Ordinance No. 3716
(Amending or Repealing Ordinances)

CFN=122 – Police/Fire Departments
Passed – 10/5/04
Violation Seattle-King County Dept. of Public Health Order (new subsection 9.02.335)

New Section 9.02.335 added
ORDINANCE NO. 3716

AN ORDINANCE of the City Council of the City of Kent, Washington, amending the Kent City Code to add a new section 9.02.335 making it a crime in the City of Kent to violate an order issued by the Seattle-King County Department of Public Health under the authority of Ch. 64.44 RCW.

RECITALS

A. Ch 64.44 RCW provides that when law enforcement becomes aware that property has been contaminated by hazardous chemicals used in the manufacture of illegal drugs, that agency is to report the contamination to the local health department, which for King County is the Seattle-King County Department of Public Health ("Health Department").

B. In the event an officer from the Health Department determines that the property is unfit for use, the officer may issue, serve, and post an order prohibiting entry and use of the property. Under the Health Department’s regulations, any person who violates an order of the Health Department is guilty of a misdemeanor, which is punishable by a fine up to five hundred dollars ($500), or imprisonment in jail up to ninety (90) days, or both.

Violation Seattle-King County Dept. of Public Health Order
C. Generally, the Health Department's regulations are enforced by the King County Sheriff's Office. However, the King County Sheriff has no jurisdiction to enforce criminal charges within the City limits of Kent. Moreover, unless the City makes it a crime to violate a Health Department order, the City is without jurisdiction to enforce the King County provision that makes it a crime to violate an order of the King County Health Department.

D. This ordinance adds a section to the City's criminal code making it crime to violate, remove, or damage an order of the Health Department. This amendment would allow the City to arrest someone who enters upon or uses property in violation of a Health Department order or who removes or damages such order.

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

ORDINANCE

SECTION 1. Amendment Ch. 9.02 of the Kent City Code, entitled "Criminal Code," is amended by adding a new subsection 9.02.335 as follows:

Sec. 9.02.335. Contaminated property - Order of Seattle-King County Department of Public Health prohibiting use or entry - Violation.
A. Whenever an order is issued pursuant to RCW 64.44.030, as that law is now enacted or later amended or recodified, which restrains a person or the public from entering upon or using property, and that order is posted in a conspicuous place on the property, a violation of the provisions restraining use or entry shall be a gross misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than one (1) year, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000), or by both such imprisonment and fine.
B. Whenever an order is issued pursuant to RCW 64.44.030, as that law is now enacted or later amended or recodified, which restrains a person or the public from entering upon or using property, and that order is posted in a conspicuous place on the property, the removal or damage of such order shall be a gross misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than one (1) year, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000), or by both such imprisonment and fine.

SECTION 2. – Severability If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance 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 from and after its passage as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY
PASSED: 5 day of October, 2004.
APPROVED: 5 day of October, 2004.
PUBLISHED: 9 day of October, 2004.

I hereby certify that this is a true copy of Ordinance No. 3716 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

Violation Seattle-King County Dept. of Public Health Order