



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 29, 2013

Ordinance 17591

Proposed No. 2013-0187.2

Sponsors McDermott and Lambert

1 AN ORDINANCE relating to code enforcement penalties;
2 and amending Ordinance 13263, Section 9, as amended,
3 and K.C.C. 23.02.080, Ordinance 13263, Section 41, and
4 K.C.C. 23.32.050, Ordinance 13263, Section 55, and
5 K.C.C. 23.32.100, Ordinance 17191, Section 56, and
6 K.C.C. 23.32.110 and Ordinance 17191, Section 57, and
7 K.C.C. 23.32.120.

8 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 SECTION 1. Ordinance 13263, Section 9, as amended, and K.C.C. 23.02.080 are
10 each hereby amended to read as follows:

11 A. Service of a citation, notice of compliance ~~((or))~~, notice and order or penalty
12 waiver decision shall be made on a person responsible for code compliance by one or
13 more of the following methods:

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

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

24 3. Service by mail may be made for a citation, notice of noncompliance ~~((or a))~~,
25 notice and order or penalty waiver decision by mailing two copies, postage prepaid, one
26 by ordinary first class mail and the other by certified mail, to the person responsible for
27 code compliance at ~~((his or her))~~ the person's last known address, at the address of the
28 violation~~((;))~~ or at the address of the person's place of business ~~((of the person responsible~~
29 ~~for code compliance))~~. The taxpayer's address as shown on the tax records of the county
30 shall be deemed to be the proper address for the purpose of mailing such notice to the
31 landowner of the property where the violation occurred. Service by mail shall be
32 presumed effective upon the third business day following the day upon which the
33 citation, notice of noncompliance ~~((or))~~, notice and order or penalty waiver decision was
34 placed in the mail.

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

38 C. Service of a stop work order on a person responsible for code compliance may
39 be made by posting the stop work order in a conspicuous place on the property where the
40 violation occurred or by serving the stop work order in any other manner permitted by
41 this section.

42 D. The failure of the director to make or attempt service on any person named in
43 the citation, notice of noncompliance, notice and order ~~((or))~~, stop work order or penalty
44 waiver decision shall not invalidate any proceedings as to any other person duly served.

45 SECTION 2. Ordinance 13263, Section 41, as amended, and K.C.C. 23.32.050
46 are each hereby amended to read as follows:

47 A. The invoice for newly assessed civil penalties imposed under this title shall
48 include a statement advising the person responsible for code compliance that there is a
49 right, within twenty-one days from service of the invoice, to request a waiver from the
50 director of some or all of the penalties.

51 B. Civil ~~((fines and civil))~~ penalties, in whole or in part, may be waived or
52 reimbursed to the payer by the director, with the concurrence of the director of the
53 department of ~~finance~~ executive services, under the following circumstances:

54 1. The citation, notice and order, notice of noncompliance or stop work order
55 was issued in error;

56 2. The civil ~~((fines or civil))~~ penalties were assessed in error; or

57 3. Notice failed to reach the property owner due to unusual circumstances.

58 ~~((B-))~~ C. Civil ~~((fines and civil))~~ penalties, in whole or in part, may be waived by
59 the director, with the concurrence of the director of the department of ~~((finance))~~
60 executive services or ~~((it's))~~ its successor agency, under the following circumstances:

61 1. The code violations have been cured under a voluntary compliance
62 agreement;

63 2. The code violations which formed the basis for the civil penalties have been
64 cured, and the director finds that compelling reasons justify waiver of all or part of the
65 outstanding civil penalties; or

66 3. Other information warranting waiver has been presented to the director since
67 the citation, notice and order ~~((ø#))~~, notice of noncompliance, stop work order or newly
68 assessed penalty invoice was issued.

69 ~~((G:))~~ D. In cases where additional penalties may be assessed and liens issued, or
70 where compliance or other factors may provide a later ground for waiver, the director
71 may postpone consideration of the waiver request. New penalties may be assessed as
72 warranted, but interest shall not accrue on, and collection shall not be pursued for,
73 penalties subject to a pending waiver request.

74 E. When the director reaches a final determination on a waiver request, the
75 department shall provide a written decision to the person filing the waiver request, either
76 in person or by mail. The written decision shall inform the person of the right to appeal
77 the waiver decision and shall provide notice of the appeal deadlines and requirements
78 established in this chapter.

79 F. The director shall document the circumstances under which a decision was
80 made to waive penalties and such a statement shall become part of the public record
81 unless privileged.

82 SECTION 3. Ordinance 17191, Section 55, and K.C.C. 23.32.100 are each
83 hereby amended to read as follows:

84 A. ~~((The invoice for civil penalties imposed under this title shall include a~~
85 ~~statement advising the person responsible for code compliance that there is a right to~~

86 ~~appeal any civil penalties assessed for any time period after achieving compliance with a~~
87 ~~notice and order, stop work order or voluntary compliance agreement.))~~ A person who
88 filed a penalty waiver request under K.C.C. 23.32.050 may appeal the director's decision
89 denying all or a portion of the request waiver.

90 B. ~~((The person billed in an invoice for civil penalties who believes that civil~~
91 ~~penalties were assessed for a time period after achieving compliance may file an appeal~~
92 ~~with the department.))~~ In order to be effective, a written notice and statement of appeal
93 must be received by the department within fourteen days from ~~((the date of the invoice))~~
94 service of the director's penalty waiver decision. The statement of appeal must include:

- 95 1. The identity of the person filing the appeal;
- 96 2. The address of the property where the violations were determined to exist;
- 97 3. ~~((A description of the violations for which civil penalties were assessed; and~~
98 ~~4.))~~ A description of the actions taken to achieve compliance and, if applicable,
99 the date of compliance; and
- 100 4. Any other reasons why the person believes the penalties are erroneous or
101 excessive under the circumstances.

102 C. Failure to effectively appeal the ~~((assessment of civil penalties))~~ director's
103 penalty waiver decision within the applicable time limits renders the ~~((invoiced amount))~~
104 decision final.

105 SECTION 4. Ordinance 17191, Section 56, and K.C.C. 23.32.110 are each
106 hereby amended to read as follows:

107 ~~((The hearing examiner shall conduct a closed record hearing on the appeal of the~~
108 ~~assessment of civil penalties.))~~ The burden is on the appellant to demonstrate by a

109 preponderance of the evidence that civil penalties were assessed after achieving
110 compliance or that the penalties are otherwise erroneous or excessive under the
111 circumstances. If the hearing examiner grants the appeal, the examiner shall modify the
112 assessment of civil penalties accordingly. If the hearing examiner denies the appeal in
113 whole or in part, assessed civil penalties shall be reinstated in full. The hearing
114 examiner's decision is final.

115 SECTION 5. Ordinance 17191, Section 57, and K.C.C. 23.32.120 are each
116 hereby amended to read as follows:

117 A. In an appeal of the assessment of civil penalties, the appellant may (~~only~~
118 ~~challenge whether civil penalties were assessed for any time period after achieving~~
119 ~~compliance. The hearing examiner's determination is limited to finding whether civil~~
120 ~~penalties were assessed for any time period after achieving compliance and to~~
121 ~~establishing the proper penalty dates if the appeal is granted~~) not challenge findings,
122 requirements or other items, that could have been challenged during the appeal period for
123 a citation, notice and order, notice of noncompliance, stop work order or earlier penalty.

124 B. The appeal of the assessment of civil penalties to the hearing examiner shall
125 be governed by K.C.C. chapters 20.24 and 23.36, except that where specific provisions in
126 this chapter conflict with KCC chapter((s)) 20.24 or 23.36, the provisions of this chapter
127 shall govern.

128 C. Upon the timely receipt of a statement of appeal, the assessment of civil
129 penalties shall be tolled pending the hearing examiner's decision. New penalties may be
130 assessed and liens issued as warranted, but interest shall not accrue on, and collection
131 shall not be pursued for, penalties subject to a pending appeal. Should the hearing


132 examiner deny or dismiss the appeal, the civil penalties shall be applied retroactively
133 from the date that compliance was required in the notice and order, stop work order,
134 voluntary compliance agreement or the compliance dates set in the hearing examiner's
135 decision on an appeal of a notice and order.

136

Ordinance 17591 was introduced on 4/15/2013 and passed by the Metropolitan King
County Council on 5/28/2013, by the following vote:

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

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

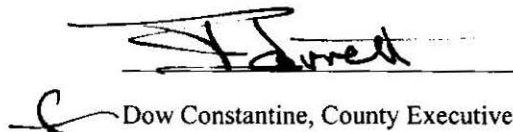

Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 8 day of May, 2013.


Dow Constantine, County Executive

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CLERK

Attachments: None