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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

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

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

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

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

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

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

4 NEW CHAPTER. CHAPTER 2. GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

4 3. the director of the department of natural
5 resources;

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

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

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

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

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

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

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

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

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

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

20 K. Public rule. "Public rule" means any rule properly
21 promulgated to implement code provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

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

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

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

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

17 E. Staff undertaking field investigations shall comply
18 with the provisions of this title regarding right of entry.
19 NEW SECTION. SECTION 8. There is hereby added to K.C.C. 23 a
20 new section to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 FAILURE TO MEET TERMS OF VOLUNTARY COMPLIANCE AGREEMENT.

13 A. If the terms of the voluntary compliance agreement are not
14 completely met, the department may abate the violation in
15 accordance with the provisions of this title, and the person
16 responsible for code compliance may, without being issued a
17 citation, notice and order or stop work order, be assessed a
18 civil fine or penalty commencing on the day after the deadline
19 for compliance, in accordance with the penalty provisions of
20 this title, plus all costs incurred by the county to pursue
21 code compliance and to abate the violation, including legal and
22 incidental expenses as provided for in this title, and may be
23 subject to other remedies authorized by this title. Penalties
24 imposed when a voluntary compliance agreement is not met accrue
25 from the date that an appeal of any preceding citation, notice
26 and order or stop work order was required to have been filed or
27 from the date the voluntary compliance agreement was entered

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

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

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

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

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

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

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

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

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

15 OBLIGATIONS OF PERSONS RESPONSIBLE FOR CODE COMPLIANCE.

16 A. It shall be the responsibility of any person identified
17 as responsible for code compliance to bring the property into a
18 safe and reasonable condition to achieve code compliance.

19 Payment of fines, applications for permits, acknowledgment of
20 stop-work orders and compliance with other remedies does not
21 substitute for performing the corrective work required and
22 having the property brought into compliance to the extent
23 reasonably possible under the circumstances.

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

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

11 NEW CHAPTER. CHAPTER 3. CITATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 NEW CHAPTER. CHAPTER 4. NOTICE AND ORDERS.

14 NEW SECTION. SECTION 20. There is hereby added to K.C.C.
15 23 a new section to read as follows:

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

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

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

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

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

- 17 1. additional civil penalties and costs;
- 18 2. a requirement that abatement, remediation and/or
19 mitigation be performed;
- 20 3. an agreement to perform community service as
21 prescribed by chapter 4 of this ordinance;
- 22 4. permit suspension, revocation, modification and/or
23 denial as prescribed by chapter 4 of this ordinance; and/or
24 5. abatement by a director and recovery of the costs
25 of abatement according to the procedures described in chapter 4
26 of this ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 NEW SECTION. SECTION 27. There is hereby added to K.C.C.
25 23 a new section to read as follows:

26 NOTICE AND ORDER REMEDIES -- COMMUNITY SERVICE

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

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

11 NEW SECTION. SECTION 28. There is hereby added to K.C.C.
12 23 a new section to read as follows:

13 NOTICE AND ORDER REMEDIES -- COST RECOVERY

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

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

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

26 2. hauling, storage and disposal expenses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 3. for any property which has been found in
8 violation and remains in violation of K.C.C. 21.54 or K.C.C.
9 21A.24 or of any rule, permit, approval, order, easement, plan
10 or agreement issued thereunder.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 NEW CHAPTER. CHAPTER 5. STOP WORK ORDERS.

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

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

13 NEW SECTION. SECTION 35. There is hereby added to K.C.C.
14 23 a new section to read as follows:

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

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

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

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

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

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

6 NEW SECTION. SECTION 36. There is hereby added to K.C.C.
7 23 a new section to read as follows:

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

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

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

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

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

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

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

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

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

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

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

1 CIVIL PENALTY - DEFINITIONS.

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

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

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

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

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

13 CIVIL FINES AND CIVIL PENALTIES - DUTY TO COMPLY. A.

14 Persons responsible for code compliance have a duty to notify
15 the director of any actions taken to achieve compliance with
16 the notice and order. For purposes of assessing civil
17 penalties, a violation shall be considered ongoing until the
18 person responsible for code compliance has come into compliance
19 with the notice and order, voluntary compliance agreement, or
20 stop work order and has notified the director of this
21 compliance.

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

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

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

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

11 C. Where feasible, the owner of the land on which the
12 violation occurred shall be named as a party to the notice and
13 order. In addition to any other persons who may be liable for
14 a violation, and subject to the exceptions provided in Section
15 14, the owner shall be jointly and severally liable for the
16 restoration of a site and payment of any civil penalties
17 imposed.

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

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

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

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

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

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

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

13 2. the greater of

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

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

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

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

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

1 21.54 and/or K.C.C. 21A.24 against the person responsible for
2 code compliance.

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

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

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

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

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

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

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

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

23 CIVIL FINES AND CIVIL PENALTIES--WRITE OFFS.

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

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

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

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

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

10 NEW CHAPTER. CHAPTER 7. APPEALS AND JUDICIAL ENFORCEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 NEW SECTION. SECTION 46. There is hereby added to K.C.C.
27 23 a new section to read as follows:

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

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

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

13 NEW SECTION. SECTION 47. There is hereby added to K.C.C.
14 23 a new section to read as follows:

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

21 NEW CHAPTER. CHAPTER 8. LIENS

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

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

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

3 B. The lien shall contain the following information:

- 4 1. the King County code provision violated;
- 5 2. a brief description of the violation and its
6 duration at the date of filing;
- 7 3. a brief description of the abatement work done, if
8 any, and who performed the abatement work;
- 9 4. the owner of the property, if known, or a
10 statement that the owner is not known;
- 11 5. a legal description of the property;
- 12 6. the amount of penalties, fines or costs that are
13 owing; and
- 14 7. a sworn statement signed by a director that the
15 director believes the claim is just.

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

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

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

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

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

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

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

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

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

22 NEW CHAPTER. CHAPTER 9. MISCELLANEOUS PROVISIONS.

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

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

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

3 Whenever a director has determined that a violation of the
4 fair employment ordinance or any rules and regulations adopted
5 thereunder is about to occur or has occurred, he or she shall
6 issue an order pursuant to the provisions of K.C.C. 12.18.

7 With respect to violations of K.C.C. 12.18, the notice, service
8 and hearings provisions contained in K.C.C. 12.18 shall control
9 over K.C.C. 23.

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

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

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

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

26 PUBLIC ACCOMMODATIONS CODE COMPLIANCE. Whenever a
27 complaint has been filed pursuant to the provisions of K.C.C.
28 12.22, the director of the department of information and

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

3 Whenever a director has determined that a violation of the
4 fair housing ordinance or any rules and regulations adopted
5 thereunder is about to occur or has occurred, he or she shall
6 issue an order pursuant to the provisions of K.C.C. 12.22.

7 With respect to violations of K.C.C. 12.22, the notice, service
8 and hearings provisions contained in K.C.C. 12.22 shall control
9 over K.C.C. 23.

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

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

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

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

23 SECTION 57. REPEALER. Ordinance 2909, Sections 101
24 through 109, Sections 201-208, Sections 301-302, Sections 401-
25 408, Section 501, Section 601; Ordinance 4569, Sections 2, 3
26 and 4 as amended; Ordinance 7846, Sections 1 through 11,
27 Ordinance 9614, Section 120, and K.C.C. 23.04.010; K.C.C.
28 23.08.010 through 23.08.120; K.C.C. 23.12.010 through

1 23.12.080; K.C.C. 23.16.010 through 23.16.020; K.C.C. 23.20.010
2 through 23.20.080 and K.C.C. 23.24.010 are each hereby
3 repealed.

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

6 **20.24.080 Final decisions by the examiner.** A. The examiner
7 shall receive and examine available information, conduct open
8 record public hearings and prepare records and reports thereof,
9 and issue final decisions, including findings and conclusions,
10 based on the issues and evidence in the record, which shall be
11 appealable to superior court as provided by Section 20.24.240,
12 or to other designated authority in the following cases:

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

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

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

25 ((3.)) 4. Appeals from decisions regarding the abatement of
26 a nonconformance;

1 ((4.)) 5. Appeals from decisions of the director of the
2 department of public works on requests for rate adjustments to
3 surface and storm management rates and charges;

4 ((5.)) 6. Appeals from department of public safety
5 seizures and intended forfeitures, when properly designated by
6 the chief law enforcement officer of that department as
7 provided in RCW 69.50.505.

8 ((6.)) 7. Appeals from notices and certifications of junk
9 vehicles to be removed as a public nuisance as provided in
10 K.C.C. title 21A and chapter 23.10;

11 ~~((7. Appeals from enforcement actions under K.C.C.
12 23.08.120;))~~

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

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

18 B. The examiner's decision may be to grant or deny the
19 application or appeal, or the examiner may grant the
20 application or appeal with such conditions, modifications and
21 restrictions as the examiner finds necessary to make the
22 application or appeal compatible with the environment and carry
23 out applicable state laws and regulations, including chapter
24 43.21C RCW, and the regulations, policies, objectives and goals
25 of the comprehensive plan, the community plans, subarea or
26 neighborhood plans, the zoning code, the subdivision code and
27 other official laws, policies and objectives of King County.
28 In case of any conflict between the King County Comprehensive

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

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

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


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

4 INTRODUCED and READ for the first time this 1ST day of
5 November, 1993.

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

8 KING COUNTY COUNCIL

9 KING COUNTY, WASHINGTON

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VICE Chair

ATTEST:


Clerk of the Council

APPROVED this 11 day of September, 1998.


King County Executive

Attachments
None