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Title:	AN ORDINANCE relating to code compliance; amending Ordinance 13263, Section 3, as amended, and K.C.C. 23.02.010, Ordinance 13263, Section 4, as amended, and K.C.C. 23.02.030, Ordinance 13263, Section 5, as amended, and K.C.C. 23.02.040, Ordinance 13263, Section 6, and K.C.C. 23.02.050, Ordinance 13263, Section 7, as amended, and K.C.C. 23.02.060, Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070, 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 12024, Section 13, and K.C.C. 23.10.040, 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 21, as amended, and K.C.C. 23.24.020, Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, as amended, and K.C.C. 23.24.140, Ordinance 13263, Section 37, as amended, and K.C.C. 23.32.010, Ordinance 13263, Section 40, and K.C.C. 23.32.040, Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010, Ordinance 13263, Section 45, and K.C.C. 23.36.030, Ordinance 4461, Section 3, as amended and K.C.C. 20.24.090, Ordinance 11502, Section 13, and K.C.C. 20.24.175, adding new sections to K.C.C. chapter 23.02 and K.C.C. chapter 23.20, repealing Ordinance 12024, Section 14 and K.C.C. 23.10.120, and Ordinance 13263, Section 38 and K.C.C. 23.32.020, and prescribing penalties.		
Sponsors:	Reagan Dunn		
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Attachments:	1. 16278.pdf, 2. 2008-0476 - Adoption Notice.doc, 3. 2008-0476 Hearing Notice.doc, 4. 2008-0476 LegFiscalNote.xls, 5. 2008-0476 Staff report (9-09).doc, 6. 2008-0476 Transmittal Letter.doc		

Date	Ver.	Action By	Action	Result
10/20/2008	1	Metropolitan King County Council	Hearing Held	
10/20/2008	1	Metropolitan King County Council	Passed	Pass
9/9/2008	1	Growth Management and Natural Resources Committee		
8/25/2008	1	Metropolitan King County Council	Introduced and Referred	

Clerk 08/21/2008

AN ORDINANCE relating to code compliance; amending Ordinance 13263, Section 3, as amended, and K.C.C. 23.02.010, Ordinance 13263, Section 4, as amended, and K.C.C. 23.02.030, Ordinance 13263, Section 5, as amended, and K.C.C. 23.02.040, Ordinance 13263, Section 6, and K.C.C. 23.02.050, Ordinance

13263, Section 7, as amended, and K.C.C. 23.02.060, Ordinance 13263, Section 8, as amended, and K.C.C. 23.02.070, 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 12024, Section 13, and K.C.C. 23.10.040, 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 21, as amended, and K.C.C.23.24.020, Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, as amended, and K.C.C. 23.24.140, Ordinance 13263, Section 37, as amended, and K.C.C. 23.32.010, Ordinance 13263, Section 40, and K.C.C. 23.32.040, Ordinance 13263, Section 43, as amended, and K.C.C. 23.36.010, Ordinance 13263, Section 45, and K.C.C. 23.36.030, Ordinance 4461, Section 3, as amended and K.C.C. 20.24.090, Ordinance 11502, Section 13, and K.C.C. 20.24.175, adding new sections to K.C.C. chapter 23.02 and K.C.C. chapter 23.20, repealing Ordinance 12024, Section 14 and K.C.C. 23.10.120, and Ordinance 13263, Section 38 and K.C.C. 23.32.020, and prescribing penalties.

STATEMENT OF FACTS:

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

2. In 2003, the King County executive convened an illegal dumping task force to address illegal dumping at the county level. The goal of the task force was to improve coordination of services and make illegal dumping response more efficient and effective. One of the task force's recommendations was to set up an expert committee to examine the county's enforcement approach and possibly draft proposed code amendments.
3. The King County streamlining enforcement work group was formed to act on that recommendation by examining the current county enforcement system as it relates to illegal dumping and other environmental enforcement and recommending improvements. The work group included staff responsible for managing enforcement programs, responding to illegal dumping complaints, or both, for the departments of natural resources and parks, transportation, development and environmental services, public health, and the office of the prosecuting attorney. The work group made recommendations which were approved by the executive's office in October 2007.
4. One of the work group's recommendations was to increase the effectiveness of county enforcement regulations. This ordinance implements the group's recommendation. It proposes changes to K.C.C. Title 23, Code Compliance, that will clearly state that illegal dumping is in violation of county code and will authorize all affected agencies to protect their custodial lands through enforcement. This ordinance will simplify citation procedures and clarify the citation appeal process, saving time and resources without affecting due process. It will also enable county agencies to assess penalties and charge cleanup restitution payments in cases of illegal dumping. It incorporates language similar to that in state code to authorize charging a restitution payment to illegal dumpers. This payment is to be divided equally between the enforcement agency and the landowner. The ordinance authorizes county departments to decide not to take action on de minimis violations. It decreases the appeal period for citations and notice and orders from twenty-one to fourteen days, and amends the misdemeanor language to clearly

authorize the office of the prosecuting attorney to conduct misdemeanor prosecutions for willful or knowing civil code violations. The ordinance repeals sections of K.C.C. Title 23 containing deadlines that have passed and amends K.C.C. chapter 20.24, Hearing Examiner, to maintain consistency with K.C.C. Title 23.

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

A. "Abate" means to take whatever steps are deemed necessary by the director to return a property to the condition in which it existed before a civil code violation occurred or to assure that the property complies with applicable code requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.

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

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

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

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

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

1. The director of the department of development and environmental services;
2. The director of the Seattle-King County department of public health, ~~((the))~~ or "local health officer" as that term is used in chapter 70.05 RCW~~(())~~;
3. The director of the department of natural resources and parks;
4. The director of any other county department authorized to enforce civil code compliance;
5. Authorized representatives of a director, including ~~((but not limited to, the))~~ compliance officers and inspectors whose responsibility includes the detection and reporting of civil code violations; or
6. Such other person as the council by ordinance authorizes to ~~((utilize))~~ use this title.

E. "Found in violation" means that:

1. A citation, notice and order or stop work order has been issued and not timely appealed;
2. A voluntary compliance agreement has been entered into; or
3. The hearing examiner has determined that the violation has occurred and the hearing examiner's determination has not been stayed or reversed on appeal.

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

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

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

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

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

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

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

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

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

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

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

A. All civil code violations are hereby determined to be detrimental to the public health, safety and environment and are hereby declared public nuisances. All conditions determined to be civil code violations shall be subject to and enforced pursuant to the provisions of this title except where specifically excluded by law or regulation.

B. Any person who willfully or knowingly causes, aids or abets a civil code violation pursuant to this title by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by either a fine not to exceed one thousand dollars, ~~((and/or))~~ imprisonment in the county jail for a term not to exceed ninety days, or both. Each week (seven days) such violation continues shall be considered a separate misdemeanor offense. As an alternative, or in addition to any other judicial or administrative remedy provided in this title or by law or other regulation, a director may request that the prosecuting attorney consider

filing, and the prosecuting attorney is authorized to file, a misdemeanor complaint against the persons responsible for code compliance when the director has documentation or evidence that the violation was willful and knowing.

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

A. In order to discourage public nuisances, make efficient use of public resources 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, and issue notices of noncompliance if the persons responsible fail to comply with the terms of the voluntary compliance agreement;
 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 in a timely manner 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; and
 8. For de minimis violations, decide not to take enforcement action.
- . 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)) using 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 not to be construed as creating a substantive basis for appeal or a defense of any kind to an alleged violation.

J. The provisions of ~~((Ordinance 13263))~~ this title 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.

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

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

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

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

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

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

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

- a. there is risk of bodily harm, damage to public resources ~~((and/))~~ or facilities, damage to real or personal property, or environmental damage or contamination; ~~((or))~~
- b. the subject sites ~~((and/))~~ or persons responsible for code compliance have a history of prior low risk violations; ~~((or))~~
- c. there are ongoing moderate or low risk violations; or
- d. more than five wrecked, dismantled or inoperative vehicles are found.

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

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

B. The ~~((response times))~~ priorities set ~~((out))~~ 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.

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

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. Before conducting a field verification, code enforcement personnel shall notify the owner, occupant, or other person responsible for code compliance of a possible violation through any combination of phone,

posting and/or mail, that a field verification is to occur. Code enforcement personnel shall not cross a parcel boundary line onto private property without such prior notification, except in emergencies that pose an imminent threat to environmental health or to the public safety or specifically for the purpose of posting a notice.

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

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

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

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

D. To the extent possible, the department shall 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 shall 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. This information shall be made available pursuant to subsection C. of this section.

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

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

C. The guidelines in this section for warnings, notifications and reinspections 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 warning need be issued in cases involving, emergencies that pose an imminent threat to environmental health or to the public safety.

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

G. The department shall 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. 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. 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, 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 7. Ordinance 13263, Section 12, and K.C.C. 23.02.110, are each hereby amended as follows:

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((5)) and the holdings of relevant court cases regarding entry. The ((right of entry)) 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)) the purpose of administering this title. The court may upon such application issue the search warrant for the purpose requested.

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

amended as follows:

A. In order to ensure strict conformity with the constraints on entry imposed by state and federal law and to ~~((assure))~~ ensure that county employees deal with the public in a manner ~~((which))~~ that 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 county staff responsible for 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))~~ title may approve public rules under K.C.C. chapter 2.98 and procedures to implement the provisions of ~~((Ordinance 13263, and specifically the))~~ this title. Each department shall approve procedures to implement the guidelines set out in this chapter ~~((describing reasonable and appropriate protocols))~~ for investigating code violations.

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

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

1. The property is designated by King County for the disposal of solid waste and the person is authorized to use such property for that purpose; or
2. The waste is placed into an approved waste receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any private or public property or waters.

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

2. In cases involving illegal dumping in an amount greater than one cubic foot but less than one cubic

yard, the person responsible for code compliance shall, in addition to civil penalties, pay an illegal dumping cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of material deposited, whichever is greater. The director shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the enforcement agency investigating the incident. The director may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove waste material from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The director may suspend or modify the cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the waste.

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

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

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

responsibility for solid waste handling.

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

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

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

No person may 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 the following conditions apply:

A. A vehicle or vehicle part is completely enclosed within a building in a lawful manner where it is not clearly 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, licensed auto repair business or licensed vehicle dealer and is fenced as required by state law.

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

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

A. ~~((Subject to the appeal provisions of K.C.C. chapter 23.36, a))~~ A citation represents a determination that a civil code violation has ~~((occurred))~~ been committed and that the person cited ~~((party))~~ is a person responsible for code compliance. The determination is final unless contested as provided in this title.

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

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

~~((D-))~~ E. Failure to ((appeal)) respond to 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 person cited ((party)) is liable as a person responsible for code compliance.

~~((E-))~~ F. 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 citation. The prosecuting attorney on behalf of King County may collect the civil fines assessed by any appropriate legal means.

~~((F-))~~ G. 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 this title.

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

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

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

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

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

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

E. The date that the citation was served;

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

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

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

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

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

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

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

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

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

NEW SECTION. SECTION 16. There is hereby added to K.C.C. chapter 23.20 a new section to read

as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Except as otherwise provided in this section, contested hearings shall be conducted pursuant to K.C.C. 20.24.170 and the rules of procedure of the King County hearing examiner. The hearing examiner may

issue subpoenas for witnesses and order limited discovery. The requirements of K.C.C. 20.24.145 relating to pre-hearing conferences do not apply to the contested hearing.

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

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

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

D. The burden of proof is on the county to establish by a preponderance of the evidence that the violation was committed. The hearing examiner shall consider the citation and any other written report made as provided in RCW 9A.72.085, submitted by the person who issued the citation or whose written statement was the basis for the issuance of the citation in lieu of that person's personal appearance at the hearing as prima facie evidence that a violation occurred and that the person cited is responsible. The statement and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any additional certification or declarations authorized under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The person cited may rebut the evidence and establish that the violation did not occur or that the person contesting the citation is not responsible for the violation.

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

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

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

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

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))~~ been committed, that the person 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 including cleanup restitution payment, if applicable, 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:

1. Additional civil penalties and costs;
2. A requirement that abatement, remediation ~~((and/))~~ or mitigation be performed;
3. An agreement to perform community service as prescribed by this chapter;
4. 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 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 penalties accruing under citations or stop work orders issued pursuant to this title.

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

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. ~~((a))~~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 ordinance, resolution, regulation or public rule is codified; ~~((or))~~

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

4. Any combination of the above.

B. In order to further the remedial purposes of this title, such denial may continue until the violation is cured by restoration accepted as complete by the county and by payment of any civil penalty and cleanup restitution payment, if applicable, imposed for the violation, except that 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; or~~
- ~~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.))~~

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

All moneys collected from the assessment of civil penalties, from cleanup restitution payments to the agency, the recovery of the costs of pursuing code compliance and abatement, and from the recovery of abatement costs, both retroactively and prospectively, except those moneys designated for the ~~((sensitive))~~ critical areas mitigation fund as set forth in K.C.C. chapter 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 citation or notice and order under which the abatement occurred. Withdrawals from the moneys collected under this section for the purpose of funding administrative costs within the code enforcement section of the department of development and environmental services shall not exceed one hundred seventy-five thousand dollars in a calendar year.

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

A.1. Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each violation identified in a citation, notice and order, voluntary compliance agreement or stop work order pursuant to the following schedule:

a. citations

(1) with no previous similar code violations	\$100
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-
- (2) with one or more previous similar code violations \$500
- (3) with two or more previous violations of K.C.C. Title 10 Double the rate
of the previous
penalty
- b. violation of notice and orders and stop work orders
- (1) stop work order basic penalty \$500
- (2) voluntary compliance agreement and notice and order basic penalty \$25
- (3) additional initial penalties may be added in the following amounts
for violations where there is:
- (a) public health risk \$15
- (b) environmental damage risk \$15
- (c) damage to property risk \$15
- (d) one previous similar code violation \$25
- (e) two previous similar code violations \$50
- (f) three or more previous similar code violations \$75
- (g) economic benefit to person responsible for violation \$25
- c. cleanup restitution payment - as specified in section 9 of this ordinance.
- d. reinspection following the issuance of a notice and order, if the
violation has not been abated in accordance with the notice and order:
- (1) first reinspection, which shall occur no sooner than the day \$150
following the date compliance is required by the notice and order
- (2) second reinspection, which shall occur no sooner than fourteen \$300
days following the first reinspection
- (3) third reinspection, which shall occur no sooner than fourteen \$450

days following the second reinspection

(4) reinspection after the third reinspection, which shall only be \$450
conducted immediately preceding an administrative or court ordered
abatement or at the direction of the prosecuting attorney for the
purpose of presenting evidence in the course of litigation or administrative hearing against the
person responsible for code compliance

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

B. The penalties assessed pursuant to this section for any failure to comply with a notice and order or voluntary compliance agreement shall be assessed daily, according to the schedule in subsection A of this section, for the first thirty days following the date the notice and order or voluntary compliance agreement required the code violations to have been cured. If after thirty days the person responsible for code compliance has failed to satisfy the notice and order or voluntary compliance agreement, penalties shall be assessed daily at a rate of double the rate for the first thirty days. Penalties may be assessed daily until the person responsible for code compliance has fully complied with the notice and order.

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

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

E. The director may suspend the imposition of additional civil penalties if the person responsible for code compliance has entered into a voluntary compliance agreement. If the person responsible for code

compliance enters into a voluntary compliance agreement and cures the code violations, the director may also waive all or part of the accrued civil penalties in accordance with K.C.C. 23.32.050. Penalties shall begin to accrue again pursuant to the terms of the voluntary compliance agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action identified in the voluntary compliance agreement is not completed as specified.

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

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

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

A. The code compliance provisions for ~~((sensitive))~~ critical areas are intended to encourage compliance with K.C.C. chapter~~((s 21.54 and))~~ 21A.24, to protect ~~((sensitive))~~ critical 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))~~ critical areas, insofar as that is possible and beneficial, but will 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))~~ critical area ordinance means:

1. ~~((t))~~The violation of any provision of K.C.C. chapter~~((s 21.54 or))~~ 21A.24 or ~~((of the administrative~~

)) rules (~~((promulgated))~~) adopted thereunder;

2. ~~((t))~~The failure to obtain a permit required for work in a ~~((sensitive))~~ critical area; or

3. ~~((t))~~The failure to comply with the conditions of any permit, approval, terms and conditions of any ~~((sensitive))~~ critical area tract or setback area, easement or other covenant, plat restriction or binding assurance or any notice and order, stop wrk order, mitigation plan, contract or agreement issued or concluded pursuant to the above-mentioned provisions.

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

1. ~~((a))~~According to the civil penalty schedule included in this chapter of this title, provided that 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. ~~((t))~~The greater of:

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

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

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 occurred 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. 23.02.070.H may file with the issuing department a notice of appeal of ~~((a citation,))~~ the 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))~~ 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 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))~~ issued a citation ~~((may appeal))~~ shall respond to 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 days of its service))~~ as provided in K.C.C. chapter 23.20.

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 adopted public rules ~~((promulgated thereunder))~~.

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

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 citation, notice and order or stop work order a final agency order.

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

A. Except as otherwise provided ~~((herein))~~ in this section, ~~((all))~~ a notice~~((s))~~ of appeal ~~((to the examiner))~~ shall be filed with the county department or division issuing the original decision with a copy provided by the department or division to the office of the hearing examiner. ~~((Except as otherwise provided herein,))~~ The notice of appeal, together with the required appeal fee, shall be filed within the prescribed appeal period. The appeal period shall be fourteen calendar days and shall commence on the third day after the mailing of the notice of decision. In cases of appeals of Type 2 land use decisions made by the director, if WAC 197-11-340(2)(a) applies the notice of appeal ((period)) shall be ((extended for an additional seven calendar)) filed within twenty-four days after the mailing of the notice of decision((if WAC 197-11-340(2)(a) applies)).

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

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

K.C.C. chapter 23.20. Department or division staff shall:

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

2. Make available within a reasonable time a complete set of files detailing the facts of the department or division ruling in question to persons wishing to file a statement of appeal, subsequent to an agency ruling.

If a department or division is unable to comply with these provisions, the hearing examiner may authorize amendments to a statement of appeal to reflect information not made available to an appellant within a reasonable time due to a failure by a county agency to meet the foregoing requirements. D. The statement of appeal shall:

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

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

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

4. Identify the relief sought.

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

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

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

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

A. ~~((4))~~ Limiting testimony and argument to relevant issues and to matters identified in the pre-hearing

order ~~((if applicable))~~);

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

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

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

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

F. Voluntary mediation and complainant appeal mediation; and

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

SECTION 29. 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.

Outside chamber 30 days prior

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