



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 4, 2001

Ordinance 14266

Proposed No. 2001-0401.2

Sponsors Irons

1 AN ORDINANCE relating to public rules; amending Ordinance
2 2165, Section 1, as amended, and K.C.C. 2.98.010, Ordinance
3 2165, Section 2, and K.C.C. 2.98.020, Ordinance 6531, Section
4 3, as amended, and K.C.C. 2.98.025, Ordinance 2165, Section 3,
5 as amended, and K.C.C. 2.98.030, Ordinance 2165, Section 4,
6 and K.C.C. 2.98.040, Ordinance 2165, Section 5, and K.C.C.
7 2.98.050, Ordinance 2165, Section 6, and K.C.C. 2.98.060,
8 Ordinance 2165, Section 7, and K.C.C. 2.98.070 and Ordinance
9 2165, Section 8, and K.C.C. 2.98.080, recodifying K.C.C.
10 2.98.040 and 2.98.050, decodifying K.C.C. 2.98.090 and adding
11 new sections to K.C.C. chapter 2.12.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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SECTION 1. Ordinance 2165, Section 1, as amended, and K.C.C. 2.98.010 are

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each hereby amended to read as follows:

17 ~~((Chapter)) Public rule making – compliance with chapter and state law –~~
18 ~~intent. ((Within King County government, the rule making process shall consist of the~~
19 ~~establishment of formal procedures through which ordinances adopted by the King County~~
20 ~~council and enacted by the county executive are translated into sets of specific~~
21 ~~requirements to be carried out and enforced by county agencies. It is the intent of the King~~
22 ~~County council to adopt a policy with regard to rulemaking by agencies of county~~
23 ~~government which will be consistent with the spirit and law of the "Public Disclosure Act"~~
24 ~~(RCW 42.17) specifically those sections pertaining to public records. It is the further~~
25 ~~intent of the council that rules adopted by county government shall be consistent with the~~
26 ~~"Open Public Meetings Act" (RCW 42.30). Finally, it is the intent of the council that rules~~
27 ~~shall be adopted by county government in such a manner as to promote efficiency of~~
28 ~~government and also afford citizens fair notice and due process.)) In adopting rules, county~~
29 ~~departments shall comply with this chapter and applicable state law. The intent of this~~
30 ~~chapter is to ensure county departments afford the public fair notice about and reasonable~~
31 ~~access to rules and the rule-making process.~~

32 SECTION 2. Ordinance 2165, Section 2, and K.C.C. 2.98.020 are each hereby
33 amended to read as follows:

34 **Definitions.** For the purpose of this chapter:

35 A. (~~"Agency means any county administrative office, executive department,~~
36 ~~board, commission, officer, political subdivision or other organizational unit of the county~~
37 ~~authorized by law to make rules or to adjudicate contested cases, except those in the~~
38 ~~legislative branch (which are subject to rules of procedure required by King County~~
39 ~~Charter, Section 220.40 or as otherwise provided by ordinance).~~

40 B. ~~"Contested case" means a proceeding before an agency in which an opportunity~~
41 ~~for a hearing before such agency is required by law or constitutional right prior or~~
42 ~~subsequent to the determination by the agency of the legal rights, duties or privileges of~~
43 ~~specific parties. Contested cases shall also include cases in which the granting of an~~
44 ~~application is contested by a person having standing to contest under the law or agency~~
45 ~~rules.~~

46 C.) "Department" means executive departments and administrative offices, the
47 sheriff's office, the department of assessments, the department of judicial administration,
48 county boards, commissions, committees and other multimember bodies. However,
49 "department" does not include the legislative branch and all offices established under
50 Article 2 of the King County Charter, the hearing examiner, the board of appeals, the
51 personnel board, the board of health, superior courts, district courts and the prosecuting
52 attorney's office.

53 B. "Penalty" means a punishment established by ordinance or other law ((or
54 ordinance)) imposed as a consequence of failing to abide by or comply with ((lawful
55 orders;) the law, ordinance or a rule((s or regulations. A penalty may be in the form of a
56 sum of money, imprisonment loss of privilege or status, or administrative sanction
57 appropriate to the nature of the offense)) adopted under ordinance or other law.

58 C.1. "Rule" means any ((agency)) department order, directive or regulation of
59 general applicability:

60 ((1-)) a. ((F))the violation of which subjects a person outside county employment
61 to a penalty;

62 ~~((2-))~~ b. ~~((Which))~~ that subjects a person outside of county employment to the
63 payment of a fee;

64 ~~((3-))~~ c. ~~((Which))~~ that establishes, alters or revokes any procedure, practice or
65 requirement relating to ~~((agency))~~ a department hearing((s)); or

66 ~~((4-))~~ d. ~~((Which))~~ that establishes, alters or revokes any qualifications or
67 standards for the issuance, suspension or revocation of a license((s)) to pursue any
68 commercial activity, trade or profession.

69 2. "Rule" includes the amendment or repeal of a prior rule, but does not include:

70 a. a statement concerning only the internal management of a department and
71 not affecting private rights or procedures available to the public;

72 b. a declaratory ruling issued in accordance with an ordinance; or

73 c. a traffic restriction for motor vehicles, bicyclists and pedestrians established
74 by the director of the department of transportation or designee if an official traffic control
75 device gives notice of the restriction.

76 SECTION 3. Ordinance 6531, Section 3, as amended, and K.C.C. 2.98.025 are
77 each hereby amended to read:

78 ~~((Application))~~ **Rules to implement policy – penalties and fees by ordinance or**
79 **other law – rules to be understandable.** A. ~~((In keeping with the intent of this chapter,~~
80 ~~the policy promulgated herein shall apply only to rules involving matters other than the~~
81 ~~internal management of county agencies.~~

82 ~~B. The following shall not apply to rules, penalties or fees set by the county~~
83 ~~board of health pursuant to state law.~~

84 ~~C. Rules shall apply to the implementation of policy established by))~~ A
85 department may only adopt a rule under this chapter to implement an ordinance or
86 ~~((state))~~ other law. Any rule ((which is)) in conflict with ((such a policy shall be)) an
87 ordinance or other law is null and void to the extent of the conflict.

88 ~~((D.))~~ B. Penalties shall be established only by ordinance or other law.
89 Imposition of ((F))fees and the amount of fees shall be ~~((authorized as set forth in the~~
90 ~~policies and procedures))~~ established ~~((in the K.C.C.))~~ as authorized by ordinance or
91 other law.

92 C. A department should adopt rules that are clearly and simply stated so the rules
93 are understandable.

94 SECTION 4. Ordinance 2165, Section 3, as amended, and K.C.C. 2.98.030 are
95 each hereby amended to read as follows:

96 ~~((Statements filed with council clerk))~~ **Rules – filing – formatting – required**
97 **information.** A. ~~((Each agency shall adopt rules, as defined in Section 2.98.020, and shall~~
98 ~~file such rules with the clerk of the King County council.~~

99 ~~B. In addition, each agency shall file with the clerk of the King County council~~
100 ~~and shall prominently display and make available for inspection and copying at the~~
101 ~~central office of such agency, for guidance of the public:~~

102 ~~1. Descriptions of its central and field organization and the established places at~~
103 ~~which, the employees from whom, and the methods whereby, the public may obtain~~
104 ~~information, make submittals or requests, or obtain copies of agency decisions;~~

105 ~~2. Statements of the general course and method by which its operations are~~
106 ~~channeled and determined, including the nature and requirements of all formal and~~
107 ~~informal procedures available;~~

108 ~~3. Rules of procedure;~~

109 ~~4. Substantive rules of general applicability adopted as authorized by law, and~~
110 ~~statements of general policy or interpretations of general applicability formulated and~~
111 ~~adopted by the agency;~~

112 ~~5. Each amendment or revision to, or repeal of any of the foregoing.~~

113 ~~C. Except to the extent that he has actual and timely notice of the terms thereof, a~~
114 ~~person may not in any manner be required to resort to, or be adversely affected by, a~~
115 ~~matter required to be published or displayed and not so published or displayed.~~

116 ~~D. Rules adopted by agencies and prepared for filing, distribution and display~~
117 ~~shall as)) A department that adopts rules shall make available to the public a description~~
118 ~~of the department's rule adoption procedures. The description shall include information~~
119 ~~on how to inquire about the department's proposed and adopted rules and public~~
120 ~~comment opportunities.~~

121 B. A department shall file proposed and adopted rules with the executive
122 department responsible for archives and records management functions. The executive
123 department responsible for archives and records management functions shall maintain a
124 master list and create an index of the rules, in both written and electronic forms, for
125 inspection, review and copying by the public.

126 1. The index shall include a list of public rules with reference to the rule number
127 and the department that adopted the rule. The list shall be searchable by either subject or
128 key words, or both.

129 2. The executive department responsible for archives and records management
130 functions shall provide a copy, in writing or by electronic format, of the adopted rules to
131 the clerk of the county council and each member of the county council and post the rules on
132 the Internet.

133 C. Rules adopted by a department shall at a minimum comply with the following
134 ((format requirements)):

135 1. Rules shall be reproduced on eight and one-half by eleven inch white
136 paper((-));

137 2. Each ~~((set of rules))~~ page of a rule shall contain ~~((a cover sheet on which shall~~
138 ~~be displayed in capitalized letters))~~ the ~~((title))~~ name of the ~~((agency issuing))~~ department
139 adopting the rule((s)), the subject or title of the rule((s)), ((and)) the date the rule((s become
140 effective.)) was adopted, the effective date of the rule and the page number and total
141 number of pages of the rule;

142 3. ~~((There shall be displayed on the top of each subsequent page, the title of the~~
143 ~~issuing agency and the effective date of the rules.~~

144 4. Reference shall be made, either in a foreword to the rules or within the rules
145 themselves,)) The text of the rule shall refer to the ordinance or other law ((or ordinance))
146 upon which the rule((s are)) is based; and

147 4. If amending or repealing an existing rule, the text of the rule shall cite the
148 existing rule.

149 ~~((E. Changes))~~ D. An amendment to a rule((s)) shall follow the same format as
150 used in preparing the initial ((issue. Each change shall be sequentially numbered. All
151 changes shall be prepared as replacements or insert pages, and shall include an insertion
152 guide providing instructions for the addition, or deletion of affected pages)) rule. The
153 executive department responsible for archives and records management functions shall
154 ensure that amended rules are reflected in the index prepared under subsection A of this
155 section.

156 SECTION 5. K.C.C. 2.98.040 and 2.98.050, as amended by this ordinance, should
157 each be recodified as sections in K.C.C. chapter 2.12.

158 SECTION 6. Ordinance 2165, Section 4, and K.C.C. 2.98.040 are each hereby
159 amended to read as follows:

160 **Agency ((F))index of ((agency)) records, reports and manuals required. A.**

161 Each agency shall maintain and make available for public inspection and copying a current
162 index providing identifying information as to the following records issued, adopted((;)) or
163 promulgated after June 30, 1972:

164 1. Final opinions, including concurring and dissenting opinions, as well as
165 orders((;)) made in the adjudication of cases;

166 2. Those statements of policy and interpretations of policy, statute and the
167 constitution which have been adopted by the agency;

168 3. Administrative staff manuals and instructions to staff that affect a member of
169 the public;

170 4. Planning policies and goals((;)) and interim and final planning decisions;

171 5. Factual staff reports and studies, factual consultant's reports and studies,
172 scientific reports and studies~~((;))~~ and any other factual information derived from tests,
173 studies, reports or surveys, whether conducted by public employees or others; and

174 6. Correspondence~~((;))~~ and materials referred to ~~((therein, by and with))~~ in the
175 correspondence either prepared or received by the agency relating to any regulatory,
176 supervisory or enforcement responsibilities of the agency, ~~((whereby))~~ in which the agency
177 determines or opines upon, or is asked to determine or opine upon, the rights of the state,
178 the public, a subdivision of state government or ~~((of))~~ any private party.

179 B. An agency need not maintain such an index~~((;))~~ if to do so would be unduly
180 burdensome, but it shall in that event:

181 1. Issue and publish a formal order specifying the reasons why and the extent to
182 which compliance would unduly burden or interfere with agency operations; and

183 2. Make available for public inspection and copying all indexes maintained for
184 agency use.

185 C. An agency's record retention schedule approved in accordance with chapter
186 40.14 RCW may serve as an index for the purposes of this section.

187 SECTION 7. Ordinance 2165, Section 5, and K.C.C. 2.98.050 are each hereby
188 amended to read as follows:

189 **Information exempt from public inspection.** A. The ~~((following shall be))~~
190 exempted records listed in chapter 42.17 RCW, and other applicable state law, are exempt
191 from public inspection and copying~~((;))~~

192 1. ~~Personal information in any files maintained for students in public schools,~~
193 ~~patients or clients of public institutions or public health agencies, welfare recipients,~~
194 ~~prisoners, probationers or parolees;~~

195 2. ~~Personal information in files maintained for employees, appointees or elected~~
196 ~~officials of any public agency to the extent that disclosure would violate their right to~~
197 ~~privacy;~~

198 3. ~~Information required of any taxpayer in connection with the assessment or~~
199 ~~collection of any tax if the disclosure of the information to other persons would violate the~~
200 ~~taxpayer's right to privacy or would result in unfair competitive disadvantage to such~~
201 ~~taxpayer;~~

202 4. ~~Specific intelligence information and specific investigative files compiled by~~
203 ~~investigative, law enforcement and penology agencies, and county agencies vested with the~~
204 ~~responsibility to discipline members of any profession, the nondisclosure of which is~~
205 ~~essential to effective law enforcement or for the protection of any person's right to privacy;~~

206 5. ~~Information revealing the identity of persons who file complaints with~~
207 ~~investigative, law enforcement or penology agencies, except as the complainant may~~
208 ~~authorize;~~

209 6. ~~Test questions, scoring keys and other examination data used to administer a~~
210 ~~license, employment or academic examination;~~

211 7. ~~Except as provided by Chapter 8.26 RCW, the contents of real estate~~
212 ~~appraisals, made for or by any agency relative to the acquisition of property, until the~~
213 ~~project is abandoned or until such time as all of the property has been acquired, but in no~~
214 ~~event shall disclosure be denied for more than three years after the appraisal;~~

215 8. Valuable formulae, designs, drawings and research data obtained by any
216 agency within five years of the request for disclosure when disclosure would produce
217 private gain and public loss;

218 9. Preliminary drafts, notes, recommendations and intraagency memorandums in
219 which opinions are expressed or policies formulated or recommended except that a specific
220 record shall not be exempt when publicly cited by an agency in connection with any agency
221 action;

222 10. Records which are relevant to a controversy to which an agency is a party but
223 which records would not be available to another party under the rules or pretrial discovery
224 for causes pending in the superior courts)).

225 B. The exemptions of chapter 42.17 RCW, and other applicable state law, shall be
226 inapplicable to the extent that information, the disclosure of which would violate personal
227 privacy or vital governmental interests, can be deleted from the specific records sought. No
228 exemption shall be construed to permit the nondisclosure of statistical information not
229 descriptive of any readily identifiable person or persons.

230 SECTION 8. Ordinance 2165, Section 6, and K.C.C. 2.98.060 are each hereby
231 amended to read as follows:

232 ~~((Rules change notice filing))~~ Notice of rule making – adoption procedures –
233 substantial compliance. A.1. Prior to the adoption, amendment or repeal of any rule,
234 each ~~((agency))~~ department shall give at least ~~((twenty))~~ forty-five days' notice of its
235 intended action by:

236 a. filing ~~((the))~~ a notice with the ~~((clerk of the King County council, mailing))~~
237 executive department responsible for archives and records management functions;

238 b. providing, at least in writing or by electronic format, the notice to: all persons
239 ((or agencies)) and other parties who have made timely request of the ((agency))
240 department for advance notice of its rule-making proceedings on a specific topic((s)); the
241 clerk of the council; each member of the county council; and each unincorporated area
242 council; and

243 c. giving public notice by one publication in the official newspaper of King
244 County. ((Such))

245 2. The notice shall include:

246 ((1-)) a. ((R))reference to the authority under which the rule is proposed;

247 ((2-)) b. ((A))a statement of either the terms or substance of the proposed rule or
248 a description of the subjects and issues involved; and

249 ((3-)) c. ((F))the time ((when, the)), place ((where,)) and ((the)) manner,
250 including at least in writing or by electronic format, in which interested persons may
251 present their views ((thereon)) on the rule. To the extent practicable, the department should
252 permit persons to present their views at a public meeting, according to rules established by
253 the department.

254 B. The department giving the notice required in this section shall consider all
255 comments received by the prescribed time and shall make reasonable efforts to provide
256 written responses to the comments before the rule is adopted.

257 C. Adoption of a rule by a department other than a county board, commission,
258 committee or other multimember body is accomplished by the department's director or the
259 sheriff or assessor, for his or her respective department, signing the proposed rule.

260 Adoption of a rule by a county board, commission, committee or other multimember body

261 is accomplished by majority vote in favor of the rule by the members of the body, as
262 evidenced in the approved minutes of the body, and in compliance with the Open Public
263 Meetings Act, as applicable.

264 D. ((No)) A rule ((hereafter)) adopted under this section is not valid unless adopted
265 in substantial compliance with this section((, or, if an emergency rule designated as such,
266 adopted in substantial compliance with Section 2.98.070, as now or hereafter amended)).

267 In any proceeding, a rule ((cannot be contested)) shall not be considered invalid on the
268 ground of noncompliance with the procedural requirements of this section ((, or of Section
269 2.98.070, as now or hereafter amended, after)) if two years or more have elapsed from the
270 effective date of the rule.

271 SECTION 9. Ordinance 2165, Section 7, and K.C.C. 2.98.070 are each hereby
272 amended to read as follows:

273 **Emergency rules or amendments.** A. If the ((agency)) department finds that
274 immediate adoption or amendment of a rule is necessary for the preservation of the public
275 health, safety or general welfare, and that observance of the requirements of notice and
276 opportunity to present views on the proposed ((action)) rule would be contrary to the public
277 interest, the ((agency)) department may dispense with ((such)) the notice, comment and
278 public meeting requirements of this chapter and adopt the rule or amendment as an
279 emergency rule or amendment.

280 1. The ((agency's)) department's finding and a brief statement of the reasons for
281 its finding shall be incorporated in the emergency rule or amendment as filed with the
282 ((clerk of the King County council)) executive department responsible for archives and
283 records management functions.

284 2. An emergency rule or amendment shall not remain in effect for longer than
285 ~~((ninety))~~ one hundred fifty days.

286 3. This section does not relieve any ~~((agency))~~ department from compliance with
287 any ordinance or other law requiring that ~~((its))~~ the department's rules be approved by
288 designated persons or bodies before ~~((they become effective))~~ the rules take effect.

289 B. An emergency rule adopted under this section is not valid unless adopted in
290 substantial compliance with this section. In any proceeding, a rule shall not be considered
291 invalid on the ground of noncompliance with the procedural requirements of this section if
292 two years or more have elapsed from the effective date of the rule.

293 C. The executive department responsible for archives and records management
294 functions shall provide a copy, in writing or by electronic format, of an emergency rule to
295 the clerk of the county council and each member of the county council within three
296 business days after the rule is filed with the executive department responsible for archives
297 and records management functions.

298 SECTION 10. Ordinance 2165, Section 8, and K.C.C. 2.98.080 are each hereby
299 amended to read as follows:

300 **Effective date of rules.** A. Emergency rules adopted under ~~((Section))~~ K.C.C.
301 2.98.070 ~~((shall become effective))~~ take effect upon filing with the ~~((clerk of the council))~~
302 executive department responsible for archives and records management functions. All
303 other rules ~~((hereafter))~~ adopted ~~((shall become effective upon the expiration of))~~ under this
304 chapter take effect thirty days after the date of filing with the executive department
305 responsible for archives and records management functions, unless a later date is required
306 by statute or specified in the rule.

307 B. ~~((The clerk of the King County council shall, as soon as practicable after the~~
308 ~~effective date of this chapter,))~~ The executive department responsible for archives and
309 records management functions shall compile and index all rules adopted by each ~~((agency))~~
310 department. Compilations shall be ~~((supplemental))~~ supplemented or revised as often as
311 necessary and at least once every ~~((two))~~ year~~((s))~~.

312 ~~((C. To continue effective, all rules adopted prior to the passage of the ordinance~~
313 ~~codified herein must be filed with the clerk of the council within sixty days of the effective~~
314 ~~date of the ordinance codified herein.))~~

315 SECTION 11. K.C.C. 2.98.090 is hereby decodified.

316 SECTION 12. There is hereby added to K.C.C. chapter 2.12 a new section to
317 read as follows:

318 **Filing and availability of agency information.** An agency shall provide to the
319 executive department responsible for archives and records management functions, and
320 shall prominently display and make available for inspection and copying at the central
321 office of the agency, the information required under RCW 42.17.250 for guidance of the
322 public.

323 SECTION 13. This ordinance is intended to operate prospectively and shall not
324 affect the validity of rules that were adopted before its effective date. Proposed or final
325 rules filed with the clerk of the council before the effective date of this ordinance shall be
326 governed by the provisions of K.C.C. chapter 2.98 in effect at the time the rule was filed.

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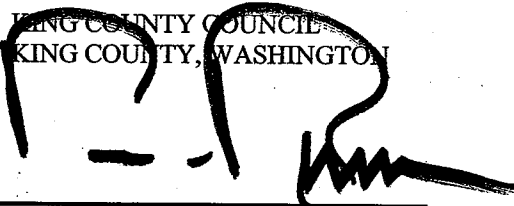
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SECTION 14. This ordinance takes effect April 1, 2002.

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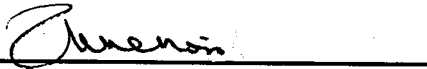
Ordinance 14266 was introduced on 7/30/01 and passed as amended by the Metropolitan King County Council on 12/3/01, by the following vote:

Yes: 13 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz, Mr. McKenna, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Irons and Ms. Patterson
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


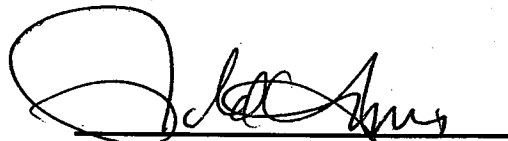
Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 13 day of December, 2001.



Ron Sims, County Executive

Attachments None