;

5 (ii) To introduce documentary and physical
6 evidence;

7 (iii) To cross-examine opposing witnesses on any
8 matter relevant to the issues of the hearing;

9 (iv) To impeach any witness regardless of which
10 party first called him to testify;

11 (v) To rebut evidence against him;

12 (vi) To represent himself or to be represented
13 by anyone of his choice who is lawfully permitted to do so.

14 4. Following review of the evidence submitted, the
15 Hearing Examiner shall make written findings and conclusions,
16 and shall affirm or modify the order previously issued if he finds
17 that a violation has occurred. He shall reverse the order if he
18 finds that no violation occurred. The written decision of the
19 Hearing Examiner shall be mailed by certified mail, postage
20 prepaid, return receipt requested to all the parties.

21 5. Whenever possible, the appeal from a Director's
22 order shall be combined with any other appeal from County
23 enforcement actions relating to the same subject matter and
24 falling within the jurisdiction of the Hearing Examiner.

25 SECTION 206. FINAL ORDER.

26 1. Any order duly issued by a Director pursuant
27 to the procedures contained in this ordinance shall become final
28 ten days after service of the notice and order unless a written
29 request for hearing is received by the Hearing Examiner within
30 the ten-day period.

2. An order which is subjected to the appeal procedure shall become final twenty days after mailing of the Hearing Examiner's decision unless within that time period an aggrieved person initiates review by writ of certiorari in King County Superior Court.

SECTION 207. SUPPLEMENTAL NOTICE AND ORDER. A Director may at any time add to, rescind in 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 notices and orders contained in this ordinance.

SECTION 208. ENFORCEMENT OF FINAL ORDER.

1. If, after any order duly issued by a Director has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, a Director may:

(i) cause such person to be prosecuted under this ordinance; and/or

(ii) institute any appropriate action to collect a civil penalty assessed under this ordinance; and/or (iii) abate the land use or health violation using the procedures of this ordinance; and/or

(iv) file in the office of the Division of Records and Elections a certificate describing the property and the violation and stating that the owner has been so notified; and/or

(v) pursue any other appropriate remedy at law or equity under this ordinance.

1 2. Enforcement of any notice and order of a Director
2 issued pursuant to this ordinance shall be stayed during the
3 pendency of any appeal under this ordinance, except when a
4 Director determines that the violation will cause immediate
5 and irreparable harm and so states in the notice and order issued.
6

7 CHAPTER 3 - SUSPENSION AND REVOCATION OF PERMITS

8 SECTION 301. SUSPENSION OF PERMITS.

9 1. A Director may temporarily suspend any permit
10 issued under a land use or health ordinance for (i) failure of
11 the holder to comply with the requirements of any land use or
12 public health ordinance or rules or regulations promulgated
13 thereunder, or (ii) failure to comply with any notice and order
14 issued pursuant to this ordinance.

15 2. Such permit suspension shall be carried out
16 through the notice and order provisions of this ordinance, and
17 the suspension shall be effective upon service of the notice
18 and order upon the holder or operator. The holder or operator
19 may appeal such suspension as provided by this ordinance.

20 3. Notwithstanding any other provision of this
21 ordinance, whenever a Director finds that a violation of any
22 land use or public health ordinance or rules and regulations
23 has created or is creating an unsanitary, dangerous or other
24 condition which, in his judgment, constitutes an immediate
25 and irreparable hazard, he may, without service of a written
26 notice and order, suspend and terminate operations under the
27 permit immediately.

28 SECTION 302. REVOCATION OF PERMITS.

29 1. A Director may permanently revoke any permit
30 issued by such Director for (i) failure of the holder to comply
31 with the requirements of any land use or public health ordinance
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1 or rules or regulations promulgated thereunder, or (ii) failure
2 of the holder to comply with any notice and order issued pursuant
3 to this ordinance, or (iii) interference with a Director in the
4 performance of his duties, or (iv) discovery by a Director that
5 a permit was issued in error or on the basis of incorrect
6 information supplied to the County.

7 2. Such permit revocation shall be carried out
8 through the notice and order provisions of this ordinance and
9 the revocation shall be effective upon service of the notice and
10 order upon the holder or operator. The holder or operator may
11 appeal such revocation, as provided by this ordinance.

12 3. A permit may be suspended pending its revocation
13 or a hearing relative thereto.

14
15 CHAPTER 4 - RECOVERY OF CIVIL PENALTY AND COST OF ABATEMENT

16 SECTION 401. LIEN AUTHORIZED. King County shall have
17 a lien for any civil penalty imposed or for the cost of any work
18 of abatement done pursuant to this ordinance, or both, against the
19 real property on which the civil penalty was imposed or any of
20 the above work was performed.

21 SECTION 402. PERSONAL OBLIGATION AUTHORIZED. The
22 civil penalty and the cost of abatement are also joint and
23 separate personal obligations of any person in violation. The
24 Prosecuting Attorney on behalf of King County may collect the
25 civil penalty and the abatement work costs by use of all
26 appropriate legal remedies.

27 SECTION 403. NOTICE LIEN MAY BE CLAIMED. The notice
28 and order of a Director pursuant to this ordinance shall give
29 notice to the owner that a lien for the civil penalty or the
30 cost of abatement, or both, may be claimed by King County.

1 SECTION 404. PRIORITY. The lien shall be subordinate
2 to all existing special assessment liens previously imposed
3 upon the same property and shall be paramount to all other
4 liens except for state and county taxes with which it shall be
5 on a parity.

6 SECTION 405. CLAIM OF LIEN-GENERAL.

7 1. A Director shall cause a claim for lien to be
8 filed for record in the office of the Records and Elections
9 Division within 90 days from the date the civil penalty is due
10 or within 90 days from the date of completion of the work or
11 abatement performed pursuant to this ordinance.

12 2. Contents. The claim of lien shall contain the
13 following:

14 (i) The authority for imposing a civil penalty
15 or proceeding to abate the violation, or both;

16 (ii) A brief description of the civil penalty
17 imposed or the abatement work done, or both, including the
18 violations charged and the duration thereof, including the time
19 the work is commenced and completed and the name of the persons
20 or organizations performing the work;

21 (iii) A description of the property to be charged
22 with the lien;

23 (iv) The name of the known owner or reputed
24 owner, and if not known the fact shall be alleged; and

25 (v) The amount, including lawful and reasonable
26 costs, for which the lien is claimed.

27 3. Verification. A Director or his authorized
28 representative shall sign and verify the claim by oath to the
29 effect that the affiant believes the claim is just.
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1 4. Amendment. The claim of lien may be amended in
2 case of action brought to foreclose same, by order of the court,
3 insofar as the interests of third parties shall not be detri-
4 mentally affected by amendment.

5 SECTION 406. RECORDING. The Director of the Division
6 of Records and Elections shall record and index the claims and
7 notices described in this chapter.

8 SECTION 407. DURATION OF LIEN - LIMITATION OF ACTION.
9 No lien created by this ordinance binds the property subject to
10 the lien for a period longer than three years after the claim has
11 been filed unless an action is commenced in the proper court
12 within that time to enforce the lien.

13 SECTION 408. FORECLOSURE - PARTIES.

14 1. Foreclosure. The lien provided by this ordinance
15 may be foreclosed and enforced by a civil action in a court
16 having jurisdiction.

17 2. Joinder. All persons who have legally filed
18 claims of liens against the same property prior to commencement
19 of the action shall be joined as parties, either plaintiff or
20 defendant.

21 3. Actions Saved. Dismissal of an action to foreclose
22 a lien at the instance of a plaintiff shall not prejudice another
23 party to the suit who claims a lien.

24
25 CHAPTER 5 - SEVERABILITY

26 SECTION 501. Should any section, subsection, paragraph,
27 sentence, clause or phrase of this ordinance be declared uncon-
28 stitutional or invalid for any reason, such decision shall not
29 affect the validity of the remaining portions of this ordinance.
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1 CHAPTER 6 - NEW TITLE

2 SECTION 601. The provisions of this ordinance shall
3 become a new and separate title in the King County Code entitled
4 "Enforcement."

5 INTRODUCED AND READ for the first time this 2nd
6 day of August, 1976.

7 PASSED this 27th day of September, 1976.

8
9 KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

10
11 [Signature]
12 Chairman

13 ATTEST:

14 [Signature]
15 Deputy Clerk of the Council

16 APPROVED this 1st day of October, 1976.

17
18 [Signature]
19 King County Executive