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Title: AN ORDINANCE relating to enforcement of county codes; and amending Ordinance 13250, Section 1, as amended, and K.C.C. 20.20.100, Ordinance 13263, Section 5, and K.C.C. 23.02.040, Ordinance 13263, Section 7, and K.C.C. 23.02.060, Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070, Ordinance 13263, Section 10, as amended, and K.C.C. 23.02.090, Ordinance 13263, Section 12, and K.C.C. 23.02.110, Ordinance 13263, Section 13, as amended, and K.C.C. 23.02.120, Ordinance 13263, Section 14, and K.C.C. 23.02.130, Ordinance 12024, Section 13, as amended, and K.C.C. 23.10.040, Ordinance 13263, Section 15, and K.C.C. 23.20.010, Ordinance 13263, Section 16, and K.C.C. 23.20.020, Ordinance 13263, Section 17, and K.C.C. 23.20.030, Ordinance 13263, Section 20, and K.C.C. 23.24.010, Ordinance 13263, Section 16, and K.C.C. 23.24.020, Ordinance 13263, Section 29, and K.C.C. 23.24.100, Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, and K.C.C. 23.24.140, Ordinance 13263, Section 40, and K.C.C. 23.32.040, Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010, and Ordinance 13263, Section 45, and K.C.C. 23.36.030.

Sponsors: Larry Phillips

Indexes: Budget, Enforcement, Fees, King County Code

Code sections: 20.20.100 -, 23.02.040 -, 23.02.060 -, 23.02.070 -, 23.02.090 -, 23.02.110 -, 23.02.120 -, 23.02.130 -, 23.10.040 -, 23.20.010 -, 23.20.020 -, 23.20.030 -, 23.24.010 -, 23.24.020 -, 23.24.100 -, 23.24.110 -, 23.24.140 -, 23.32.040 -, 23.36.010 -, 23.36.030 -

Attachments: 1. 2002-0518 Attachment to Fiscal Note Amending Title 23.doc, 2. 2002-0518 Fiscal Note.doc, 3. 2002-0518 Hearing Notice.doc, 4. 2002-0518 Metropolitan King County Council Notice of Hearing.doc, 5. 2002-0518 Notice of Intent to Amend and Notice of Public Meeting.doc, 6. 2002-0518 Regulatory Note-Checklist of Criteria.doc, 7. 2002-0518 Summary of Proposed Ordinance on Enforcement of County Codes - October 7, 2002.doc, 8. 2002-0518 Transmittal Letter.doc, 9. None

Date	Ver.	Action By	Action	Result
11/25/2002	1	Metropolitan King County Council	Hearing Held	
11/18/2002	1	Metropolitan King County Council	Relieved and Referred	
10/21/2002	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to enforcement of county codes; and amending Ordinance 13250, Section 1, as amended, and K.C.C. 20.20.100, Ordinance 13263, Section 5, and K.C.C. 23.02.040, Ordinance 13263, Section 7, and K.C.C. 23.02.060, Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070, Ordinance 13263, Section 10, as amended, and K.C.C. 23.02.090, Ordinance

13263, Section 12, and K.C.C. 23.02.110, Ordinance 13263, Section 13, as amended, and K.C.C. 23.02.120, Ordinance 13263, Section 14, and K.C.C. 23.02.130, Ordinance 12024, Section 13, as amended, and K.C.C. 23.10.040, Ordinance 13263, Section 15, and K.C.C. 23.20.010, Ordinance 13263, Section 16, and K.C.C. 23.20.020, Ordinance 13263, Section 17, and K.C.C. 23.20.030, Ordinance 13263, Section 20, and K.C.C. 23.24.010, Ordinance 13263, Section 16, and K.C.C. 23.24.020, Ordinance 13263, Section 29, and K.C.C. 23.24.100, Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, and K.C.C. 23.24.140, Ordinance 13263, Section 40, and K.C.C. 23.32.040, Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010, and Ordinance 13263, Section 45, and K.C.C. 23.36.030.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13250, Section 1, as amended, and K.C.C. 20.20.100 are each hereby amended to read as follows:

Permit issuance.

A. Final decisions by the county on all permits and approvals subject to the procedures of this chapter shall be issued within one hundred twenty days from the date the applicant is notified by the department pursuant to this chapter that the application is complete, provided that the following shorter time periods should apply for the type of land use permit indicated:

New residential building permits	90 days
Residential remodels	40 days
Residential appurtenances, such as decks and garages	40 days for 15 days, or
residential appurtenances which require substantial site review.	
SEPA exempt clearing and grading	45 days
SEPA clearing and grading	90 days
Health Department review (for projects pending a final department review and/or permit).	40 days

The following periods shall be excluded from (~~this one hundred twenty day period~~) the applicable time:

1. Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans, perform required studies or provide additional information, including road variances and variances required under K.C.C. chapter 9.04. The period shall be calculated from the date of notice to the applicant of the need for additional information until the earlier of the date the county advises the applicant that the additional information satisfies the county's request, or fourteen days after the date the information has been provided. If the county determines that the correction, study or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

a. The department shall set a reasonable deadline for the submittal of corrections, studies or other information when requested, and shall provide written notification to the applicant. An extension of such deadline may be granted upon submittal by an applicant of a written request providing satisfactory justification of an extension.

b. Failure by the applicant to meet such deadline shall be cause for the department to cancel/deny the application.

c. When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department's decision regarding that request.

2. The period of time, as set forth in K.C.C. 20.44.050, during which an environmental impact statement is being prepared following a determination of significance pursuant to chapter 43.21C RCW.

3. A period of no more than ninety days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than sixty days for a closed record appeal by the county council on a Type 3 land use decision appealable to the county council, except when the parties to an appeal agree to extend these time periods.

4. Any period of time during which an applicant fails to post the property, if required by this chapter,

following the date notice is required until an affidavit of posting is provided to the department by the applicant.

5. Any time extension mutually agreed upon by the applicant and the department.

6. Any period of time during which review of an application has been suspended under K.C.C.

23.24.110D.

B. The time limits established in this section shall not apply if a proposed development:

1. Requires an amendment to the comprehensive plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;

2. Requires approval of a new fully contained community as provided in RCW 36.70A.350 master planned resort as provided in RCW 36.70A.360 or the siting of an essential public facility as provided for RCW 36.70A.200; or

3. Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

C. If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

D. The department shall require that all plats, short plats, building permits, clearing and grading permits, conditional use permits, special use permits, site development permits, shoreline substantial development permits, binding site plans, urban planned development permits or fully contained community permits issued for development activities on or within five hundred feet of designated agricultural lands, forest lands or mineral resource lands shall contain a notice that the subject property is within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

SECTION 2. Ordinance 13263, Section 5, and K.C.C. 23.02.040 are each hereby amended to read as follows:

Enforcement authority and administration.

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

1. Enter into voluntary compliance agreements with persons responsible for code compliance;
2. Issue citations and assess civil penalties as authorized by K.C.C. chapter 23.20.
3. Issue notice and orders, assess civil penalties and fines and recover costs as authorized by K.C.C. chapter 23.24;
4. Order abatement by means of a notice and order, and if such abatement is not timely completed by the person responsible for code compliance, undertake the abatement and charge the reasonable costs of such work as authorized by K.C.C. chapter 23.24;
5. Allow a person responsible for code compliance to perform community service in lieu of paying civil penalties as authorized by K.C.C. chapter 23.24;
6. Order work stopped at a site by means of a stop work order, and if such order is not complied with, assess civil penalties, as authorized by K.C.C. chapter 23.28; and/or
7. Suspend, revoke or modify any permit previously issued by a director or deny a permit application as authorized by K.C.C. chapter 23.24 when other efforts to achieve compliance have failed.

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

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

manner authorized by law. (~~Ordinance 13263~~) This title shall not be construed to affect the authority of the King County board of health in enforcement of the King County board of health code or regulations.

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

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

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

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

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

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

J. The provisions of (~~Ordinance 13263~~) K.C.C. 23.02.010B authorizing the enforcement of non-codified ordinances are intended to assure compliance with conditions of approval on plats, unclassified use

permits, zone reclassifications and other similar permits or approvals which may have been granted by ordinances which have not been codified, and to enforce new regulatory ordinances which are not yet codified. Departments should be sensitive to the possibility that citizens may not be aware of these ordinances, and should give warnings prior to enforcing such ordinances, except in high risk cases.

SECTION 3. Ordinance 13263, Section 7, and K.C.C. 23.02.060 are each hereby amended to read as follows:

Initial investigation - field verification - notice of complaint and investigation - records and database - right of entry. This section sets forth guidelines for more specific procedures to be used by each department in implementing ~~((Ordinance 13263))~~ this title. 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))~~ before, 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 ~~((f))~~, if not an owner or occupant~~((t))~~, should be advised of any complaint by personal contact, phone, posting ~~((and/))~~ or mail.

2. ~~((The complainant should be contacted by phone and, if possible, in person during the field visit.))~~
To the extent possible, the department should notify the complainant that the complaint has been received and whether an investigation will be initiated.

C. To the extent possible, all departments with compliance requirement authority should record land-

based violations in a database system, which should be accessible to all other departments.

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

E. Staff undertaking field investigations shall comply with the provisions of this title regarding right of entry.

SECTION 4. Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070 are each hereby amended to read as follows:

Procedures when probable violation identified.

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

B. Except as provided in subsection D of this section, a warning ~~((shall))~~ should be issued verbally or in writing promptly when a field inspection reveals a violation, or as soon as the department otherwise determines that a violation has occurred. The warning ~~((shall))~~ should inform the person determined to be responsible for code compliance of the violation and allow the person an opportunity to correct it or enter into a voluntary compliance agreement as provided for by this title. Verbal warnings ~~((shall))~~ should be logged and followed up with a written warning within two weeks, and the site ~~((shall))~~ should be reinspected within thirty days.

C. The guidelines in this section for warnings, notifications and re~~((-))~~inspections 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.

D. ~~((No))~~ A warning need not be issued in high-risk cases, emergencies, repeat violation cases, cases that are already subject to a voluntary compliance agreement, cases in which the violation creates a situation or condition that is not likely to be corrected within a short ~~((period of))~~ time, cases in which a stop work order is necessary~~((;))~~ or if the person responsible for code compliance knows or reasonably should have known that the action was a civil code violation.

E. ~~((Citations may be issued in moderate and low risk cases, if the department determines it is probable that violation can likely be fully corrected in a short period of time.~~

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

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

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

~~((I.))~~ G. Any complainant who provides a mailing address and requests to be kept advised of enforcement efforts should be mailed a copy of ~~((all written warnings,))~~ voluntary compliance agreements, citations, notice and orders, and stop work orders ~~((and notices of settlement conferences))~~ issued by a department with regard to the alleged violation. ~~((Any complainant who is an aggrieved person may appeal a~~

~~citation, notice and order, stop work order, a determination to enter into a voluntary compliance agreement or a determination not to issue a citation or order pursuant to the provisions of K.C.C. chapter 20.24, provided that the appeal shall be considered a civil proceeding, and any decision to pursue criminal sanctions shall remain the obligation of the prosecuting attorney, as set out in K.C.C. 23.02.030.))~~

SECTION 5. Ordinance 13263, Section 10, as amended, and K.C.C. 23.02.090 are each hereby amended to read as follows:

Voluntary compliance agreement - authority.

A. Whenever the applicable department determines that a code violation has occurred or is occurring, the department ~~((shall))~~ should make reasonable efforts to secure voluntary compliance from the person responsible for code compliance. Upon contacting the person responsible for code compliance, the department may enter into a voluntary compliance agreement as provided for in this section.

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

C. The voluntary compliance agreement is a commitment by the person responsible for code compliance under which the person agrees to do any combination of abating the violation, remediating the site or mitigating the impacts of the violation. The voluntary compliance agreement shall include the following:

1. The name and address of the person responsible for code compliance;
2. The address or other identification of the location of the violation;
3. A description of the violation and a reference to the provision or provisions of the ordinance, resolution or regulation that has been violated;
4. A description of the necessary corrective action to be taken and identification of the date or time by which compliance must be completed. ~~((For the purpose of this subsection C.4, t))~~ The department may either require that this compliance be achieved by a specific date or that the compliance be achieved by a date to be

determined based on the occurrence of some future event;

5. The amount of the civil penalty that will be imposed pursuant to K.C.C. chapter 23.32 if the voluntary compliance agreement is not satisfied;

6. An acknowledgment that the voluntary compliance agreement will be recorded against the property in the office of records and elections, the recording to be accomplished as provided for in notice and order cases;

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

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

9. An acknowledgment that by entering into the voluntary compliance agreement the person responsible for code compliance waives the right to administratively appeal, and thereby admits ((;)) that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and that if the department determines the terms of the voluntary compliance agreement are not met, the person is subject to and liable for any remedy authorized by this title, (~~which includes~~) including, but not limited to, the assessment of the civil penalties identified in the voluntary compliance agreement, abatement of the violation, assessment of the costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit; and

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

D. Upon entering into a voluntary compliance agreement, a person responsible for code compliance waives the right to administratively appeal, and thereby admits((;)) that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and agrees that if the department determines the terms of the voluntary compliance agreement are not met, he or she is liable for the civil penalty available under K.C.C. chapter 23.32 and identified in the voluntary compliance agreement, is liable for the costs incurred by the county to pursue code compliance and to abate the violation, including legal and incidental expenses as provided for in K.C.C. chapter 23.24 and is subject to all other remedies provided for in this title.

E. The department may grant a((A))n extension of the time limit for compliance or a modification of the required corrective action ((~~may be granted by the department~~)) if the person responsible for code compliance has shown due diligence or substantial progress in correcting the violation, but circumstances render full and timely compliance under the original conditions unattainable.

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

SECTION 6. Ordinance 13263, Section 12, and K.C.C. 23.02.110 are each hereby amended to read as follows:

Right of entry. It is the intention of the council that any entry made to private property for the purpose of inspection for code violations be accomplished in strict conformity with constitutional and statutory constraints on entry, and the holdings of relevant court cases regarding entry. The right-of-entry granted by this title shall not supersede those legal constraints. The director is authorized to enter upon any property for the purpose of administering ((~~Ordinance 13263 provided that, the director shall make entry~~)) this title only if such

entry is consistent with the constitutions and laws of the United States and the state of Washington. If so required by the constitutions and laws of the United States or the state of Washington, the director shall apply to a court of competent jurisdiction for a search warrant authorizing access to such property for such purpose. The court may upon such application issue the search warrant for the purpose requested.

SECTION 7. Ordinance 13263, Section 13, as amended, and K.C.C. 23.02.120 are each hereby amended to read as follows:

Training and rulemaking.

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

B. Each department operating under this chapter shall adopt procedures to implement the provisions of (~~Ordinance 13263~~) this title, and specifically the guidelines set out in this chapter describing reasonable and appropriate protocols for investigating code violations.

SECTION 8. Ordinance 13263, Section 14, and K.C.C. 23.02.130 are each hereby amended to read as follows:

Obligations of persons responsible for code compliance.

A. It shall be the responsibility of any person identified as responsible for code compliance to bring the property into a safe and reasonable condition to achieve code compliance. Payment of fines, applications for permits, acknowledgment of stop-work orders and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the extent reasonably possible under the circumstances.

B. ~~((Persons))~~ A person determined to be responsible for code compliance pursuant to a citation or notice and order shall be liable for the payment of any civil fines, penalties and abatement costs. ~~((, provided, however, that i))~~ If a property owner affirmatively demonstrates to the department that the action ~~((which))~~ that resulted in the violation was taken without the owner's knowledge or consent by someone other than the owner or someone acting on the owner's behalf, ~~((that owner shall be responsible only for bringing the property))~~ the director may waive the civil penalties if the property is brought into compliance to the extent reasonably feasible under the circumstances. ~~((Should the owner not correct the violation, only those abatement costs necessary to bring the property into a safe and reasonable condition, as determined by the director, shall be assessed by the county. No civil fines or penalties shall be assessed against such an owner or his or her property interest.))~~

SECTION 9. Ordinance 12024, Section 13, as amended, and K.C.C. 23.10.040 are each hereby amended to read as follows:

Wrecked, dismantled or inoperative vehicles -- prohibited activity. ~~((No))~~ A person ~~((may))~~ shall not park, store or abandon a wrecked, dismantled or inoperative vehicle, or part thereof as those terms are defined in K.C.C. chapter 21A.06, on private property, except ~~((where))~~ when the following conditions apply:

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

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

SECTION 10. Ordinance 13263, Section 15, and K.C.C. 23.20.010 are each hereby amended to read as follows:

Authority. Whenever a director has determined, based on investigation of documents ~~((and/))~~ or physical evidence, that a civil code violation has occurred, the director may issue a citation to any person

responsible for code compliance. ~~((The director shall make a determination whether or not to issue a citation within sixty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist. Subsequent complaints shall be treated as new complaints for purposes of this section.))~~

SECTION 11. Ordinance 13263, Section 16, and K.C.C. 23.20.020 are each hereby amended to read as follows:

Effect.

A. Subject to the appeal provisions of K.C.C. chapter 23.36, a citation represents a determination that a civil code violation has occurred and that the cited party is a person responsible for code compliance.

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

C. Subject to ~~((the provisions of))~~ K.C.C. 23.02.130, the person responsible for code compliance shall either pay the civil fine assessed within ~~((twenty-one))~~ fourteen days of the date of issuance of the citation or appeal the citation according to the procedures ~~((described))~~ in K.C.C. chapter 23.36.

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

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

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

SECTION 12. Ordinance 13263, Section 17, and K.C.C. 23.20.030 are each hereby amended to read as follows:

Contents. The citation shall include all of the following information:

- A. Identification of the location of the violation;
- B. A brief description of the violation or violations found;
- C. A statement of the specific ordinance, resolution, regulation, public rule, permit condition, notice and order provision, or stop work order provision that was violated;
- D. A statement that the citation represents a determination that a civil code violation has occurred and that the cited party is subject to civil fines;
- E. A statement of the amount of the civil fine assessed and that the fine must be paid within ((~~twenty-one~~)) fourteen days;
- F. A statement of the options provided in this title for responding to the citation and the procedures necessary to exercise these options;
- G. A statement that failure to appeal the citation within ((~~twenty-one~~)) fourteen days renders the citation a final determination that the conditions described in the citation existed and constituted a civil code violation and that the cited party is liable as a person responsible for code compliance; and
- H. A statement advising that a failure to respond or appeal may be referred to the prosecuting attorney for prosecution.

SECTION 13. Ordinance 13263, Section 20, and K.C.C. 23.24.010 are each hereby amended to read as follows:

Authority. Whenever a director has reason to believe, based on investigation of documents ((~~and~~)) or physical evidence, that a civil code violation exists or has occurred, ((~~or~~)) that the civil code violations cited in a citation have not been corrected, or that the terms of a voluntary compliance agreement have not been met, the director is authorized to issue a notice and order to any person responsible for code compliance. ((The

~~director shall make a determination whether or not to issue a notice and order within one hundred twenty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist, or within thirty days of the end of a voluntary compliance agreement time period which has not been met.~~

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

SECTION 14. Ordinance 13263, Section 16, and K.C.C. 23.24.020 are each hereby amended to read as follows:

Effect.

A. Subject to the appeal provisions of K.C.C. chapter 23.36, a notice and order represents a determination that a civil code violation has occurred, that the cited party is a person responsible for code compliance~~((;))~~ and that the violations set out in the notice and order require the assessment of penalties and costs and other remedies specified in the notice and order.

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

1. ~~((A))~~additional civil penalties and costs;
2. ~~((A))~~ a requirement that any combination of abatement, remediation ~~((and/))~~ or mitigation be performed;
3. an agreement to perform community service as prescribed by this chapter;
4. any combination of permit suspension, revocation, modification ~~((and/))~~ or denial as prescribed by this chapter; and~~((or))~~
5. abatement by a director and recovery of the costs of abatement according to the procedures described in this chapter.

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

notice and order within (~~twenty-one~~) fourteen days according to the procedures described in K.C.C. chapter 23.36.

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

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

SECTION 15. Ordinance 13263, Section 29, and K.C.C. 23.24.100 are each hereby amended to read as follows:

Remedies - suspension, revocation or limitation of permit.

A. A director may suspend, revoke or limit any permit issued by (~~(such))~~ the director whenever:

1. the permit holder has committed a code violation in the course of performing activities subject to that permit;
2. the permit holder has interfered with a director in the performance of his or her duties relating to that permit;
3. the permit was issued in error or on the basis of materially incorrect information supplied to the county;
4. permit fees or costs were paid to the county by check and returned from a financial institution marked non-sufficient funds (NSF) or canceled; or
5. for a permit or approval that is subject to sensitive area review, the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant's ability to

meet the permit or approval conditions or which makes inaccurate the sensitive area study that was the basis for establishing permit or approval conditions.

B. ~~((Such))~~ A suspension, revocation or modification authorized by subsection A of this section shall be carried out through the citation, notice and order, or stop work order provisions of this chapter ~~((and shall be effective upon the compliance date established by the notice and order))~~. ~~((Such))~~ The revocation, suspension or cancellation may be appealed to the hearing examiner using the appeal provisions of this title.

C. Notwithstanding any other provision of this title, a director may immediately suspend operations under any permit by issuing a stop work order pursuant to K.C.C. chapter 23.28.

SECTION 16. Ordinance 13263, Section 30, and K.C.C. 23.24.110 are each hereby amended to read as follows:

Remedies - denial or suspension of permit.

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

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

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

3. for any property ~~((which))~~ that has been found in violation and remains in violation of K.C.C. chapter~~((s 21.54 or))~~ 21A.24 or of any rule, permit, approval, order, easement, plan or agreement issued thereunder.

B. In order to further the remedial purposes of this title, ~~((such))~~ the denial may continue until the violation is cured by restoration accepted as complete by the county and by payment of any civil penalty and

costs imposed for the violation~~((, except that))~~. The department may issue any permits ~~((or approvals shall be granted))~~ to the extent necessary to accomplish any required restoration or cure.

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

1. that a citation, notice and order or stop work order has been issued and not timely appealed;
2. that a voluntary compliance agreement has been entered into; or
3. that the hearing examiner has determined that the violation has occurred and such determination has

not been stayed or reversed on appeal.

D. The county may suspend review of an application for a development permit if a citation, notice and order or stop work has been issued for a civil code violation on the property subject to the application. The suspension may continue until:

1. the violation is cured by restoration accepted as complete by the county and by payment of any civil penalty and costs imposed for the violation; or
2. a voluntary compliance agreement is entered into for the violation; or
3. the citation, notice and order or stop work order is reversed as to the violation in an administrative or court appeal and no further appeal is taken or available.

SECTION 17. Ordinance 13263, Section 33, and K.C.C. 23.24.140 are each hereby amended to read as follows:

Code compliance and abatement fund -- authorized. All ~~((monies))~~ moneys collected from the assessment of civil penalties, from the recovery of the costs of pursuing code compliance and abatement, and ~~((for))~~ from the recovery of abatement costs~~((and work))~~, both retroactively and prospectively, except those ~~((monies))~~ moneys designated for the Sensitive Areas Mitigation Fund as set forth in K.C.C. chapter~~((s 21.54 and))~~ 21A.24, shall be allocated to support expenditures for abatement and code enforcement administrative costs, including, but not limited to, personnel costs, and shall be accounted for through either creation of a fund or other appropriate accounting mechanism in the department issuing the notice and order under which the

abatement occurred.

SECTION 18. Ordinance 13263, Section 40, and K.C.C. 23.32.040 are each hereby amended to read as follows:

Civil penalty - sensitive areas.

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

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

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

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

1. the violation of any provision of K.C.C. chapter(~~(s 21.54 or)~~) 21A.24 or of the (~~(administrative)~~) public rules (~~(promulgated)~~) adopted thereunder;
2. the failure to obtain a permit required for work in a sensitive area; or
3. the failure to comply with the conditions of any permit, approval, terms and conditions of any sensitive area tract or setback area, easement or other covenant, plat restriction or binding assurance or any notice and order, stop work order, mitigation plan, contract or agreement issued or concluded pursuant to the above-mentioned provisions.

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

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

2. the greater of:

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

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

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

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

b. code compliance costs ~~((such amount))~~ not to exceed ~~(((\$25,000.00))~~ twenty-five thousand dollars incurred by the county to enforce K.C.C. ~~((21.54 and/or))~~ K.C.C. 21A.24 against the person responsible for code compliance.

SECTION 19. Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010 are each hereby amended to read as follows:

Administrative appeal - filing requirements.

A. Any person issued a citation or named in a notice and order or stop work order and any owner of the land where the violation for which a citation, notice and order or stop work order is issued occurred ~~((and any complainant who is an aggrieved person pursuant to K.C.C. Title 20 and requests to be kept advised pursuant to K.C.C. 23.02.070H))~~ may ~~((file a notice of))~~ appeal ~~((of))~~ a citation, notice and order~~((;))~~ or stop work order~~((; determination to enter into a voluntary compliance agreement or a determination not to issue a citation or order))~~ by filing a notice of appeal with the issuing department within fourteen days of the service of the citation,

notice and order or stop work order (~~(with the issuing department)~~).

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

C. Any person named in a citation may appeal the citation by signing the citation, indicating on the citation that a hearing is requested, and returning the citation to the issuing agency or department within (~~(twenty-one)~~) fourteen days of its service.

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

SECTION 20. Ordinance 13263, Section 45, and K.C.C. 23.36.030 are each hereby amended to read as follows:

Administrative appeal - final order.

A. Following review of the evidence submitted, the hearing examiner shall make written findings and conclusions and shall affirm or modify the citation, notice and order or stop work order previously issued if the examiner finds that a violation has occurred. The examiner shall uphold the appeal and reverse the citation or order if the examiner finds that no violation has occurred.

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

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

D. A final order by the hearing examiner affirming or reinstating a citation, notice and order or stop

work order renders ((such)) the citation, notice and order or stop work order a final agency order.

official paper 30 days prior

post outside chambers

public hearing 11/25/2002 - 10:30 a.m.

newspaper: Seattle Times