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Larry Gossett

CODEENF.MMC

Introduced by Brian Derdowski

Proposed No.: 93-682

MLCS - Final
July 14, 1998
clerk 9/9/98

ORDINANCE NO. **13263**

AN ORDINANCE relating to code compliance and abatement of civil code violations and public nuisances; revising title 23 prescribing code compliance methods, enforcement, civil penalties and collections; adding a new section to King County chapter 2.16 relating to receivable accounts; repealing Ordinance 2909, Sections 101 through 109, Sections 201-208, Sections 301-302, Sections 401-408, Section 501, Section 601; Ordinance 4569, Sections 2 through 4; Ordinance 7846, Sections 1 through 11; Ordinance 9614, Section 120; and K.C.C. 23.04.010; K.C.C. 23.08.010 through 23.08.120; K.C.C. 23.12.010 through 23.12.080; K.C.C. 23.16.010 through 23.16.020; K.C.C. 23.20.010 through 23.20.080; K.C.C. 23.24.010; all as amended; amending Ordinance 4461, Section 2 and K.C.C. 20.24.080A and adding new sections to K.C.C. 12.18, 12.20 and 12.22.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW CHAPTER. CHAPTER 1. NAME AND PURPOSE.

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

NAME AND PURPOSE. A. This title shall be known as "Code Compliance". The purpose of this title is to identify processes and methods to encourage compliance with county laws and regulations that King County has adopted pursuant to Article XI, section 11 of the Washington Constitution and other

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

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

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

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

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

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

4 NEW CHAPTER. CHAPTER 2. GENERAL PROVISIONS.

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

7 DEFINITIONS. The words and phrases designated in this
8 section shall be defined for the purposes of this title as
9 follows: A. Abate. "Abate" means to take whatever

10 steps are deemed necessary by the director to return a property
11 to the condition in which it existed before a civil code
12 violation occurred or to assure that the property complies with
13 applicable code requirements. Abatement may include, but is
14 not limited to, rehabilitation, demolition, removal,
15 replacement or repair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 b. the violation is an isolated incident.

2 B. The response times set out in this section are not
3 jurisdictional, and failure to meet them in any particular case
4 shall not affect the county's authority to enforce county code
5 provisions with regard to that case.

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

8 INITIAL INVESTIGATION. This section sets forth guidelines
9 for more specific procedures to be used by each department in
10 implementing this ordinance. The guidelines set forth in this
11 section are not jurisdictional, and failure to meet them in any
12 particular case shall not affect the county's authority to
13 enforce county code provisions with regard to that case.

14 A. Field verification.

15 Except in emergencies and for low risk case
16 complaints, field verification should be made if possible prior
17 to, concurrent with or shortly after notifying the owner,
18 occupant, and/or other person responsible for code compliance
19 of the potential or alleged violation. Low risk case complaints
20 should be acknowledged by sending an informal letter to the
21 person(s) responsible for code compliance. The letter should
22 state that a violation may have occurred, but has not been
23 verified, and should ask the recipient to contact the
24 department issuing the letter.

25 B. Advising interested parties of receipt of complaint
26 and/or field investigation.

27 1. The owner, occupant and person responsible for
28 code compliance (if not an owner or occupant) should be advised

