



Legislation Text

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Clerk 06/27/2022

AN ORDINANCE relating to enforcement of fireworks regulations; amending Ordinance 19276, Section 9, and K.C.C. 17.11.060, Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040 and Ordinance 19276, Section 16, adding new sections to K.C.C chapter 17.11, repealing Ordinance 19276, Section 15, and prescribing penalties.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. In May 2021, Ordinance 19276 was enacted, which prohibits the retail sale and discharge of consumer fireworks. That ordinance also directed that the county executive prepare a fireworks enforcement study report that evaluates and recommends an approach for unarmed, nonpolice response to reported fireworks violations and transmit a proposed ordinance that implements the recommendations of the report, if necessary.

B. The executive has completed and transmitted to the King County council the required fireworks enforcement study report. This ordinance makes the code changes needed to implement the recommendations in that report.

NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows, to precede K.C.C. 17.11.060:

Enforcement of violations of this chapter or chapter 70.77 RCW and imposition of civil penalties as authorized in K.C.C 17.11.060 shall occur as outlined in this chapter. The purpose of the regulations in Sections 3 through 8 of this ordinance is to identify processes and methods to encourage compliance with this

chapter and chapter 70.77 RCW to promote and protect the health, safety and welfare of the general public. While this section authorizes King County to take action to enforce the regulations in Sections 3 through 8 of this ordinance, it shall not be construed as placing responsibility for code compliance or enforcement upon King County in any particular case, or as creating any duty on the part of King County to any particular person or class of persons. The provisions of this title detailing county department administration of code compliance procedures are not to be construed as creating a substantive basis for appeal or a defense of any kind to an alleged violation.

SECTION 3. Ordinance 19276, Section 9, and K.C.C. 17.11.060 are hereby amended to read as follows:

A. A violation of this chapter, to the extent it also constitutes a violation of RCW 70.77.488, 70.77.510 or 70.77.515, is a gross misdemeanor and is punishable as prescribed by law.

B. Notwithstanding any criminal penalty provided in chapter 70.77 RCW, a person who violates this chapter or chapter 70.77 RCW is subject to the maximum civil penalty in an amount not to exceed two hundred fifty dollars per violation. In addition, a person in violation of this chapter is responsible for any costs incurred to enforce this chapter, including bringing a civil action, court costs and reasonable attorneys' fees. All civil penalties assessed shall be enforced as authorized under ((K.C.C. Title 23)) this chapter.

C. A person commits a separate offense for each day during ~~((that))~~ which the person commits, continues or permits a violation of this chapter.

D. The civil ~~((and criminal))~~ penalties described in subsection ~~((s A. through C.))~~ B. of this section shall not be enforced for violations of K.C.C. 17.11.040.B. as it pertains to the use or discharge of consumer fireworks, as defined in RCW 70.77.136, until one year after Ordinance 19276 takes effect under RCW 70.77.250. During the period in which these penalties are not being enforced, ~~((the King County sheriff's office and))~~ the fire marshal shall only issue warnings to violators of K.C.C. 17.11.040.B. and shall provide information to violators on the county's laws governing fireworks.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows:

A. Enforcement of violations and imposition of civil penalties under this chapter shall occur if a complaint of a violation is filed with the department by a member of the public. Complaints should include:

1. The complainant's name and phone number, unless the complainant wishes to be anonymous.

However, the information contained in a complaint is a public record subject to disclosure under the Washington Public Records Act in chapter 42.56 RCW and may be requested and inspected by any person. The identity of the complainant may be withheld from public inspection at the departments discretion if the complainant indicates that disclosure will endanger any person's life, physical safety, or property. If a court case is filed as a result of the complaint, the complainant's identity may be disclosed regardless of a request that it be withheld;

2. Specific, accurate and complete information including, but not limited to: the address or parcel number of the property that the violation occurred on, the name of the property owner or tenant in violation and a description of the violation; and

3. Any additional documentation that supports the complaint, including, but not limited to pictures or video of the violation.

B. If sufficient information is not provided in the complaint to identify the person determined to be responsible for the violation, an additional action by the department shall not be taken.

C. If the violation did not occur on property located in unincorporated King County, an additional action by the department shall not be taken.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows:

A. This subsection A. of this section sets forth guidelines for issuing warnings and citations of violations and imposition of civil penalties. The guidelines 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.

1. Within fifteen days of receipt of the first complaint against an individual containing the information described in Section 4, a warning shall be issued in writing to the person determined by the director to be responsible for the violation. The warning shall inform the person of the violation and shall include the applicable elements of K.C.C. 23.20.030.

2. Within fifteen days of receipt of any subsequent complaint against an individual containing the information described in Section 4, a citation shall be issued in writing to the person determined by the director to be responsible for the violation. The citation shall inform the person of the violation and shall impose civil penalties as authorized in K.C.C 17.11.060. The citation shall include the applicable elements of K.C.C. 23.20.030.

B. The director may revoke or modify a warning or citation issued under this title if the original warning or citation was issued in error or if a party to a warning or citation was incorrectly named. The revocation or modification shall identify the reasons and underlying facts for revocation.

C. A citation represents a determination that a civil code violation has been committed based on information provided in a complaint submitted under Section 4 of this ordinance and that the person cited is a person responsible for the violation as established in K.C.C. 23.02.130. The determination is final unless contested as provided in this chapter.

D. The department shall use all reasonable means to determine and cite the person or persons responsible for the violation occurring when the owner of the property on which fireworks were discharged has not directly or indirectly caused the violation.

E.1. To contest a warning or citation, the person issued the warning or citation must give notice to the department within seventeen days from the date of issuance of the warning or citation that they are contesting. The notice to the department may be made by either completing and returning a form created by the department

for contesting warnings or citations, or by providing a document, in writing, bearing the title, "contention of fireworks citation," containing the following:

- a. The name, address and phone number of the person contesting the warning or citation;
- b. Sufficient information to identify the violation being contested;
- c. The specific grounds on which the warning or citation is being contested; and
- d. All information, including copies of any exhibits, that supports the grounds for contesting the

citation.

2. The director shall consider the information submitted by the person contesting the warning or citation, the department's records, and any relevant information submitted by the complainant and issue a written decision within fourteen days. The director's decision is appealable to the hearing examiner pursuant to K.C.C. 20.22.040.

F. Failure to respond to the warning or citation within seventeen days shall render the warning or citation a final determination that the conditions described in the warning or citation existed and constituted a civil code violation and that the person cited is liable as a person responsible for the violation.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows:

A. Subject to K.C.C. 23.02.130, a citation subjects the person responsible for the violation to the civil fine prescribed by this chapter. Imposition of a civil fine creates a joint and several personal obligation in all persons responsible for the violation who are served with the citation.

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

C. In addition or as an alternative to utilizing the procedures in this chapter, the director may assess or recover civil penalties accruing under this title by legal action filed in superior court by the prosecuting attorney on behalf of King County.

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows:

The director may waive any one or more of the enforcement provisions of this chapter so as to avoid substantial injustice by application thereof to the acts of an individual where no harm occurred, and the violation was promptly addressed. For purposes of this section, "substantial injustice" shall not be based on economic hardship.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 17.11 a new section to read as follows:

The enforcement procedures of this chapter shall not:

A. Limit or restrict the county from remedying civil code violations in any other manner authorized by law; or

B. Be construed to affect the authority of the King County sheriff in enforcement of other laws for activities occurring concurrent with violations of K.C.C. 17.11.040.B.

SECTION 9. Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040 are hereby amended to read as follows:

The examiner shall issue final decisions in the following cases:

- A. Appeals of orders of the ombuds under the lobbyist disclosure code, K.C.C. chapter 1.07;
- B. Appeals of sanctions of the finance and business operations division in the department of executive services imposed under K.C.C. chapter 2.97;
- C. Appeals of career service review committee conversion decisions for part-time and temporary employees under K.C.C. chapter 3.12A;
- D. Appeals of electric vehicle recharging station penalties of the Metro transit department under K.C.C. 4A.700.700;
- E. Appeals of notice and orders of the manager of records and licensing services or the department of

local services permitting division manager under K.C.C. chapter 6.01;

F. Appeals of adult entertainment license denials, suspensions and revocations under K.C.C. chapter 6.09;

G. Appeals of the fire marshal's decisions on fireworks permits under K.C.C. chapter 17.11;

H. Appeals of cable franchise nonrenewals under K.C.C. 6.27A.060 and notices and orders under K.C.C. 6.27A.240;

I. Appeals of notices and orders of the department of natural resources and parks under K.C.C. chapter 7.09;

J. Appeals of decisions of the director of the department of natural resources and parks on surface water drainage enforcement under K.C.C. chapter 9.04;

K. Appeals of decisions of the director of the department of natural resources and parks on requests for rate adjustments to surface and storm water management rates and charges under K.C.C. chapter 9.08;

L. Appeals of decisions on water quality enforcement under K.C.C. chapter 9.12;

M. Appeals of notices and orders of the manager of animal control under K.C.C. chapter 11.04;

N. Certifications by the finance and business operations division of the department of executive services involving K.C.C. chapter 12.16;

O. Appeals of orders of the office of civil rights under K.C.C. chapter 12.17, K.C.C. chapter 12.18, K.C.C. chapter 12.20 and K.C.C. chapter 12.22;

P. Appeals of noise-related orders and citations of the department of local services, permitting division, under K.C.C. chapter 12.86;

Q. Appeals of utilities technical review committee determinations on water service availability under K.C.C. 13.24.090;

R. Appeals of decisions regarding mitigation payment system, commute trip reduction and intersection standards under K.C.C. Title 14;

S. Appeals of suspensions, revocations or limitations of permits or of decisions of the board of plumbing appeals under K.C.C. chapter 16.32;

T. Appeals from denials of C-PACER applications under K.C.C. chapter 18.19;

U. Appeals of all Type 2 decisions under K.C.C. chapter 20.20, with the exception of appeals of shoreline permits, including shoreline substantial development permits, shoreline variances and shoreline conditional uses, which are appealable to the state Shoreline Hearings Board;

V. Appeals of SEPA decisions, as provided in K.C.C. 20.44.120 and public rules adopted under K.C.C. 20.44.075;

W. Appeals of completed farm management plans under K.C.C. 21A.30.045;

X. Appeals of decisions of the interagency review committee created under K.C.C. 21A.37.070 regarding sending site applications for certification under K.C.C. chapter 21A.37;

Y. Appeals of citations, notices and orders, notices of noncompliance, stop work orders issued pursuant to K.C.C. Title 23 or Title 1.08 of the rules and regulations of the King County board of health;

Z. Appeals of notices and certifications of junk vehicles to be removed as a public nuisance as provided in K.C.C. Title 21A and K.C.C. chapter 23.10;

AA. Appeals of decisions not to issue a citation or a notice and order under K.C.C. 23.36.010.A.2;

BB. Appeals of fee waiver decisions by the department of local services, permitting division, as provided in K.C.C. 27.02.040;

CC. Appeals from decisions of the department of natural resources and parks related to permits, discharge authorizations, violations and penalties under K.C.C. 28.84.050 and 28.84.060;

DD. Appeals of transit rider suspensions under K.C.C. 28.96.430;

EE. Appeals of department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of the department of public safety as provided in RCW 69.50.505;

FF. Appeals of director decisions on contests to firework warnings and citations as provided in K.C.C.

chapter 17.11.

GG. Other applications or appeals that are prescribed by ordinance.

SECTION 10. Ordinance 19276, Section 16, is hereby amended to read as follows:

A. The executive shall also prepare a second fireworks enforcement study report.

B. The report shall include the following, at a minimum, for the period from June 1, 2023, to January 1, 2027:

1. Information on the number of dispatched calls for service and number of received code enforcement complaints related to discharge of fireworks, by date;

2. Information on the number of ~~((civil and))~~ criminal citations given for violations of ~~((section 7.B. of this ordinance))~~ K.C.C. 17.11.040.B., and demographic information of those receiving citations; ~~((and))~~

3. Information on the number of civil warnings and citations given for violations of K.C.C. 17.11.040.B; and

4. A table showing the number of dispatched calls for service, code enforcement complaints, warnings and citations, by zip code, and an accompanying map or maps displaying this data.

C. The report shall be transmitted to the council by June 30, 2027. The report shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff to the committee of the whole, or its successor, and the lead staff to the law ~~((and)),~~ justice, health and human services committee, or its successor.

SECTION 11. Ordinance 19276, Section 15, is hereby repealed.

SECTION 12. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.