Ordinance No. 3130

(Amending or Repealing Ordinances)

CFN=205 – Uniform Building Codes
Passed – 9/7/1993
Amending Ch. 14.08 – Enforcement of the Building, Housing, Mechanical and Plumbing Codes

Amended by Ord. 3178
Amended by Ord. 3690
Amended by Ord. 3880
ORDINANCE NO. 3130

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 14.08 of the Kent City Code, relating to enforcement of the Building, Housing, Mechanical and Plumbing Codes, providing civil penalties, abatement procedures and collection of any necessary costs by the City.

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

Section 1. Chapter 14.08 of the Kent City Code is amended to read as follows:

CHAPTER 14.08
ENFORCEMENT OF THE BUILDING, HOUSING, MECHANICAL AND PLUMBING CODES

Sec. 14.08.010. DEFINITIONS.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Building, housing, mechanical and plumbing codes" mean any or all of the building, housing, mechanical and plumbing codes, as duly adopted by the city.

"Building official" means the building official of the city and/or the building official's duly authorized representative.

"Premises" means a plot of ground, whether occupied by a structure or not.
Sec. 14.08.040. ADMINISTRATION AND ENFORCEMENT.

A. It shall be the duty of the building official to enforce the building, housing, mechanical and plumbing 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 the applicable 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 applicable codes.

C. In case of conflict between the applicable codes or chapter 14.01 and this chapter, this chapter shall be controlling.

Sec. 14.08.060. INVESTIGATION AND NOTICE OF VIOLATION.

A. The building official or his 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 building, housing, mechanical or plumbing code.

B. If, after investigation, the building official determines that the (applicable codes) standards or requirements have been violated, the building official (shall) may seek compliance and serve a notice of violation on the owner, tenant or other person responsible for the condition and/or otherwise enforce pursuant to this chapter and Section 14.08.240 below. If a notice of violation is directed to a tenant or other person responsible for the violation, a copy of the notice shall 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 applicable code may result in criminal prosecution as provided in section 14.06.240.

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 is unknown or service cannot be accomplished and the building official makes an affidavit to that effect, service of the notice upon such persons 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 in 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 14.06.120, or an action pursuant to the Uniform Code for the Abatement of Dangerous Buildings adopted in section 14.06.010 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.

Sec. 14.08.080. TIME TO COMPLY.
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
      e. 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 review of the notice of violation is made in accordance with section 14.08.140, the notice shall become the final order of the building official. A copy of the notice or order shall be filed with the 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.

Sec. 14.08.100. STOP WORK ORDER.

The building official may issue a stop work order as described in any applicable code or may issue such order whenever a continuing violation of the applicable code will materially impair the building official's ability to secure compliance, or when a continuing violation threatens the health or safety of the public.

Sec. 14.08.120. EMERGENCY ORDER.

A. Whenever any building, dwelling unit and/or premises which violates the applicable code 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, and the costs thereof shall be recovered by the building official in the manner provided by law.

Sec. 14.08.140. REVIEW BY THE BUILDING OFFICIAL.

A. Any person aggrieved by a notice of violation issued by the building official pursuant to section 14.08.060 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 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
subject 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 his 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 final order to be mailed by regular, first-class mail to the persons named on the notice of violation, mailed to the complainant, if possible, and filed with the county department of records and elections. When the decision affects only a tenant, the building official is not required to file the final order with the county department of records and elections.

Sec. 14.08.160. EXTENSION OF COMPLIANCE DATE.

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.

Sec. 14.08.180. APPEALS TO SUPERIOR COURT.
Any appeal of a final order issued by the building official pursuant to this chapter or the applicable code must be filed in the 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.

Sec. 14.08.200. VIOLATIONS.
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 applicable code.

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 enforcement duties under the applicable code 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.

(See, 14.08.220. CIVIL PENALTY.

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 applicable building, housing, mechanical or plumbing code 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 willful 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.

Sec. 14.08.240. CRIMINAL PENALTIES. VIOLATION-PENALTY.

A. Civil. Any violation of any provision of this chapter constitutes a civil violation under Kent City Code Chapter 1.04 for which a monetary penalty may be assessed and abatement may be required and/or otherwise enforced as provided therein.

((A)) B. Criminal. In addition or as an alternative to any other penalty provided in this chapter or by law, ((A))any person violating the following provisions shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable in accordance with the provisions of section 1.01.140 relating to criminal penalties for misdemeanors.

1. Violations of section 14.08.200 B.;
2. Violations of section 14.08.200 D. and E., where the person has had a civil judgment under section 14.08.220 or any of its predecessors rendered against him during the last five (5) years;
3. For any pattern of willful, intentional, or bad faith or refusal to comply with the standards or requirements of this chapter;
4. For any other violation of the building, housing, mechanical or plumbing code for which corrective action is not possible.
C. Each day that anyone shall continue to violate or fail to comply with any of the foregoing provisions shall be considered a separate offense.

Sec. 14.08.260. 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 building, housing, mechanical or plumbing code when civil or criminal penalties are inadequate to effect compliance. Nothing in this chapter shall be deemed to limit or preclude any action or proceeding pursuant to the Uniform Code for the Abatement of Dangerous Buildings adopted in section 14.06.010.

Section 2. SEVERABILITY. If any one or more sections, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall take effect and be in force thirty (30) days after its passage, approval and publication.

ATTEST:

BRENDA JACOBER, CITY CLERK

DAN KELLEHER, MAYOR
PASSED the 7 day of September, 1993.
APPROVED the 8 day of September, 1993.
PUBLISHED the 10 day of September, 1993.

I hereby certify that this is a true and correct copy of Ordinance No. 3130, 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)