



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 20, 2008

Ordinance 16278

Proposed No. 2008-0476.1

Sponsors Dunn

1 AN ORDINANCE relating to code compliance; amending
2 Ordinance 13263, Section 3, as amended, and K.C.C.
3 23.02.010, Ordinance 13263, Section 4, as amended, and
4 K.C.C. 23.02.030, Ordinance 13263, Section 5, as
5 amended, and K.C.C. 23.02.040, Ordinance 13263, Section
6 6, and K.C.C. 23.02.050, Ordinance 13263, Section 7, as
7 amended, and K.C.C. 23.02.060, Ordinance 13263, Section
8 8, as amended, and K.C.C. 23.02.070, Ordinance 13263,
9 Section 12, and K.C.C. 23.02.110, Ordinance 13263,
10 Section 13, as amended, and K.C.C. 23.02.120, Ordinance
11 12024, Section 13, and K.C.C. 23.10.040, Ordinance
12 13263, Section 16, and K.C.C. 23.20.020, Ordinance
13 13263, Section 17, and K.C.C. 23.20.030, Ordinance
14 13263, Section 21, as amended, and K.C.C.23.24.020,
15 Ordinance 13263, Section 30, and K.C.C. 23.24.110,
16 Ordinance 13263, Section 33, as amended, and K.C.C.
17 23.24.140, Ordinance 13263, Section 37, as amended, and

18 K.C.C. 23.32.010, Ordinance 13263, Section 40, and
19 K.C.C. 23.32.040, Ordinance 13263, Section 43, as
20 amended, and K.C.C. 23.36.010, Ordinance 13263, Section
21 45, and K.C.C. 23.36.030, Ordinance 4461, Section 3, as
22 amended and K.C.C. 20.24.090, Ordinance 11502, Section
23 13, and K.C.C. 20.24.175, adding new sections to K.C.C.
24 chapter 23.02 and K.C.C. chapter 23.20, repealing
25 Ordinance 12024, Section 14 and K.C.C. 23.10.120, and
26 Ordinance 13263, Section 38 and K.C.C. 23.32.020, and
27 prescribing penalties.

28

29 STATEMENT OF FACTS:

30 1. Illegal dumping has significant negative impacts on King County and
31 its residents. It is unsightly, can decrease land values, attract more
32 dumping and can be the source of fires. Illegal dumping can contaminate
33 land, streams, lakes and rivers, as well as nearby drinking water wells.
34 Illegally dumped materials are a health hazard, attracting rodents,
35 mosquitoes and other vermin. Dumped materials can also be a physical
36 hazard to children playing in or around them. Responding to illegal
37 dumping is expensive, costing County government alone more than two
38 million dollars every year to respond to complaints, clean up dump sites
39 on county lands and roads, abate dump sites on private lands and conduct
40 enforcement actions.

41 2. In 2003, the King County executive convened an illegal dumping task
42 force to address illegal dumping at the county level. The goal of the task
43 force was to improve coordination of services and make illegal dumping
44 response more efficient and effective. One of the task force's
45 recommendations was to set up an expert committee to examine the
46 county's enforcement approach and possibly draft proposed code
47 amendments.

48 3. The King County streamlining enforcement work group was formed to
49 act on that recommendation by examining the current county enforcement
50 system as it relates to illegal dumping and other environmental
51 enforcement and recommending improvements. The work group included
52 staff responsible for managing enforcement programs, responding to
53 illegal dumping complaints, or both, for the departments of natural
54 resources and parks, transportation, development and environmental
55 services, public health, and the office of the prosecuting attorney. The
56 work group made recommendations which were approved by the
57 executive's office in October 2007.

58 4. One of the work group's recommendations was to increase the effectiveness of
59 county enforcement regulations. This ordinance implements the group's
60 recommendation. It proposes changes to K.C.C. Title 23, Code Compliance, that
61 will clearly state that illegal dumping is in violation of county code and will
62 authorize all affected agencies to protect their custodial lands through
63 enforcement. This ordinance will simplify citation procedures and clarify the

64 citation appeal process, saving time and resources without affecting due process.
65 It will also enable county agencies to assess penalties and charge cleanup
66 restitution payments in cases of illegal dumping. It incorporates language similar
67 to that in state code to authorize charging a restitution payment to illegal dumpers.
68 This payment is to be divided equally between the enforcement agency and the
69 landowner. The ordinance authorizes county departments to decide not to take
70 action on de minimis violations. It decreases the appeal period for citations and
71 notice and orders from twenty-one to fourteen days, and amends the misdemeanor
72 language to clearly authorize the office of the prosecuting attorney to conduct
73 misdemeanor prosecutions for willful or knowing civil code violations. The
74 ordinance repeals sections of K.C.C. Title 23 containing deadlines that have
75 passed and amends K.C.C. chapter 20.24, Hearing Examiner, to maintain
76 consistency with K.C.C. Title 23.

77 5. All agencies that currently use K.C.C. Title 23 actively participated in a
78 cooperative effort to develop the amendment.

79 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

80 SECTION 1. Ordinance 13263, Section 3, as amended, and K.C.C. 23.02.010,
81 are each hereby amended as follows:

82 The words and phrases designated in this section shall be defined for the purposes
83 of this title as follows:

84 A. "Abate" means to take whatever steps are deemed necessary by the director to
85 return a property to the condition in which it existed before a civil code violation
86 occurred or to assure that the property complies with applicable code requirements.

87 Abatement may include, but is not limited to, rehabilitation, demolition, removal,
88 replacement or repair.

89 B. "Civil code violation" means and includes one or more of the following:

90 1. Any act or omission contrary to any ordinance, resolution, regulation or
91 public rule of the county that regulates or protects ~~((the))~~ public health, the environment
92 or the use and development of land or water, whether or not the ordinance, resolution or
93 regulation is codified; and

94 2. Any act or omission contrary to the conditions of any permit, notice and order
95 or stop work order issued pursuant to any such an ordinance, resolution, regulation or
96 public rule.

97 C. "Contested hearing" means a hearing requested in response to a citation to
98 contest the finding that a violation occurred or to contest that the person issued the
99 citation is responsible for the violation.

100 D. "Director" means, depending on the code violated:

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

102 2. The director of the Seattle-King County department of public health, ~~(((the)))~~
103 or "local health officer" as that term is used in chapter 70.05 RCW((h));

104 3. The director of the department of natural resources and parks;

105 4. The director of any other county department authorized to enforce civil code
106 compliance;

107 5. Authorized representatives of a director, including ~~((but not limited to, the))~~
108 compliance officers and inspectors whose responsibility includes the detection and
109 reporting of civil code violations; or

110 6. Such other person as the council by ordinance authorizes to ~~((utilize))~~ use this
111 title.

112 E. "Found in violation" means that:

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

115 2. A voluntary compliance agreement has been entered into; or

116 3. The hearing examiner has determined that the violation has occurred and the
117 hearing examiner's determination has not been stayed or reversed on appeal.

118 ~~((D.))~~ F. "Hearing examiner" means the King County hearing examiner, as
119 provided in K.C.C. chapter 20.24.

120 ~~((E.))~~ G. "Mitigate" means to take measures, subject to county approval, to
121 minimize the harmful effects of the violation where remediation is either impossible or
122 unreasonably burdensome.

123 H. "Mitigation hearing" means a hearing requested in response to a citation to
124 explain mitigating circumstances surrounding the commission of a violation.

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

131 ~~((G.))~~ J. "Person" means any individual, association, partnership, corporation or
132 legal entity, public or private, and the agents and assigns of the individual, association,
133 partnership, corporation or legal entity.

134 ~~((H.))~~ K. "Person responsible for code compliance" means either the person who
135 caused the violation, if that can be determined, or the owner, lessor, tenant or other
136 person entitled to control, use or occupy, or any combination of control, use or occupy,
137 property where a civil code violation occurs, or both.

138 L. "Public rule" means any rule adopted under K.C.C. chapter 2.98 to implement
139 code provisions.

140 ~~((I.))~~ M. "Remediate" means to restore a site to a condition that complies with
141 ~~((sensitive))~~ critical area or other regulatory requirements as they existed when the
142 violation occurred; or, for sites that have been degraded under prior ownerships, restore
143 to a condition that does not pose a probable threat to the environment or to the public
144 health, safety or welfare.

145 ~~((J.))~~ N. "Resolution" means any law enacted by resolution of the board of county
146 commissioners prior to the establishment of the charter, or any health rule adopted by
147 resolution of the board of health.

148 ~~((K. "Public rule" means any rule properly promulgated to implement code~~
149 ~~provisions.))~~

150 SECTION 2. Ordinance 13263, Section 4, and K.C.C. 23.02.030, are each hereby
151 amended as follows:

152 A. All civil code violations are hereby determined to be detrimental to the public
153 health, safety and environment and are hereby declared public nuisances. All conditions

154 determined to be civil code violations shall be subject to and enforced pursuant to the
155 provisions of this title except where specifically excluded by law or regulation.

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

167 SECTION 3. Ordinance 13263, Section 5, and K.C.C. 23.02.040, are each hereby
168 amended as follows:

169 A. In order to discourage public nuisances, make efficient use of public resources
170 and otherwise promote compliance with applicable code provisions, a director may, in
171 response to field observations or reliable complaints, determine that civil code violations
172 have occurred or are occurring and may:

173 1. Enter into voluntary compliance agreements with persons responsible for
174 code compliance, and issue notices of noncompliance if the persons responsible fail to
175 comply with the terms of the voluntary compliance agreement;

176 2. Issue citations and assess civil penalties as authorized by K.C.C. chapter
177 23.20;

178 3. Issue notice and orders, assess civil penalties and fines and recover costs as
179 authorized by K.C.C. chapter 23.24;

180 4. Order abatement by means of a notice and order, and if ~~((such))~~ abatement is
181 not ~~((timely))~~ completed in a timely manner by the person responsible for code
182 compliance, undertake the abatement and charge the reasonable costs of such work as
183 authorized by K.C.C. chapter 23.24;

184 5. Allow a person responsible for code compliance to perform community
185 service in lieu of paying civil penalties as authorized by K.C.C. chapter 23.24;

186 6. Order work stopped at a site by means of a stop work order, and if such order
187 is not complied with, assess civil penalties, as authorized by K.C.C. chapter 23.28;
188 ~~((and/or))~~

189 7. Suspend, revoke or modify any permit previously issued by a director or deny
190 a permit application as authorized by K.C.C. chapter 23.24 when other efforts to achieve
191 compliance have failed; and

192 8. For de minimis violations, decide not to take enforcement action.

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

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

199 abating civil code violations in any other manner authorized by law. ((Ordinance-13263))

200 This title shall not be construed to affect the authority of the King County board of health
201 in enforcement of the King County board of health code or regulations.

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

205 E. In addition or as an alternative to utilizing the procedures set forth in
206 ((Ordinance-13263)) this title, a director may assess or recover civil penalties accruing
207 under this title by legal action filed in King County superior court by the prosecuting
208 attorney on behalf of King County.

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

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

214 H. In administering the provisions for code enforcement, the director shall have
215 the authority to waive any one or more such provisions so as to avoid substantial injustice
216 by application thereof to the acts or omissions of a public or private entity or individual,
217 or acts or omissions on public or private property including, for example, property
218 belonging to public or private utilities, where no apparent benefit has accrued to such
219 entity or individual from a code violation and any necessary remediation is being
220 promptly provided. For purposes of this clause, substantial injustice cannot be based on
221 economic hardship.

222 I. The provisions of this title detailing county department administration of code
223 compliance procedures are not to be construed as creating a substantive basis for appeal
224 or a defense of any kind to an alleged violation.

225 J. The provisions of (~~Ordinance 13263~~) this title authorizing the enforcement of
226 non-codified ordinances are intended to assure compliance with conditions of approval
227 on plats, unclassified use permits, zone reclassifications and other similar permits or
228 approvals which may have been granted by ordinances which have not been codified, and
229 to enforce new regulatory ordinances which are not yet codified. Departments should be
230 sensitive to the possibility that citizens may not be aware of these ordinances, and should
231 give warnings prior to enforcing such ordinances, except in high risk cases.

232 K. The director of a King County agency that owns property, or is the custodian
233 of public property, is authorized to enforce section 9 of this ordinance and any public
234 rules adopted under this title to implement that section for properties that the director's
235 agency owns or is custodian.

236 SECTION 4. Ordinance 13263, Section 6, and K.C.C. 23.02.050, are each hereby
237 amended as follows:

238 (~~(A. The following guidelines should be applied by the departments, subject to~~
239 ~~departmental resource limitations, when responding to code compliance complaints. The~~
240 ~~timelines identified below may be modified by departmental rule, subject to council~~
241 ~~review and approval.)) A department may adopt public rules under K.C.C. chapter 2.98
242 consistent with the following guidelines that set forth priorities for responding to code
243 compliance complaints:~~

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

246 ~~((a.))~~ 1. there is an imminent likelihood of or actual bodily harm, damage to
247 public resources or facilities, damage to real or personal property, public health exposure,
248 or environmental damage or contamination; or

249 ~~((b.))~~ 2. the sites ~~((and/))~~ or persons responsible for code compliance have a
250 history of prior high or moderate risk violations.

251 ~~((2.))~~ B. Moderate risk investigations needing a prompt response ~~((within~~
252 ~~seventy two hours to ten days) include))~~ including cases ~~((where))~~ in which:

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

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

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

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

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

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

264 b. the violation is an isolated incident.

265 B. The ~~((response times))~~ priorities set ~~((out))~~ forth in this section are not
266 jurisdictional~~((;))~~ and failure to meet them in any particular case shall not affect the
267 county's authority to enforce county code provisions with regard to that case.

268 SECTION 5. Ordinance 13263, Section 7, as amended, and K.C.C. 23.02.060,
269 are each hereby amended as follows:

270 This section sets forth guidelines for more specific procedures to be used by each
271 department in implementing ~~((Ordinance 13263))~~ this title. The guidelines set forth in
272 this section are not jurisdictional, and failure to meet them in any particular case shall not
273 affect the county's authority to enforce county code provisions with regard to that case.

274 A. Before conducting a field verification, code enforcement personnel shall
275 notify the owner, occupant, or other person responsible for code compliance of a possible
276 violation through any combination of phone, posting and/or mail, that a field verification
277 is to occur. Code enforcement personnel shall not cross a parcel boundary line onto
278 private property without such prior notification, except in emergencies that pose an
279 imminent threat to environmental health or to the public safety or specifically for the
280 purpose of posting a notice.

281 B. In cases involving a complaint, the code enforcement agency shall provide
282 notice (prior to or concurrent with a field verification) in the following manner:

283 1. The owner, occupant and person responsible for code compliance, ~~((if not~~
284 an owner or occupant~~((;))~~), shall be advised by personal contact, phone, posting ~~((and/))~~ or
285 mail of any complaint; and

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

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

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

297 E. Staff undertaking field investigations shall comply with the provisions of this
298 title regarding right of entry. This information shall be made available pursuant to
299 subsection C. of this section.

300 SECTION 6. Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070,
301 are each hereby amended as follows:

302 A. The department shall determine, based on information derived from sources
303 such as field observations, the statements of witnesses, relevant documents and data
304 systems for tracking violations and applicable county codes, whether or not a violation
305 has occurred. As soon as a department has reasonable cause to determine that a violation
306 has occurred, it shall document the violation and promptly notify the owner, occupant or
307 other person responsible for code compliance.

308 B. Except as provided in subsection D. of this section, a warning shall be issued
309 verbally or in writing promptly when a field inspection reveals a violation, or as soon as
310 the department otherwise determines that a violation has occurred. The warning shall

311 inform the person determined to be responsible for code compliance of the violation and
312 shall include a reference to the applicable permit or zoning condition, ordinance or code
313 related to the violation. The warning shall also allow the person an opportunity to correct
314 the violation or enter into a voluntary compliance agreement as provided for by this title.
315 Verbal warnings shall be logged and followed up with a written warning within two
316 weeks, and the site shall be reinspected within thirty days.

317 C. The guidelines in this section for warnings, notifications and reinspections are
318 not jurisdictional, and failure to meet them in any particular case shall not affect the
319 county's authority to enforce county code provisions with regard to that case.

320 D. No warning need be issued in cases involving, emergencies that pose an
321 imminent threat to environmental health or to the public safety.

322 E. ~~((Citations may be issued in moderate and low risk cases, if the department))~~
323 A department may issue a citation if it determines ((it is probable)) that the violation
324 ~~((can))~~ is likely to be a one-time occurrence or is likely to be fully corrected in a ((short))
325 reasonable period of time.

326 F. ~~((Notice and orders should be issued in all high risk cases in which a voluntary~~
327 ~~compliance agreement has not been entered into. N))~~ A department may issue notice and
328 orders ((may be issued in moderate and low risk)) in cases where ((the department)) it
329 determines that the violation is unlikely be fully corrected in a ((short)) reasonable period
330 of time.

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

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

340 I. Any complainant who provides a mailing address and requests to be kept
341 advised of enforcement efforts should be mailed a copy of all written warnings, voluntary
342 compliance agreements, citations, notice and orders, stop work orders and notices of
343 settlement conferences issued by a department with regard to the alleged violation. Any
344 complainant who is an aggrieved person may appeal a citation, notice and order, stop
345 work order, a determination to enter into a voluntary compliance agreement or a
346 determination not to issue a citation or order pursuant to the provisions of K.C.C. chapter
347 20.24, provided that the appeal shall be considered a civil proceeding, and any decision to
348 pursue criminal sanctions shall remain the obligation of the prosecuting attorney, as set
349 out in K.C.C. 23.02.030.

350 SECTION 7. Ordinance 13263, Section 12, and K.C.C. 23.02.110, are each
351 hereby amended as follows:

352 It is the intention of the council that any entry made to private property for the
353 purpose of inspection for code violations be accomplished in strict conformity with
354 constitutional and statutory constraints on entry(~~(s)~~) and the holdings of relevant court
355 cases regarding entry. The (~~right of entry~~) right of entry granted by this title shall not
356 supersede those legal constraints. The director is authorized to enter upon any property

357 for the purpose of administering (~~Ordinance 13263 provided that, the director shall make~~
358 ~~entry~~) this title only if (~~sueh~~) entry is consistent with the constitutions and laws of the
359 United States and the state of Washington. If (~~se~~) required by the constitutions and
360 laws of the United States or the state of Washington, the director shall apply to a court of
361 competent jurisdiction for a search warrant authorizing access to (~~sueh~~) property for
362 (~~sueh~~) the purpose of administering this title. The court may upon such application
363 issue the search warrant for the purpose requested.

364 SECTION 8. Ordinance 13263, Section 13, as amended, and K.C.C. 23.02.120,
365 are each hereby amended as follows:

366 A. In order to ensure strict conformity with the constraints on entry imposed by
367 state and federal law and to (~~assure~~) ensure that county employees deal with the public
368 in a manner (~~which~~) that respects the rights of private property owners, the directors of
369 the department of development and environmental services, natural resources and parks
370 and other departments, as needed, shall (~~develop and~~) adopt internal procedures,
371 protocols and training programs governing the conduct of searches by county staff
372 responsible for code compliance (~~officers~~) (~~which shall be issued within nine months~~
373 ~~of the adoption of Ordinance 13263~~)).

374 B. Each department operating under this (~~chapter shall adopt~~) title may approve
375 public rules under K.C.C. chapter 2.98 and procedures to implement the provisions of
376 (~~Ordinance 13263, and specifically the~~) this title. Each department shall approve
377 procedures to implement the guidelines set out in this chapter (~~describing reasonable and~~
378 ~~appropriate protocols~~) for investigating code violations.

379 NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 23.02 a
380 new section to read as follows:

381 A. No person shall throw, drop, discard, or otherwise dispose or illegally dump,
382 as defined in K.C.C. 10.04.020, or cause solid waste, as defined in K.C.C. 10.04.020, to
383 be disposed or illegally dumped upon any public property, including, but not limited to,
384 any right of way, park, beach, campground, forest land, recreational area, highway, road,
385 street or alley, or in surrounding water, or upon private property not owned by that person
386 or for which they are an agent of the property owner or with the authorization of the
387 owner, unless:

388 1. The property is designated by King County for the disposal of solid waste and
389 the person is authorized to use such property for that purpose; or

390 2. The waste is placed into an approved waste receptacle in a manner that will
391 prevent litter from being carried away or deposited by the elements upon any private or
392 public property or waters.

393 B.1. It is a civil code violation for a person to illegally dump solid waste in any
394 amount.

395 2. In cases involving illegal dumping in an amount greater than one cubic foot
396 but less than one cubic yard, the person responsible for code compliance shall, in addition
397 to civil penalties, pay an illegal dumping cleanup restitution payment equal to twice the
398 actual cost of cleanup, or fifty dollars per cubic foot of material deposited, whichever is
399 greater. The director shall distribute one-half of the restitution payment to the landowner
400 and one-half of the restitution payment to the enforcement agency investigating the
401 incident. The director may, in addition to or in lieu of part or all of the cleanup restitution

402 payment, order the person to pick up and remove waste material from the property, with
403 prior permission of the legal owner or, in the case of public property, of the agency
404 managing the property. The director may suspend or modify the cleanup restitution
405 payment for a first-time offender under this section, if the person cleans up and properly
406 disposes of the waste.

407 3. In cases involving illegal dumping in an amount of one cubic yard or more,
408 the person responsible for code compliance shall, in addition to civil penalties, pay a
409 cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred
410 dollars per cubic foot of material dumped, whichever is greater. The director shall
411 distribute one-half of the cleanup restitution payment to the landowner and one-half of
412 the cleanup restitution payment to the enforcement agency investigating the incident.
413 The landowner and the enforcement agency may be one and the same. The director may,
414 in addition to or in lieu of part or all of the cleanup restitution payment, order the person
415 to pick up and remove waste from the property, with prior permission of the legal owner
416 or, in the case of public property, of the agency managing the property. The director may
417 suspend or modify the cleanup restitution payment for a first-time offender under this
418 section, if the person cleans up and properly disposes of the litter.

419 NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 23.02
420 a new section to read as follows:

421 The owner, operator or occupant of any dwelling, business establishment or
422 industry shall be responsible for the satisfactory and legal arrangement for the handling
423 and disposing of all solid waste generated or accumulated on the property. Releasing
424 solid waste to a transporter does not end owner responsibility for solid waste handling.

425 NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 23.02
426 a new section to read as follows:

427 Whenever solid wastes dumped in violation of this chapter or any other provision
428 of the King County Code contains three or more items bearing the name of one
429 individual, there shall be a rebuttable presumption that the individual whose name
430 appears on such items committed the illegal dumping.

431 SECTION 12. Ordinance 12024, Section 13, and K.C.C. 23.10.040 are each
432 hereby amended as follows:

433 No person may park, store or abandon a wrecked, dismantled or inoperative
434 vehicle, or part thereof as those terms are defined in K.C.C. chapter 21A.06, on private
435 property, except where the following conditions apply:

436 A. A vehicle or vehicle part is completely enclosed within a building in a lawful
437 manner where it is not clearly visible from the street or from other public or private
438 property; or

439 B. A vehicle is stored or parked in a lawful manner on private property in
440 connection with the business of a licensed dismantler, licensed auto repair business or
441 licensed vehicle dealer and is fenced as required by state law.

442 SECTION 13. Ordinance 12024, Section 14, and K.C.C. 23.10.120 are each
443 hereby repealed.

444 SECTION 14. Ordinance 13263, Section 16, and K.C.C. 23.20.020 are each
445 hereby amended to read as follows:

446 A. ~~((Subject to the appeal provisions of K.C.C. chapter 23.36, a))~~ A citation
447 represents a determination that a civil code violation has ~~((occurred))~~ been committed and

448 that the person cited (~~(party)~~) is a person responsible for code compliance. The
449 determination is final unless contested as provided in this title.

450 B. Subject to (~~(the provisions of)~~) K.C.C. 23.02.130, a citation subjects the
451 person responsible for code compliance to the civil fine prescribed by K.C.C. chapter
452 23.32.

453 C. Subject to section 9 of this ordinance, a citation may subject the person
454 responsible for code compliance to an illegal dumping cleanup restitution payment.

455 ~~D. ((Subject to the provisions of K.C.C. 23.02.130, t))~~ The person ((responsible
456 for code compliance)) issued a citation shall ((either pay the civil fine assessed)) respond
457 to the citation as provided in sections 16 and 17 of this ordinance within ((twenty-one))
458 fourteen days of the date of (~~(issuance))~~ service of the citation (~~((or appeal the citation~~
459 ~~according to the procedures described in K.C.C. chapter 23.36)).~~

460 (~~(D-)~~) E. Failure to (~~(appeal))~~ respond to the citation within (~~((twenty-one))~~)
461 fourteen days shall render the citation a final determination that the conditions described
462 in the citation existed and constituted a civil code violation and that the person cited
463 (~~(party)~~) is liable as a person responsible for code compliance.

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

468 (~~(F-)~~) G. Issuance of a citation in no way limits a director's authority to issue a
469 notice and order or stop work order to the same person responsible for code compliance
470 pursuant to this title. Payment of the civil fine assessed under the citation does not

471 relieve a person responsible for code compliance of his or her duty to correct the
472 violation ~~((and/))~~ or to pay any and all civil penalties accruing under a notice and order or
473 stop work order issued pursuant to this title.

474 SECTION 15. Ordinance 13263, Section 17, and K.C.C. 23.20.030 are each
475 hereby amended to read as follows:

476 ~~((The))~~ A citation shall ~~((include all of))~~ contain the following ~~((information))~~:

477 A. ~~((Identification))~~ A reasonable description of the location of the property on
478 which the violation occurred;

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

480 C. A brief description of the violation or violations found;

481 ~~((C.))~~ D. A statement of the specific ordinance, resolution, regulation, public rule,
482 permit condition, notice and order provision, or stop work order provision that was
483 violated;

484 E. The date that the citation was served;

485 ~~((D.))~~ F. A statement that the citation represents a determination that a civil code
486 violation has occurred and that the person cited ~~((party))~~ is subject to civil fines;

487 ~~((E.))~~ G. A statement of the amount of the civil fine assessed ~~((and that the fine~~
488 ~~must be paid within twenty one days))~~;

489 ~~((F.))~~ H. A statement of the options provided in this title for responding to the
490 citation and the procedures necessary to exercise these options;

491 I. A statement that, at any hearing to contest the determination that a civil code
492 violation has occurred, the county has the burden of proving, by a preponderance of the
493 evidence, that the violation was committed;

494 J. A statement that, at any hearing requested for the purpose of explaining
495 mitigating circumstances surrounding the commission of the violation, the person cited
496 will be deemed to have committed the violation;

497 K. A statement that the person cited must respond to the citation as provided in
498 this chapter within fourteen days;

499 ~~((G.))~~ L. A statement that failure to ~~((appeal))~~ respond to the citation ~~((within~~
500 ~~twenty one days))~~ or to appear at a requested hearing renders the citation a final
501 determination that the conditions described in the citation existed and constituted a civil
502 code violation and that the person cited ~~((party))~~ is liable as a person responsible for code
503 compliance; ~~((and))~~

504 ~~((H.))~~ M. A statement advising that a failure to respond to the citation or appeal
505 appear at a requested hearing may be referred to the prosecuting attorney for prosecution;
506 and

507 N. A statement, made under penalty of perjury as provided in RCW 9A.72.085,
508 setting forth facts supporting issuance of the citation.

509 NEW SECTION. SECTION 16. There is hereby added to K.C.C. chapter 23.20
510 a new section to read as follows:

511 A. A person issued a citation must respond within fourteen days after service of
512 the citation in one of the following ways:

513 1. If the person issued the citation does not contest the determination, the person
514 shall pay the amount of the civil penalty plus cleanup restitution payment, if applicable,
515 specified in the citation. The record shall show a finding that the person cited is the
516 person responsible for code compliance.

517 2. If the person issued the citation does not contest the determination, but wishes
518 to explain the circumstances surrounding the commission of the violation, the person
519 shall request in writing a mitigation hearing and provide a mailing address to which
520 notice of the hearing may be sent; or

521 3. If the person issued the citation wishes to contest the determination that a
522 violation occurred or that the person issued the citation is responsible for the violation,
523 the person shall request in writing a contested hearing and provide a mailing address to
524 which notice of the hearing may be sent.

525 B. The person issued the citation shall respond to the citation by mail to the
526 address provided on the citation. The response shall be postmarked not later than
527 fourteen days after the date the citation was served.

528 C. If a person fails to respond to a citation within fourteen days, the person shall
529 be deemed to have committed the violation stated in the citation. The department may
530 assess the penalty and restitution payment specified in the citation.

531 NEW SECTION. SECTION 17. There is hereby added to K.C.C. chapter 23.20
532 a new section to read as follows:

533 A. If a person requests a hearing in response to a citation to explain mitigating
534 circumstances surrounding the commission of the violation, the department shall notify
535 the hearing examiner that a mitigation hearing has been requested. The office of the
536 hearing examiner shall:

537 1. Schedule a hearing to be held within thirty days after the department provides
538 notice of the request; and

539 2. At least ten days before the date of the hearing, provide notice of the time,
540 place and date of the hearing by first class mail to the address provided in the request for
541 hearing.

542 B. The hearing examiner shall conduct an informal non-evidential hearing. The
543 person cited may produce witnesses, but witnesses may not be compelled to attend. A
544 representative of the department may also attend and provide additional information, but
545 no such attendance is required.

546 C. The hearing examiner shall determine whether the person's explanation
547 justifies reduction of the civil penalty or restitution. In considering whether to reduce the
548 civil penalty or restitution, the hearing examiner may consider mitigating factors
549 necessary to achieve an equitable result and further the legitimate interests of the
550 department.

551 D. After hearing the explanation of the person cited and any other information
552 presented at the hearing, the hearing examiner shall enter an order finding that the person
553 cited committed the violation and assessing civil penalties and cleanup restitution
554 payment, if applicable, in an amount determined by the hearing examiner. The hearing
555 examiner's decision constitutes the final agency action.

556 NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 23.20
557 a new section to read as follows:

558 A. If a person requests a hearing in response to a citation to contest the finding
559 that a violation occurred or to contest that the person issued the citation is responsible for
560 the violation, the department shall notify the hearing examiner that a contested hearing
561 has been requested. The office of the hearing examiner shall:

562 1. Schedule a hearing to be held within sixty days after the department provides
563 notice of the request; and

564 2. At least twenty days before the date of the hearing, provide notice of the time,
565 place and date of the hearing by first class mail to the address provided in the request for
566 hearing.

567 B. Except as otherwise provided in this section, contested hearings shall be
568 conducted pursuant to K.C.C. 20.24.170 and the rules of procedure of the King County
569 hearing examiner. The hearing examiner may issue subpoenas for witnesses and order
570 limited discovery. The requirements of K.C.C. 20.24.145 relating to pre-hearing
571 conferences do not apply to the contested hearing.

572 C. If the rights of the alleged violator to receive notice that meets due process
573 requirements are not prejudiced:

574 1. A citation shall not be deemed insufficient by reason of formal defects or
575 imperfections, including a failure to contain a detailed statement of the facts constituting
576 the specific violation which the person cited is alleged to have committed; and

577 2. A citation may be amended prior to the conclusion of the hearing so as to
578 conform to the evidence presented.

579 D. The burden of proof is on the county to establish by a preponderance of the
580 evidence that the violation was committed. The hearing examiner shall consider the
581 citation and any other written report made as provided in RCW 9A.72.085, submitted by
582 the person who issued the citation or whose written statement was the basis for the
583 issuance of the citation in lieu of that person's personal appearance at the hearing as
584 prima facie evidence that a violation occurred and that the person cited is responsible.

585 The statement and any other evidence accompanying the report shall be admissible
586 without further evidentiary foundation. Any additional certification or declarations
587 authorized under RCW 9A.72.085 shall also be admissible without further evidentiary
588 foundation. The person cited may rebut the evidence and establish that the violation did
589 not occur or that the person contesting the citation is not responsible for the violation.

590 E. If the citation is sustained at the hearing, the hearing examiner shall enter an
591 order finding that the person cited committed the violation. If an ongoing violation
592 remains uncorrected, the hearing examiner shall impose the applicable penalty. The
593 hearing examiner may reduce the penalty as provided in Section 17 of this ordinance if
594 the violation has been corrected. If the hearing examiner finds by a preponderance of the
595 evidence that the violation did not occur, an order shall be entered dismissing the citation.

596 F. The hearing examiner decision is a final agency action.

597 G. A cited person's failure to appear for a scheduled hearing shall result in an
598 order being entered that the person cited is the person responsible for code compliance
599 and assessing the applicable civil penalty and if applicable, cleanup restitution payment.

600 SECTION 19. Ordinance 13263, Section 21, as amended, and K.C.C.23.24.020
601 are each hereby amended to read as follows:

602 A. Subject to the appeal provisions of K.C.C. chapter 23.36, a notice and order
603 represents a determination that a civil code violation has ~~((occurred))~~ been committed,
604 that the person cited ~~((party))~~ is a person responsible for code compliance, and that the
605 violations set out in the notice and order require the assessment of penalties and costs and
606 other remedies including cleanup restitution payment, if applicable, specified in the
607 notice and order.

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

611 1. Additional civil penalties and costs;

612 2. A requirement that abatement, remediation (~~((and/))~~) or mitigation be
613 performed;

614 3. An agreement to perform community service as prescribed by this chapter;

615 4. Permit suspension, revocation, modification (~~((and/))~~) or denial as prescribed by
616 this chapter; (~~((and/))~~) or

617 5. Abatement by a director and recovery of the costs of abatement according to
618 the procedures described in this chapter.

619 C. Any person identified in the notice and order as responsible for code
620 compliance may appeal the notice and order within (~~((twenty-one))~~) fourteen days
621 according to the procedures (~~((described))~~) in K.C.C. chapter 23.36.

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

626 E. Issuance of a notice and order in no way limits a director's authority to issue a
627 citation or stop work order to a person previously cited through the notice and order
628 process pursuant to this title. Payment of the civil penalties assessed under the notice and
629 order does not relieve a person found to be responsible for code compliance of his or her

630 duty to correct the violation and/or to pay any and all civil fines or penalties accruing
631 under citations or stop work orders issued pursuant to this title.

632 SECTION 20. Ordinance 13263, Section 30, and K.C.C.23.24.110 are each
633 hereby amended to read as follows:

634 A. The county may deny a development proposal permit, when, with regard to
635 the site or project for which the permit application is submitted:

636 1. ~~((a))~~Any person has been found in violation and remains in violation of any
637 ordinance, resolution, regulation or public rule of the county that regulates or protects the
638 public health or the use and development of land or water, whether or not such ordinance,
639 resolution, regulation or public rule is codified; ~~((or))~~

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

643 3. ~~((f))~~For any property which has been found in violation and remains in
644 violation of K.C.C. chapters 21.54 or 21A.24 or of any rule, permit, approval, order,
645 easement, plan or agreement issued thereunder~~((:))~~; or

646 4. Any combination of the above.

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

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

- 653 1. ~~that a citation, notice and order or stop work order has been issued and not~~
654 ~~timely appealed; or~~
- 655 2. ~~that a voluntary compliance agreement has been entered into; or~~
- 656 3. ~~that the hearing examiner has determined that the violation has occurred and~~
657 ~~such determination has not been stayed or reversed on appeal.))~~

658 SECTION 21. Ordinance 13263, Section 33, as amended and K.C.C. 23.24.140
659 are each hereby amended as follows:

660 All moneys collected from the assessment of civil penalties, from cleanup
661 restitution payments to the agency, the recovery of the costs of pursuing code compliance
662 and abatement, and from the recovery of abatement costs, both retroactively and
663 prospectively, except those moneys designated for the ((sensitive)) critical areas
664 mitigation fund as set forth in K.C.C. chapter 21A.24, shall be allocated to support
665 expenditures for abatement and code enforcement administrative costs, including, but not
666 limited to, personnel costs, and shall be accounted for through either creation of a fund or
667 other appropriate accounting mechanism in the department issuing the citation or notice
668 and order under which the abatement occurred. Withdrawals from the moneys collected
669 under this section for the purpose of funding administrative costs within the code
670 enforcement section of the department of development and environmental services shall
671 not exceed one hundred seventy-five thousand dollars in a calendar year.

672 SECTION 22. Ordinance 13263, Section 37, as amended, and K.C.C. 23.32.010
673 are each hereby amended as follows:

674 A.1. Civil fines and civil penalties for civil code violations shall be imposed for
675 remedial purposes and shall be assessed for each violation identified in a citation, notice

676 and order, voluntary compliance agreement or stop work order pursuant to the following
677 schedule:

- 678 a. citations
- | | |
|---|-----------------|
| 679 (1) with no previous similar code violations | \$100 |
| 680 (2) with one or more previous similar code violations | \$500 |
| 681 (3) with two or more previous violations of K.C.C. Title 10 | Double the rate |
| 682 | of the previous |
| 683 | penalty |

684 b. violation of notice and orders and stop work orders

- | | |
|--|-------|
| 685 (1) stop work order basic penalty | \$500 |
| 686 (2) voluntary compliance agreement and notice and order basic penalty | \$25 |
| 687 (3) additional initial penalties may be added in the following amounts | |
| 688 for violations where there is: | |
| 689 (a) public health risk | \$15 |
| 690 (b) environmental damage risk | \$15 |
| 691 (c) damage to property risk | \$15 |
| 692 (d) one previous similar code violation | \$25 |
| 693 (e) two previous similar code violations | \$50 |
| 694 (f) three or more previous similar code violations | \$75 |
| 695 (g) economic benefit to person responsible for violation | \$25 |

696 c. cleanup restitution payment – as specified in section 9 of this ordinance.

697 d. reinspection following the issuance of a notice and order, if the

698 violation has not been abated in accordance with the notice and order:

| | | |
|-----|---|--------------|
| 699 | <u>(1) first reinspection, which shall occur no sooner than the day</u> | <u>\$150</u> |
| 700 | <u>following the date compliance is required by the notice and order</u> | |
| 701 | <u>(2) second reinspection, which shall occur no sooner than fourteen</u> | <u>\$300</u> |
| 702 | <u>days following the first reinspection</u> | |
| 703 | <u>(3) third reinspection, which shall occur no sooner than fourteen</u> | <u>\$450</u> |
| 704 | <u>days following the second reinspection</u> | |
| 705 | <u>(4) reinspection after the third reinspection, which shall only be</u> | <u>\$450</u> |
| 706 | <u>conducted immediately preceding an administrative or court ordered</u> | |
| 707 | <u>abatement or at the direction of the prosecuting attorney for the</u> | |
| 708 | <u>purpose of presenting evidence in the course of litigation or administrative</u> | |
| 709 | <u>hearing against the person responsible for code compliance</u> | |

710 2. For the purposes of this section, previous similar code violations that can
711 serve as a basis for a higher level of civil penalties include violations of the same chapter
712 of the King County Code. Any citation, stop work order or notice and order previously
713 issued by the department shall not constitute a previous code violation for the purposes of
714 this section if that stop work order or notice and order was appealed and subsequently
715 reversed.

716 B. The penalties assessed pursuant to this section for any failure to comply with a
717 notice and order or voluntary compliance agreement shall be assessed daily, according to
718 the schedule in subsection A of this section, for the first thirty days following the date the
719 notice and order or voluntary compliance agreement required the code violations to have
720 been cured. If after thirty days the person responsible for code compliance has failed to
721 satisfy the notice and order or voluntary compliance agreement, penalties shall be

722 assessed daily at a rate of double the rate for the first thirty days. Penalties may be
723 assessed daily until the person responsible for code compliance has fully complied with
724 the notice and order.

725 C. Penalties based on violation of a stop work order shall be assessed, according
726 to the schedule in subsection A of this section, for each day the department determines
727 that work or activity was done in violation of the stop work order.

728 D. Citations and cleanup restitution payments shall only be subject to a one-time
729 civil penalty ((only)).

730 E. The director may suspend the imposition of additional civil penalties if the
731 person responsible for code compliance has entered into a voluntary compliance
732 agreement. If the person responsible for code compliance enters into a voluntary
733 compliance agreement and cures the code violations, the director may also waive all or
734 part of the accrued civil penalties in accordance with K.C.C. 23.32.050. Penalties shall
735 begin to accrue again pursuant to the terms of the voluntary compliance agreement if any
736 necessary permits applied for are denied, canceled or not pursued, or if corrective action
737 identified in the voluntary compliance agreement is not completed as specified.

738 F. The civil penalties in this section are in addition to, and not in lieu of, any
739 penalties, sanctions, restitutions or fines provided for in any other provisions of law.

740 SECTION 23. Ordinance 13263, Section 38 and K.C.C. 23.32.020 are each
741 hereby repealed.

742 SECTION 24. Ordinance 13263, Section 40 and K.C.C. 23.32.040 are each
743 hereby amended as follows:

744 A. The code compliance provisions for ((sensitive)) critical areas are intended to
745 encourage compliance with K.C.C. chapter((s-21.54 and)) 21A.24, to protect ((sensitive))
746 critical areas and the general public from harm and to further the remedial purposes of
747 this title. To achieve this, persons responsible for code compliance will not only be
748 required to restore damaged ((sensitive)) critical areas, insofar as that is possible and
749 beneficial, but will also be required to pay a civil penalty for the redress of ecological,
750 recreation, and economic values lost or damaged due to their unlawful action.

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

753 C. Where feasible, the owner of the land on which the violation occurred shall be
754 named as a party to the notice and order. In addition to any other persons who may be
755 liable for a violation, and subject to the exceptions provided in K.C.C. 23.02.130, the
756 owner shall be jointly and severally liable for the restoration of a site and payment of any
757 civil penalties imposed.

758 D. For the purposes of this section, violation of the ((sensitive)) critical area
759 ordinance means:

760 1. ((†))The violation of any provision of K.C.C. chapter((s-21.54 or)) 21A.24 or
761 ((of the administrative)) rules ((promulgated)) adopted thereunder;

762 2. ((†))The failure to obtain a permit required for work in a ((sensitive)) critical
763 area; or

764 3. ((†))The failure to comply with the conditions of any permit, approval, terms
765 and conditions of any ((sensitive)) critical area tract or setback area, easement or other
766 covenant, plat restriction or binding assurance or any notice and order, stop work order,

767 mitigation plan, contract or agreement issued or concluded pursuant to the above-
768 mentioned provisions.

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

771 1. ~~((a))~~According to the civil penalty schedule included in this chapter of this
772 title, provided that the exact amount of the penalty per violation shall be determined by
773 the department based on the physical extent and severity of the violation; or

774 2. ~~((t))~~The greater of:

775 a. ~~((a))~~An amount determined to be equivalent to the economic benefit that the
776 person responsible for code compliance derives from the violation measured as the total
777 of:

778 (1) the resulting increase in market value of the property;

779 (2) the value received by the person responsible for code compliance; and

780 (3) the savings of construction costs realized by the person responsible for
781 code compliance as a result of performing any act in violation of the chapter; or

782 b. ~~((e))~~Code compliance costs ~~((such amount))~~ not to exceed \$25,000.00~~((t))~~
783 incurred by the county to enforce ~~((K.C.C. 21.54 and/or K.C.C. 21A.24))~~ the critical
784 areas ordinance against the person responsible for code compliance.

785 SECTION 25. Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010
786 are each hereby amended to read as follows:

787 A. Any person ~~((issued a citation or))~~ named in a notice and order or stop work
788 order and any owner of the land where the violation occurred for which a ~~((citation,))~~
789 notice and order or stop work order is issued ~~((occurred))~~ and any complainant who is an

790 aggrieved person pursuant to K.C.C. Title 20 and requests to be kept advised pursuant to
791 K.C.C. 23.02.070.H may file with the issuing department a notice of appeal of ((a
792 citation;)) the notice and order((;)) or stop work order(~~(; determination to enter into a~~
793 ~~voluntary compliance agreement or a determination not to issue a citation or order)~~)
794 within fourteen days of the service of the ((citation;)) notice and order or stop work order
795 ((with the issuing department)).

796 B. If a notice of appeal has been filed within the time period provided ((herein))
797 in this section, the appellant shall file a statement of appeal within twenty-one days of the
798 service of the ((citation;)) notice and order or stop work order with the issuing
799 department.

800 C. Any person ((named in)) issued a citation ((may appeal)) shall respond to the
801 citation ((by signing the citation, indicating on the citation that a hearing is requested, and
802 returning the citation to the issuing agency or department within twenty one days of its
803 service)) as provided in K.C.C. chapter 23.20.

804 D. A notice of appeal shall comply with the form, content and service
805 requirements of K.C.C. chapters 20.20 and 20.24 and adopted public rules ((promulgated
806 thereunder)).

807 SECTION 26. Ordinance 13263, Section 45 and K.C.C. 23.36.030 are each
808 hereby amended to read as follows:

809 A. Following review of the evidence submitted, the hearing examiner shall make
810 written findings and conclusions and shall affirm or modify the ((citation;)) notice and
811 order or stop work order previously issued if the examiner finds that a violation has

812 occurred. The examiner shall uphold the appeal and reverse the ~~((citation or))~~ order if the
813 examiner finds that no violation has occurred.

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

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

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

827 SECTION 27. Ordinance 4461, Section 3, as amended and K.C.C. 20.24.090 are
828 each hereby amended to read as follows:

829 A. Except as otherwise provided ~~((herein))~~ in this section, ~~((all))~~ a notice~~((s))~~ of
830 appeal ~~((to the examiner))~~ shall be filed with the county department or division issuing
831 the original decision with a copy provided by the department or division to the office of
832 the hearing examiner. ~~((Except as otherwise provided herein,))~~ The notice of appeal,
833 together with the required appeal fee, shall be filed within the prescribed appeal period.
834 The appeal period shall be fourteen calendar days and shall commence on the third day

835 after the mailing of the notice of decision. In cases of appeals of Type 2 land use
836 decisions made by the director, if WAC 197-11-340(2)(a) applies the notice of appeal
837 ~~((period))~~ shall be ~~((extended for an additional seven calendar))~~ filed within twenty-four
838 days after the mailing of the notice of decision~~((if WAC 197-11-340(2)(a) applies)).~~

839 B. A ((N))notice((s)) of appeal of the recommendation to deny vacation of a
840 county road by the department of transportation((;)) shall be filed along with the required
841 two hundred dollar administrative fee with the clerk of the county council within thirty
842 days of an issuance of ((said)) the denial.

843 C. Except in the case of an appeal of a citation under K.C.C. chapter 23.20, ((I))if
844 a notice of appeal has been filed within the applicable time period ((provided herein)), the
845 appellant shall file a statement of appeal with the county department or division issuing
846 the original decision or action within ((a twenty one calendar)) seven days ((period
847 commencing three days)) after the ((mailing of the notice of decision or action)) filing
848 deadline for the notice of appeal. A statement of appeal is not required for an appeal of a
849 citation issued under K.C.C. chapter 23.20. Department or division staff shall:

850 1. Be available within a reasonable time to persons wishing to file a statement of
851 appeal subsequent to an agency ruling, and to respond to queries concerning the facts and
852 process of the county decision; and

853 2. Make available within a reasonable time a complete set of files detailing the
854 facts of the department or division ruling in question to persons wishing to file a
855 statement of appeal, subsequent to an agency ruling. If a department or division is unable
856 to comply with these provisions, the hearing examiner may authorize amendments to a
857 statement of appeal to reflect information not made available to an appellant within a

858 reasonable time due to a failure by a county agency to meet the foregoing requirements.

859 D. The statement of appeal shall:

860 1. ~~((i))~~ Identify the decision being appealed and the alleged errors in that
861 decision(~~((Further, the statement of appeal shall))~~);

862 2. ~~((s))~~ State specific reasons why the decision should be reversed or modified;

863 ~~((and))~~

864 3. State the harm suffered or anticipated by the appellant~~((s))~~; and

865 4. Identify the relief sought.

866 E. The scope of an appeal shall be based principally on matters or issues raised in
867 the statement of appeal.

868 F. Failure to timely file a notice of appeal, appeal fee or statement of appeal
869 deprives the examiner of jurisdiction to consider the appeal. As used in this section,
870 filing means actual receipt by the department required to be served.

871 SECTION 28. Ordinance 11502, Section 13 and K.C.C. 20.24.175 are each
872 hereby amended to read as follows:

873 In all matters heard by the examiner, the examiner shall use case management
874 techniques to the extent reasonable including:

875 A. ~~((t))~~ Limiting testimony and argument to relevant issues and to matters
876 identified in the pre-hearing order (~~((if applicable))~~);

877 B. ~~((p))~~ Pre-hearing identification and submission of exhibits (if applicable);

878 C. ~~((s))~~ Stipulated testimony or facts;

879 D. ~~((p))~~ Pre-hearing dispositive motions (if applicable);

880 E. ~~((u))~~ Use of pro tempore examiners;

881 F. Voluntary mediation and complainant appeal mediation; and

882 G. ((e))Other methods to promote efficiency and to avoid delay.

883 SECTION 29. If any provision of this ordinance or its application to any person
884 or circumstance is held invalid, the remainder of the ordinance or the application of the
885 provision to other persons or circumstances is not affected.

886

Ordinance 16278 was introduced on 8/25/2008 and passed by the Metropolitan King
County Council on 10/20/2008, by the following vote:

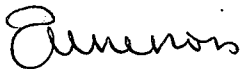
Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von
Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON




Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27 day of OCTOBER, 2008.



Ron Sims, County Executive

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CLERK

Attachments None