Ordinance No. 3053

(Amending or Repealing Ordinances)

CFN=205 – Uniform Building Codes
Passed – 7/7/1992
Penalty Procedure for Violations of Uniform Building, Housing, Mechanical and Plumbing Codes

Amended by Ord. 3690 (formerly Sec. 14.24 now Secs. 14.08.020; 14.08.100; 14.08.240)

Amended by Ord. 3880 (Sec. 14.08)
Amended by Ord. 3956 (Sec. 14.08.020)
ORDINANCE NO. 3053

AN ORDINANCE of the City of Kent, Washington, relating to Building, Housing, Mechanical and Plumbing Code enforcement, adding a new Chapter 14.24 on enforcement, providing both civil and criminal penalties for violations and repealing Section 14.24.010 of the Kent City Code.

WHEREAS, at least one of the Building, Housing, Mechanical and Plumbing Codes (adopted by the City of Kent under K.C.C. Sec. 14.04.010, 14.12.010, 14.14.010 and 14.16.010, respectively), presently contain abbreviated procedures for the enforcement of Code violations, makes such violations a criminal offense and provides for criminal penalties; and

WHEREAS, other cities have adopted civil penalties for such Code violations and have found that imposition of a monetary penalty allows recovery of administrative costs of enforcement and is often an incentive to prompt compliance; and

WHEREAS, a change to civil from criminal penalties would also make prosecution of these violations more effective, since "knowing and wilful" commission of a violation is necessary to obtain a criminal conviction; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 14.24.010 (Section 11 of Ord. 2517) of the Kent City Code is hereby repealed.
Section 2. The Kent City Code is hereby amended to add the following new Chapter 14.24:

CHAPTER 14.24
ENFORCEMENT OF THE BUILDING, HOUSING MECHANICAL AND PLUMBING CODES

14.24.020. Definitions. For the purposes of this Chapter, certain terms, phrases, words and their derivations shall be construed as set forth in this section:

A. "Building Official" means the Building Official of the City of Kent and/or the Building Official's duly authorized representative.

B. "Code(s)" means any or all of the Building, Housing, Mechanical and Plumbing Codes, as duly adopted by the City of Kent.

C. "Premises" means a plot of ground, whether occupied by a structure or not.


A. It shall be the duty of the Building Official to enforce the Codes in the manner generally described in each of the respective Codes, and as more particularly described in this Chapter. The Building Official may call upon the police, fire or other appropriate City department to assist in enforcement.
B. It is the intent of this Chapter to place the obligation of complying with Code requirements upon the owner, occupier or other person responsible for the condition of the buildings, structures, dwelling units or premises within the scope of the Codes.

C. In case of conflict between the Code(s) or K.C.C. Chapter 14.01 and this Chapter, this Chapter shall be controlling.


A. The Building Official or his/her representative shall investigate any building, structure, dwelling unit or premises which the Building Official reasonably believes does not comply with the standards and requirements of the Code(s).

B. If, after investigation, the Building Official determines that the Code(s) standards or requirements have been violated, the Building Official shall serve a Notice of Violation on the owner, tenant, or other person responsible for the condition. If a Notice of Violation is directed to a tenant or other person responsible for the violation, a copy of the notice shall also be sent to the owner of the property.

C. The Notice of Violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance. The Notice shall state that any subsequent violations of the Code(s) may result in criminal prosecution as provided in Section 14.24.240 herein.
D. The Notice shall be served upon the owner, tenant or other person responsible for the condition of the building, dwelling unit and/or premises by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. After a reasonable search and reasonable efforts are made to obtain service, if the whereabouts of the person(s) is unknown or service cannot be accomplished and the Building Official makes an affidavit to that effect, then service of the Notice upon such person(s) may be made by:

1. Publishing the Notice once each week for two (2) consecutive weeks in the City's Official Newspaper; and

2. Mailing a copy of the Notice to each person named on the Notice of Violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

E. A copy of the Notice shall be posted at a conspicuous place on the premises, unless posting the Notice is not physically possible.

F. Nothing in this Section shall be deemed to limit or preclude any action or proceeding pursuant to a Stop Work Order issued pursuant to any applicable Code or ordinance; an Emergency Order issued pursuant to Section 14.24.120 herein, or an action pursuant to the Kent Uniform Code for the Abatement of Dangerous Buildings in order to abate a nuisance.

G. The Building Official may mail, or cause to be delivered to all residential and/or nonresidential rental units in
the structure, or post at a conspicuous place on the premises, a notice which informs each recipient or resident about the Notice of Violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.

H. A Notice may be amended at any time in order to:

1. Correct clerical errors, or

2. Cite additional authority for a stated violation.


A. When calculating a reasonable time for compliance, the Building Official shall consider the following criteria:

1. The type and degree of violation cited in the Notice;

2. The responsible party's demonstrated intent to repair, demolish or vacate and close the building, as evidenced by:

   a) a signed construction contract with a licensed contractor to perform the required work by a specific date and for reasonable compensation;

   b) proof of the availability of financial resources to perform the required work with such funds placed in a segregated account to be used only for required repairs or a
binding commitment from an established lending institution providing sufficient funds to complete the required repairs; or

   c) the filing of a complete application for a permit to perform the required work and evidence of payment of any required fees.

3. The procedural requirements for obtaining any required permit to carry out corrective action;

4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and

5. Any other circumstances beyond the control of the responsible party.

B. Unless a request for a review of the Notice of Violation is made in accordance with Section 14.24.140 herein, the Notice shall become the Final Order of the Building Official. A copy of the Notice or Order shall be filed with the King County Department of Records and Elections, except that the Building Official may choose not to file a copy of the Notice or Order if the Notice or Order is directed only to a responsible person other than the owner of the property.

14.24.100. Stop Work Order. The Building Official may issue a Stop Work Order as described in any applicable Code(s), or may issue such Order whenever a continuing violation of the Code(s) will materially impair the Building Official's ability to secure
compliance, or when a continuing violation threatens the health or safety of the public.

14.24.120. Emergency Order.

A. Whenever any building, dwelling unit and/or premises which violates the Code(s) threatens the health and safety of the occupants of the building, dwelling unit, premises or any member of the public, the Building Official may issue an Emergency Order requiring that the building, dwelling unit and/or premises be restored to a condition of safety, and specify the time set for compliance. In the alternative, the Order may require that the building, dwelling unit and/or premises be immediately vacated and closed to entry.

B. The Emergency Order shall be posted on the building, dwelling unit and/or premises and shall be mailed by regular, first class mail to the last known address of the owners, and if applicable, to the occupants.

C. Any building, dwelling unit and/or premises subject to an Emergency Order which is not repaired within the time specified in the Order is hereby found and declared to be a public nuisance, which the Building Official is authorized to abate by such means and with such assistance as may be available to him/her, and the costs thereof shall be recovered by the Building Official in the manner provided by law.

A. Any person aggrieved by a Notice of Violation issued by the Building Official pursuant to Section 14.24.060 herein may obtain a review of the Notice by requesting such review within fifteen (15) days after service of the Notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The request shall be in writing, and upon receipt of the request, the Building Official shall notify any persons served the Notice of Violation and the complainant, if any, of the date, time and place set for the review, which shall be not less than ten (10), nor more than twenty (20) days after the request is received. The Building Official may, upon good cause, postpone the date set for a review, if all persons served with the Notice of Violation agree to such postponement. Before the date set for review, a person significantly affected by the Notice of Violation may submit any written material to the Building Official for consideration at the review.

B. The review will consist of an informal meeting held in the Code Enforcement Department offices. A representative of the Building Official, such as the Assistant Fire Chief in charge of the City's Code Enforcement Division, will attend. An explanation shall be given of the reasons for the Building Official's issuance of the Notice and the representative will listen to any additional information presented by the persons attending. At or after the review, the Building Official or this representative may:

1. Sustain the Notice of Violation;
2. Withdraw the Notice of Violation;

3. Continue the review to a date certain for receipt of additional information; or

4. Modify the Notice of Violation, which may include an extension of the compliance date.

C. The Building Official shall issue a Final Order containing the decision within seven (7) working days of the date of the completion of the review and shall cause the same to be mailed by regular, first class mail to the person or persons named on the Notice of Violation, mailed to the complainant, if possible, and filed with the King County Department of Records and Elections. When the decision affects only a tenant or tenants, the Building Official is not required to file the Final Order with the King County Department of Records and Elections.


A. The Building Official may grant an extension of time for compliance with any Notice or Order whether pending or final, upon finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.

B. An extension of time may be revoked by the Building Official if it is shown that the conditions at the time the extension was granted have changed, if the Building Official determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the
public. The date of revocation shall then be considered as the compliance date.

14.24.160. Appeals to Superior Court. Any appeal of a Final Order issued by the Building Official pursuant to this Chapter or the Code(s) must be filed in the King County Superior Court within thirty (30) days of issuance. There shall be no appeal of a Notice of Violation if no request for review has been made pursuant to Section 14.24.140.


A. It shall be unlawful to fail to comply with a Notice of Violation, Final Order or Stop Work Order issued pursuant to this Chapter or the Code(s).

B. It shall be unlawful to remove or deface any sign, notice, complaint or order required by or posted by the Building Official in accordance with his/her enforcement duties under the Code(s) and this Chapter.

C. It shall be unlawful for any person to obstruct, impede or interfere with any lawful attempt to correct a violation or comply with any Notice of Violation, Final Order, Emergency Order or Stop Work Order.

D. It shall be unlawful for any person to fail to comply with an Emergency Order issued by the Building Official requiring that the building, dwelling unit and/or premises be restored to a condition of safety by a specified time.
E. It shall be unlawful for any person to use or occupy, or to cause or permit any person to use or occupy the building, dwelling unit and/or premises after the date provided in an Emergency Order requiring the building, dwelling unit and/or premises to be vacated and closed, until the Building Official certifies that the conditions described in the Emergency Order have been corrected and the building, dwelling unit and/or premises have been restored to a safe condition.


A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of the Code(s) or this Chapter shall be subject to a cumulative penalty in the amount of three hundred dollars ($300.00) per day for each violation from the date set for compliance until the corrections are made as described in the Order.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Building Official shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Building Official, take appropriate action to collect the penalty.

C. The violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the wilful act, or neglect, or abuse of another; or
2. That correction of the violation was commenced promptly upon receipt of the Notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the violator.


A. Any person, firm or corporation violating the following provisions shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable in accordance with the provisions of K.C.C. Section 1.02.020 (Ordinance 3013) relating to criminal penalties for misdemeanors.

1. Violations of Section 14.24.200(B);

2. Violations of Section 14.24.200(D) and (E), where the person has had a civil judgment under Section 14.24.220 or any of its predecessors rendered against him or her during the last five (5) years;

3. For any pattern of wilful, intentional, or bad faith or refusal to comply with the standards or requirements of this chapter.

4. For any other violation of the Code(s) for which corrective action is not possible.
B. Each day that anyone shall continue to violate or fail to comply with any of the foregoing provisions shall be considered a separate offense.

14.24.260. Additional Relief. The Building Official may seek legal or equitable relief to enjoin any acts and practices and abate any condition which constitutes or will constitute a violation of the Codes when civil or criminal penalties are inadequate to effect compliance. Nothing in this ordinance shall be deemed to limit or preclude any action or proceeding pursuant to the Uniform Code for the Abatement of Dangerous Buildings.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall take effect and be in force thirty (30) days from the time of its final passage as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK
APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 7th day of July, 1992.
APPROVED the 8th day of July, 1992.
PUBLISHED the 10th day of July, 1992.

I hereby certify that this is a true copy of Ordinance No. 3053, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

(SEAL)