ORDINANCE NO. 4186

AN ORDINANCE of the city council of the city of Kent, Washington, amending the Kent City Code to repeal the City’s adoption of the Uniform Code for the Abatement of Dangerous Buildings by amending sections 14.01.010 and repealing section 14.01.080, to adopt a new chapter 14.02, entitled "Unfit Dwellings, Buildings, and Structures" to create an additional enforcement tool for code violations involving unfit dwellings, buildings, and structures, and amending sections 14.08.040, 14.08.060, and 14.08.200 to reference the newly adopted chapter 14.02.

RECITALS

A. The city council finds that there are, within the city of Kent, dwellings that are unfit for human habitation, and buildings, structures, and premises or portions of premises that are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or other conditions that are harmful to the health and welfare of the residents of the City. Unfortunately, the owners of those properties are often unwilling or unable to correct these conditions.

B. Chapter 35.80 of the Revised Code of Washington ("RCW") authorizes cities to adopt ordinances enabling them to address these

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conditions fairly, effectively, and with substantial assurance that the city can recover its costs incurred to abate these conditions. The City adopts this ordinance so that staff can use the code enforcement process provided for within Chapter 35.80 RCW to eradicate dwellings and other buildings or structures that are unfit or otherwise harmful.

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

ORDINANCE

SECTION 1. — Amendment — KCC 14.01.010. Section 14.01.010 of the Kent City Code, entitled “Building codes—Adopted,” is amended to repeal the City’s prior adoption of the Uniform Code for the Abatement of Dangerous Buildings as follows:

Sec. 14.01.010. Building codes — Adopted. In accordance with Chapter 19.27 RCW, the following codes (collectively, the “building codes”) together with any additions, deletions, and exceptions currently enacted or as may be amended from time to time by the state of Washington through its Building Code Council pursuant to the Washington Administrative Code ("WAC"), and as further amended in this chapter, are adopted by reference:


One (1) copy of each of these codes is on file with the city’s building official.

**SECTION 2. - Amendment - New Chapter 14.02 KCC.** Title 14 of the Kent City Code is amended by adding a new chapter 14.02, entitled “Unfit Dwellings, Buildings, and Structures,” to read as follows:

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Chapter 14.02
Unfit Dwellings, Buildings, and Structures

Sec. 14.02.010. Findings and Purpose. Pursuant to Chapter 35.80 of the Revised Code of Washington (RCW), the city council finds that dwellings exist within the city of Kent that are unfit for human habitation. When all or any portion of buildings, structures, and premises become unfit for their intended uses due to dilapidation; disrepair; structural defects; defects increasing the hazards of fire, accidents or other calamities; inadequate ventilation; uncleanliness; inadequate light or sanitary facilities; inadequate drainage; overcrowding; or other conditions, they are harmful to the health, safety, and welfare of the city’s residents.

The purpose of this chapter is to implement the process and to acquire and exercise the powers authorized by Chapter 35.80 RCW to address conditions such as those described above that render dwellings, buildings, structures, and premises in the city unfit.

The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

Sec. 14.02.020. Definitions. The definitions contained in KCC 1.04.020 and KCC 14.08.020 will also apply to this chapter. In addition, the following words, terms, and phrases, when used in this chapter, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. Abandoned means any property, real or personal, that is unattended and either open or unsecured so that, in the case of real property, admittance may be gained without materially damaging any portion of the property, or which reasonably appears not to be presently possessed by
any person. Examples of real or personal property that may reasonably appear abandoned include, without limitation, dwellings, buildings, structures, and other premises where utilities are disconnected, debris is accumulated, uncleanliness or disrepair is evident, or where items of personal property are located in places where those items are not normally kept or used.

B. *Appeals Commission* means the office of the hearings examiner as created in Chapter 2.32 KCC.

C. *Boarded-up building* means any unoccupied building the exterior of which is closed by extrinsic materials or devices installed on a long-term, rather than brief temporary basis, giving to the building the appearance of non-occupancy or non-use for an indefinite period of time. Appendix A of the International Property Maintenance Code (IPMC), adopted for use and enforcement within the city, provides criteria that regulates how dwellings, buildings, and structures may be properly secured against unlawful entry, and otherwise maintained to protect the public health, safety, and welfare and the provisions and purposes of this chapter.

D. *Building* means all or any portion of any building, dwelling, structure, mobile home, or factory-built house built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

E. *Costs* means the city’s actual expenses incurred to correct illegal conditions pursuant to the provisions of this chapter, plus any applicable administrative fee.

F. *Director* means the city’s director of the Economic and Community Development Department or the director’s designee.

G. *Imminent danger* means an immediate exposure or liability to injury, harm, or loss.

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H. *Improvement officer* means the person authorized by the director to conduct a review hearing pursuant to this chapter.

I. *Nuisance* means: (a) a nuisance defined by statute or ordinance; (b) a nuisance at common law, either public or private; (c) an attractive nuisance, whether realty, fixture, or chattel, in or on a building, a building premises, or an unoccupied lot, that might reasonably be expected to attract children and constitute a danger to them, including without limitation, abandoned wells, ice boxes or refrigerators with doors and latches, shafts, basements or other excavations, abandoned or inoperative vehicles or other equipment, structurally unsound fences or other fixtures, lumber, fencing, vegetation or other debris; (d) uncleanliness or other condition that is dangerous to human life or detrimental to health; (e) overcrowding; or (f) abandoned as defined in this chapter.

J. *Subject property* means the dwelling, building, structure, or premises that is the subject of investigation or an enforcement action pursuant to this chapter.

K. *Unfit* means a dwelling, building, structure, or premises that has any or all of the defects enumerated in KCC 14.02.080 and is therefore unfit for human habitation or other uses.

L. *Value* means the amount assessed upon a dwelling, building, structure, or premises for purposes of general taxation.

**Sec. 14.02.030. Duties of the code enforcement officer.** The code enforcement officer’s duties and powers include:

A. Investigating dwellings, buildings, structures, or premises the officer, pursuant to this chapter, has reasonable grounds to believe are unfit; and

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B. Preparing, serving, and posting of notices and orders according to the provisions of this chapter regarding subject properties that the officer has reasonable grounds to believe, pursuant to this chapter, are unfit; and

C. Doing all things necessary and proper to carry out and enforce this chapter.

Sec. 14.02.040. Duties of the improvement officer. The improvement officer’s duties and powers include:

A. Conducting review hearings pursuant to RCW 35.80.030 to consider notices and orders issued by code enforcement officers with other evidence that may be received from code enforcement officer or other parties and persons; and

B. Preparing, serving and posting a Summary of Decision, including findings of fact in support of the improvement officer’s determination, pursuant to KCC 14.02.140(D); and

C. Doing all things necessary and proper to carry out and enforce this chapter.

Sec. 14.02.050. Duties of the hearing examiner. The hearing examiner is the appeals commission for purposes of this chapter. In addition to the powers conferred through ch. 2.32 KCC, the Hearing Examiner shall:

A. Conduct administrative hearings pursuant to KCC 14.02.170 to consider notices and orders issued by the code enforcement officer or the improvement officer together with other evidence that may be received from the improvement officer, code enforcement officer, or other parties and persons, and where appropriate, affirm, modify, or overturn the notices and orders by written decision; and

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B. Do all things necessary and proper to carry out and enforce this chapter.

**Sec. 14.02.060. Rules and regulations.** The director may establish rules and procedures to reasonably and fairly administer the provisions and achieve the purposes of this chapter. The improvement and code enforcement officers shall recognize and give appropriate effect to special and extenuating circumstances that, in order to do substantial justice in specific cases, warrant the exercise of discretion to adjust the timeframes, standards, and other provisions of this chapter. Examples of circumstances that may warrant an exercise of discretion include without limitation: medical illness or disability affecting the ability of the person responsible for the violation to respond to orders or appear at hearings, and bona fide insurance coverage disputes that create a definite risk that enforcement of this chapter would unfairly result in a substantial economic loss to the property owner or the person responsible for the violation.

The building official, improvement officer, or code enforcement officer is authorized to exercise all powers, consistent with the provisions of this chapter that may be necessary or convenient to reasonably and fairly achieve its purposes. When authorized by consent of the owner or other party in possession of a subject property, or if consent to enter either cannot be requested because the owner or party in lawful possession is not available, or consent to enter is refused or revoked, and when authorized by judicial warrant or other legal authority, the building official, code enforcement officer, or designee, may enter upon a subject property to investigate violations or to enforce the provisions of this chapter. When authorized entry occurs, the building official, code enforcement officer, or designee, will take reasonable steps to minimize inconvenience to persons in lawful possession of the property.
Sec. 14.02.070. Determination of unfitness. The code enforcement officer, improvement officer, or hearing examiner may determine that a dwelling, building, structure, or premises are unfit if conditions exist in the dwelling, building, structure, or premises that are dangerous or injurious to the health or safety or welfare of the occupants of the dwelling, building, structure, or premises, the occupants of neighboring dwellings, or other residents of the city.

Sec. 14.02.080. Standards for determination of unfitness. Dwellings, buildings, structures, or other premises that have any or all of the following defects may be deemed dangerous or unfit:

A. Interior walls or other vertical structural members that list, lean, or buckle to an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

B. Dwellings, buildings, and structures that, exclusive of the foundation, show 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.

C. Dwellings, buildings, and structures that have improperly distributed loads upon the floors or roofs, or in which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

D. Dwellings, buildings, and structures that have become damaged by fire, wind, or other causes so as to have become dangerous to the occupants or to the general public health, safety, or welfare.

E. Dwellings, buildings, and structures that have become or are so dilapidated or decayed or unsafe or unsanitary that they are unfit, or are likely to cause sickness or disease, so as to work injury to those living or who may enter within or to the general public health, safety, or welfare.
F. Dwellings, buildings, and structures that have inadequate light, air, or sanitation facilities, including the lack of running potable water, to protect those who live or who may enter within or to protect the general public health, safety, or welfare.

G. Dwellings, buildings, and structures that do not comply with the applicable fire code for means of egress in case of fire or panic or that have insufficient stairways, elevators, fire escapes, or other means of escape.

H. Dwellings, buildings, and structures that have attached parts that may fall and injure any person or damage any property.

I. Dwellings, buildings, and structures that, because of their condition, are unsafe or unsanitary, or dangerous to those living or who may enter within or the general public health, safety, or welfare.

J. Dwellings, buildings, and structures that have any exterior cantilever wall, or parapet, or appendage attached to or supported by an exterior wall of the building located adjacent to a public way or to a way set apart for exit from a building or passage of pedestrians, if that cantilever, parapet, or appendage is not so constructed, anchored, or braced as to remain wholly in its original position in event of earthquake capable of producing a lateral force equal to 0.2 of gravity.

K. Dwellings, buildings, and structures that in whole or in part are erected, altered, remodeled, or occupied contrary to the ordinances adopted by the city and create a risk of harm to person or property.

L. Dwellings, buildings, and structures that have any exterior wall located adjacent to a public way or to a way set apart for exit from a building or passage of pedestrians, if that wall is not so constructed,
anchored, or braced as to remain wholly in its original position in event of an earthquake capable of producing a lateral force equal of 0.2 of gravity.

M. Premises that constitute a public nuisance pursuant to KCC 8.01.030 and are dangerous or injurious to the occupants, the occupants of neighboring premises, or the general public health, safety, or welfare.

N. Premises that have any number of unsecured vehicles, cars, trucks, bikes, farm equipment, construction equipment, boats, trailers, snowmobiles, jet skis, or other machinery or implements that meet the definition of junk vehicle provided in KCC 8.08.020 and that create a risk of harm to person or property.

O. Premises that are unsecured and unsafe due to conditions that pose a hazard or attractive nuisance including without limitation sink holes, exposed underground vaults, pipes or wires, trenches, unstable slopes, or hazardous materials.

P. Developed premises that have over 50 percent of the area covered in blackberries or other noxious vegetation constituting a nuisance under KCC 8.07.050.

**Sec. 14.02.090. Standards for repair, vacation, or demolition.**
The following standards shall be followed in substance by the improvement officer and the hearing examiner when ordering repair, remediation, vacation, or demolition of dwellings, buildings, structures, or premises:

A. If the dangerous or unfit dwelling, building, structure, or premises can reasonably be repaired or remedied so that it will no longer exist in violation of the terms of this chapter, the improvement officer or hearing examiner shall order repair or remediation.
B. If the estimated cost to repair the dangerous or unfit dwelling, building, structure or premises is 50 percent or more of the current assessed value, it will be demolished.

C. If the dangerous or unfit dwelling, building, structure, or premises cannot be reasonably repaired or remedied so that it will no longer exist in violation of the terms of this chapter, it will be demolished.

D. If the dangerous or unfit dwelling, building, structure, or premises is a fire hazard and that condition violates any provision of this chapter or any other ordinance of the city or the laws of the state, the unfit dwelling, building, structure, or premises shall be demolished or abated, unless the owner eliminates the fire hazard within 10 days, but the improvement officer or hearing examiner, for good cause shown, may grant additional time to remedy the violation.

Sec. 14.02.100. Security of unoccupied dwellings, buildings, structures, or premises.

A. The code enforcement officer, improvement officer, or hearings examiner may determine that an unoccupied property is unfit for reasons including without limitation:
   1. It is not secure against unauthorized entry by children, trespassers, vagrants, or other persons;
   2. It is not secure against infestation by insects or animals;
   3. It is not secure against deterioration as a result of exposure to vandalism, weather, or the elements; or
   4. It is inadequately maintained and repaired as evidenced by broken windows, overgrown vegetation, graffiti, or other conditions.

B. In making this determination, the code enforcement officer will consider and document with photographs and written accounts the factors
that in his or her judgment reasonably bear on the determination, including without limitation:

1. The physical condition of the subject property and whether it reflects ongoing maintenance and repair, including the presence of broken windows or evidence of vandalism, overgrown vegetation, the presence of insect or animal pests, deterioration due to weather or exposure to the elements, and whether graffiti, when it occurs, is painted over promptly.

2. The length of time the subject property has been unoccupied.

3. The subject property is being actively marketed for sale or lease.

4. Other facts that demonstrate that the subject property has been or will likely be subject to hazards and circumstances contrary to the public health, safety, and welfare.

5. Other considerations established by this chapter.

C. In addition to any other powers authorized by this chapter, the improvement officer may order the person responsible for the violation to perform any or all of the following on or before a stated compliance deadline:

1. Secure all exterior openings of the subject property in accordance with Appendix A of the International Property Maintenance Code, or if the property owner requests otherwise in writing, by using alternative materials or methods that the code enforcement officer or improvement officer determines are adequate to make the dwellings, buildings, structures, premises weather-tight and secure against unauthorized entry.

2. To disconnect all utilities including electricity, gas, and water.

3. To remove any graffiti and to keep the property free of graffiti.

4. To maintain the premises generally free of any vegetation or other matter that may constitute a nuisance or a fire hazard.

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D. The improvement officer may modify orders issued under KCC 14.02.100(C) from time to time in response to new information or changed circumstances regarding all or a portion of the dwelling, building, structures, or premises.

E. The code enforcement officer may monitor compliance of any unoccupied dwelling, building, structures, or premises that has been the subject of orders issued under this chapter. Monitoring may include regular inspections at an interval determined appropriate by the code enforcement officer based upon the subject property’s violation history.

**Sec. 14.02.110. Preliminary investigation.** After the city learns of a dwelling, building, structure, or other premises that may be unfit, the code enforcement officer will investigate whether the condition exists, and if so, whether that condition is a violation of this chapter or other provision of the Kent City Code. This investigation should typically include reasonable efforts to speak with the owner of the subject property, or the tenant if the property is rented. The code enforcement officer will make a record of the investigation, including:

A. Identification of the subject property.

B. Documentation of inspection actions, including relevant dates, efforts to establish identity of, and contact with owners, tenants, or others responsible for the violations.

C. Written observations relevant to possible conditions of unfitness, possibly including diagrams of the building or premises and photographs.

D. The officer’s conclusion of whether the dwelling, building, structure, or other premises is unfit and the officer’s reasons for that conclusion.
If the code enforcement officer determines no violation exists, the officer will note that determination for the record and the matter will be concluded. The code enforcement officer will notify the owner or other person responsible for the violation, or other persons who have requested notice of the officer’s determination.

Sec. 14.02.120. Notice and order—Contents. If, after preliminary investigation, the code enforcement officer determines that a dwelling, building, structure, or other premises is unfit, the officer will serve, according to the provisions of KCC 1.04.060, a notice and order that will state, identify, or describe:

A. The subject property including at least the property address and county assessor’s tax parcel number.

B. The condition(s) on the subject property that is illegal or that renders one or more dwellings, buildings, structures, or premises unfit;

C. The actions needed to correct the non-compliant condition(s);

D. The deadline for correction of the condition(s), which should allow a reasonable time for correction and must be set at least 48 hours before the matter will be presented at a hearing before the improvement officer;

E. The cost or administrative fees that may be charged to the person responsible for the violation as a consequence of the described non-compliant conditions, as described in KCC 14.02.190;

F. The place and date where and when the matter will be presented to the improvement officer, which will be at least 10 and not more than 30 days after the notice and order is served or posted.
G. Advise that at the improvement officer hearing, the improvement officer will be requested to:

1. Affirm the code enforcement officer's determination of unfitness;
2. Authorize the city to proceed to abate the described non-conforming conditions on the subject property, if those conditions are not corrected before the deadline or otherwise corrected by the person responsible for the violation; and
3. Affirm that the owner will pay administrative fees plus the costs incurred by the city, through the date of the code enforcement officer's determination of the non-conforming conditions, together with all reasonable costs that the city subsequently incurs to abate the non-conforming conditions, together with all administrative fees incurred for the subsequent abatement.

H. That all parties responsible for the violation shall be given the right to file an answer to the notice and order, to appear in person or otherwise, and to give testimony at the time and place for the improvement officer's review stated in the notice and order;

I. That city policy allows the improvement officer to waive the city's costs or administrative fees, or both, for a first offense if the non-conforming conditions are corrected at least 48 hours prior to the improvement officer's hearing;

J. Invite the cooperation of the person(s) responsible for the violation and inform the violator(s) that city policy allows first offenders to negotiate a voluntary correction agreement consistent with the provisions of KCC 1.04.070 in which, among other things, the person responsible for the violation:

1. Admits that the non-conforming condition(s) exist(s);
2. Promises to correct the non-conforming condition(s) by an agreed deadline;

3. Understands that he or she: (i) may refuse consent to enter, (ii) may limit the scope of any consent to enter to certain areas, (iii) may withdraw at any time any consent to enter once consent is given, (iv) must allow entry by representatives of the city or persons under contract with the city to correct any non-conforming condition(s) that the violator fails to correct by the required deadline; and (v) acknowledges that any evidence discovered during the consent to entry may be used against the person responsible for the violation in the existing proceeding or in other proceedings, including criminal proceedings; and

4. Agrees to pay the city's costs to abate the illegal conditions if the owner fails to abate, pursuant to KCC 14.02.190.

K. If the subject property is lawfully occupied by someone other than the person responsible for the violation and if the person(s) responsible for the violation has not corrected the violations by the required deadline, no voluntary correction agreement will be offered unless the persons lawfully occupying the property also consent to entry by either the city or persons under contract with the city to correct the illegal condition(s);

L. Advise the violator(s) that if the non-conforming conditions are not timely corrected, the city may pursue the matter further by civil or criminal enforcement, or both, in addition to further proceedings authorized under this chapter; and

M. Advise the violator(s) that city policy is to criminally prosecute repeat offenders.

Sec. 14.02.130. Service of notice and order—Filing with county auditor. If, after a preliminary investigation of any dwelling, building, structure, or premises, the code enforcement officer determines
that it is unfit, he or she will serve, all parties responsible for the violation, either personally or by certified mail, return receipt requested. The officer must also post at one or more conspicuous places on the subject property, a copy of the notice and order stating, in accordance with the provisions of Section 14.02.120, in what respects the dwelling, building, structure, or premises is unfit. If the whereabouts of the violator(s) is unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, and the officer makes an affidavit to that effect, then the serving of the notice and order upon the violator(s) may be made either by personal service or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each violator at the address of the building involved in the proceedings, and mailing a copy of the notice and order by first class mail to any address of each violator in the records of the county assessor or the county auditor. A copy of the notice and order must also be filed with the county recorder’s office, and filing the notice and order shall have the same force and effect as other lis pendens notices provided by law.

Sec. 14.02.140. Improvement officer hearing to review notice and order.

A. Unless, prior to the time fixed in the notice and order for a hearing before the improvement officer, the property owner has entered into a voluntary correction agreement, or city staff have determined that the nonconforming conditions have been corrected, the improvement officer will hold a hearing to review the notice and order and determine the immediate disposition of any nonconforming conditions existing at the subject property. The hearing will be canceled if the code enforcement officer approves the completed corrective action at least 48 hours before the scheduled hearing, and the code enforcement officer will provide notice of satisfactory correction to the owner, complainants, and other interested...
persons, and to the county recorder’s office if a notice of the enforcement action was previously filed.

B. The improvement officer shall conduct a hearing pursuant to any rules adopted by the director. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the improvement officer. The code enforcement officer, the person(s) subject to the violation, and other parties entitled to be served with the notice and order may participate as parties in the hearing, and each party may call witnesses. The city has the burden of demonstrating by a preponderance of the evidence that the subject property is unfit and that the required corrective action stated in the notice and order is reasonable. When considering the evidence, the code enforcement officer’s determination of unfitness and order to correct nonconforming conditions shall be accorded substantial weight.

C. If the cited violator or other parties fail to appear at the scheduled hearing, the improvement officer may affirm the notice and order by finding that the subject property is unfit as determined by the code enforcement officer. The improvement officer may further authorize the city to assess costs and administrative fees according to the provisions of this chapter.

D. If persons appear and provide testimony, then the improvement officer will consider evidence and argument submitted by the code enforcement officer, the party responsible for the violation, and the complainant(s). The improvement officer will then determine whether the subject property is unfit for human habitation or other use and, if so determined, issue a summary of decision according to the provisions of this section. Within 5 business days following the date of hearing, the summary of decision shall be served, either personally or by certified mail, with return receipt requested, upon the person responsible for the violation.
and other persons entitled to notice of the notice and order, and shall be posted in a conspicuous place on the subject property. The summary of decision will include at least the following:

1. Findings of fact in support of the improvement officer’s decision affirming the notice and order; and

2. Either:
   a. That the compliance deadline under the notice and order was reasonable and has passed without satisfactory correction of the illegal conditions; or
   b. That the compliance deadline under the notice and order should be extended until a date certain by which time the illegal conditions must be corrected.

3. An accounting of the city’s costs and administrative fees which, as of the date of the hearing, have been incurred as a consequence of the illegal conditions, and that those costs and fees will be charged to the owner and shall be specially assessed and shall constitute a lien against the real property if they are not paid timely.

4. Direction that, after exhaustion of any appeal rights, if the owner or responsible parties fail to comply with the notice and order as confirmed by the improvement officer, the city may, with judicial warrant or other legal authority, directly or by private contract, correct the illegal conditions, and the costs incurred by the city for that correction, including administrative fees as authorized by this chapter, will be charged to the person determined to be responsible for the violation and will be specially assessed and that special assessment will constitute a lien against the real property if not paid timely.

E. The summary of decision shall state that the person responsible for the violation is entitled to appeal the improvement officer’s decision to the hearing examiner within 30 days and, unless he or she does appeal or correct the illegal conditions, the city has the power, when authorized by

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judicial warrant or other legal authority, to secure the subject property, to do any act required of the person responsible for the violation in the notice and order, to charge costs and administrative fees incurred to correct the illegal conditions to the person responsible for the violation, and to assess those costs and fees against the property.

F. If no appeal is filed, a copy of the summary of decision will be filed with the recorder’s office of King County and the notice and order will be final.

Sec. 14.02.150. Enforcement. The summary of decision may prescribe times other than times stated in the notice and order within which correction of nonconforming conditions must be commenced or completed. If the required corrective action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the code enforcement officer may, after the period for appeal has expired, begin the legal process to obtain a warrant to abate the nonconforming conditions. If satisfactory progress has been made and sufficient evidence is presented that the nonconforming conditions will be corrected within a reasonable time, the code enforcement officer or improvement officer may extend the time for completion of the work. If the time for appeals to the hearing examiner under KCC 14.02.170 and petition to the court under KCC 14.02.180 has passed, the person responsible for the violation may, for good and sufficient cause beyond his or her control, request in writing an extension of time. The improvement officer may grant a reasonable extension of time only if the officer finds that the delay was due to extenuating circumstances beyond the control of the person responsible for the violation, as evidenced by supporting documentation or other reliable information. There shall be no appeal or petition from the improvement officer’s ruling on an extension of time.
Sec. 14.02.160. Appeal of improvement officer’s decision.

A. The owner or any party responsible for the violation, as those terms are defined in KCC 1.04.060, may file an appeal of the improvement officer’s decision within 30 days from the date of service and posting. The appeal must be filed with the director.

B. Appeals shall be in writing, be accompanied by an appeal fee as set by the city council, and contain the following information:
   1. Appellant’s name, address, phone number, and email address;
   2. Appellant’s statement describing his or her standing to appeal;
   3. Identification of the summary of decision which is the subject of the appeal;
   4. Appellant’s statement of grounds for appeal and the facts upon which the appeal is based;
   5. The relief sought, including the specific nature and extent; and
   6. A statement affirming that the appellant has read the appeal and believes the contents to be true, followed by the appellant’s signature.

C. Any appeal of the improvement officer’s decision will be heard by the city’s hearing examiner. Notice of the time and place of the hearing shall be served by regular first class mail to the address of the party who filed the appeal. The matter of the appeal will be scheduled for public hearing before the hearing examiner so as to allow 10 days’ notice of the hearing to the appellant and all responsible parties and to permit final decision thereon to be made within 60 days after the filing of the appeal. The filing of the notice of appeal shall stay the notice and order as confirmed by the improvement officer, except so much thereof as requires

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temporary measures, such as securing of a building to minimize any emergent danger to the public health or safety.

Sec. 14.02.170. Hearings before the hearing examiner.

A. Upon timely appeal, the hearing examiner shall review the proceedings and decisions of the improvement officer and determine whether to affirm, modify, or vacate those decisions.

B. The hearing examiner’s review shall be on the record as prepared before the improvement officer, not de novo. In the absence of new information or changes in circumstances outside the parties’ control, the hearing examiner will not accept new evidence or evidence not made available to the improvement officer. At the appeal hearing, the hearing examiner shall consider the file of the proceedings before the improvement officer and such other evidence as the hearing examiner may permit in accordance with this section. Unless other rules or guidelines are set by the hearing examiner at the time of the hearing, each party will be given 15 minutes to present oral argument to the hearing examiner.

C. The hearing examiner shall review the record, oral argument of the parties and such supplemental evidence as is permitted under KCC 14.02.170(B). The hearing examiner may grant relief only if the party seeking relief has carried the burden of establishing that one of the following standards has been met:

1. The improvement officer or code enforcement officer engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

2. The improvement officer’s decision is an erroneous interpretation of the law;
3. The improvement officer’s decision is not supported by evidence that is substantial when viewed in light of the whole record before the hearing examiner;

4. The improvement officer’s decision is a clearly erroneous application of the law to the facts;

5. The improvement officer’s decision is outside the authority or jurisdiction of the improvement officer;

6. The improvement officer’s decision or the code enforcement officer’s notice and order violates the constitutional rights of the party seeking relief; or

7. Special and extenuating circumstances exist that, in order to do substantial justice, warrant the grant of relief from the improvement officer’s summary of decision.

D. After the hearing, the hearing examiner may affirm, modify, or vacate the decision of the improvement officer, or may continue the matter for further deliberation or presentation of additional evidence.

E. A record of the proceedings shall be made and kept in accordance with the state records retention schedule and applicable to local governments.

F. The hearing examiner shall prepare a written order that contains findings of fact and conclusions of law based on the record before the hearing examiner that includes the following information:

1. For each alleged violation of the city code, a statement indicating whether the violation has been found committed;

2. For violations found committed, the monetary penalties and costs to be assessed pursuant to this chapter;

3. For violations found committed, any required corrective actions;
4. For violations found committed, a finding that abatement of the violations by the city is authorized, at the expense of the violator(s);

5. A statement notifying the violator(s) that the violator(s) may be subject to additional civil and/or criminal penalties if the violation(s) is not corrected or abated.

6. A statement that the violator(s) has the right to petition the King County superior court for appropriate relief within 30 days from the date the order was issued.

G. The hearing examiner’s findings, conclusions, and order shall be served upon the same persons in the same manner as the summary of the improvement officer’s decision.

H. The hearing examiner must file the order within 60 days after the filing of a notice of appeal, unless continued with consent of the owner or occupant.

I. The appeal hearing will be recorded and a copy of the recording will be made available to the violator or other party. Should the violator or other party request a transcript of the appeal hearing, in lieu of the recording, a transcript will be made available at the requestor’s expense.

J. The findings, conclusions, and orders of the hearing examiner on appeals of decisions issued by the improvement officer shall be reported in the same manner and shall bear the same legal consequences as if issued by the improvement officer, and shall be subject to review only in the manner and to the extent provided in KCC 14.02.180.

**Sec. 14.02.180. Appeals to superior court.** Pursuant to KCC 14.02.170, any person affected by the hearing examiner’s order may, within 30 days after the posting and service of the order, petition the superior court for an injunction restraining the city from carrying out the provisions of the order.

25 Ordinance Amending Title 14 KCC—Unfit Dwellings, Buildings, and Structures
Sec. 14.02.190. Costs of abatement and administrative fees.

A. The costs of abatement, repair, alteration, or improvement, or vacating and closing, or removal or demolition, when those actions are performed at the city’s cost, will be assessed against the real property upon which those costs were incurred unless paid within 30 days after billing by the city, or unless alternative payment arrangements are made within 30 days after billing. The building official will forward a report of any unpaid costs of abatement and administrative fees to the city finance director, who will certify them to the county treasurer for assessment on the tax rolls, as provided by RCW 35.80.030(h).

B. The cost of “vacating and closing” as referenced in subsection A will include:

1. The amount of relocation assistance payments that a property owner has not repaid to the city or other local government entity that has advanced relocation assistance payments to tenants under RCW 59.18.085; and

2. All penalties and interest that accrue as a result of the failure of the property owner to timely repay the amount of these relocation assistance payments under RCW 59.18.085.

C. The city must use a licensed contractor when bidding to correct nonconforming conditions. Contract documents must provide that the value of the materials and other salvage of the property will be credited against the costs of the corrective action. The contract documents may require bidders to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of the contractor’s bid accordingly. After the city accepts the bid, the contractor may not adjust the bid to reflect the actual salvage value. Bids may be let prior to the time for compliance or appeal, but cannot be binding or accepted until the order for corrective action is final.
D. In addition to actual abatement costs, the city may assess the following administrative fees and collect those fees in the same manner as for the collection of actual abatement costs:

1. If the code enforcement officer approves the abatement before the improvement officer’s hearing, the administrative fee will be two hundred dollars ($200.00), except that this fee will not be required for a first offense if the abatement required in the notice and order is complete at least 48 hours prior to the improvement officer’s hearing.

2. Where the abatement required in the notice and order is accomplished less than forty-eight hours before the improvement officer’s hearing as provided for in KCC 14.02.140, the administrative fee will be three hundred dollars ($300.00).

3. When abatement is accomplished after breach of a voluntary correction agreement between the property owner and the city, the administrative fee will be six hundred dollars ($600.00).

4. Where abatement is accomplished after the issuance of the improvement officer’s summary of decision or following material breach of a voluntary correction agreement, the administrative fee will be one thousand dollars ($1,000).

5. Where abatement is accomplished following the issuance of the hearing examiner’s order, the administrative fee shall be one thousand two-hundred-fifty dollars ($1,250).

6. Where abatement is accomplished following the issuance of an order from the Superior Court or higher appellate court, the administrative fee will be one thousand five hundred dollars ($1,500).

E. The improvement officer or the hearing examiner may, upon recommendation from the code enforcement officer, modify the amount, methods, or time of payment of these administrative fees as the condition of the property and the circumstances of the owner may warrant. In determining any adjustments, the hearing examiner may reduce the costs.
to an owner who has acted in good faith and would suffer extreme financial hardship. The hearing examiner may, upon recommendation from the code enforcement officer, increase the administrative fees if evidence is presented in an appeal under KCC 14.02.170 that the scheduled fees are inadequate to make the city whole with respect to a particular unfit dwelling, building, structure, or other premises.

Sec. 14.02.200. Assessment and lien on the real property.

A. All costs incurred by the city to abate illegal conditions pursuant to this chapter, including administrative fees, will be charged against the owner of the subject property, will be specially assessed, and will constitute a lien against the subject property unless those amounts are timely paid.

B. The finance director, or designee, will certify to the county treasurer any unpaid costs to correct nonconforming conditions as a special assessment due and owing to the city. Pursuant to RCW 35.80.030, the county treasurer will enter the amount of the special assessment upon the tax rolls against the property for the current year and the same will become a part of the general taxes due for that year and will be collected at the same time and with interest at the rates and in the manner provided for in RCW 84.56.020, as now enacted or subsequently amended, for delinquent taxes. When collected, the proceeds will be deposited to the credit of the city’s abatement project fund. If the city removes all or part of the dwelling, building, structure, or premises, the city will, if possible, sell the materials removed and credit the proceeds against the cost of removal. If any balance remains, the improvement officer will determine the appropriate parties to receive the balance, after deducting the city’s costs and administrative fees incident thereto.
C. The assessment will constitute a lien against the property that will be of equal rank with state, county, and municipal taxes.


A. The city council establishes a special revolving fund to be designated as the abatement project fund. The director may require that payments from this fund to defray the costs and expenses that the city incurs when conducting work necessary to abate dangerous or unfit buildings, structures, or premises.

B. The city council may transfer to the abatement project fund those sums it determines are necessary to expedite the performance of the work or repair or demolition. Any sum so transferred will be deemed a loan to the abatement project fund and will be repaid out of the proceeds of the collections made to the fund. All funds collected will be paid to the city and the finance director will credit them to the abatement project fund.

SECTION 3. Amendment – 14.08.040. Section 14.08.040 of the Kent City Code, entitled “Administration and enforcement” is amended to read as follows:

Sec. 14.08.040. Administration and Enforcement.

A. It shall be the duty of the building official to enforce the building codes in the manner generally described in each of the respective building codes, and as more particularly described in this chapter, Ch. 14.02 KCC, and in Ch. 1.04 KCC.

B. The obligation of complying with the requirements of the building codes shall fall upon any person or entity defined under KCC 1.04.020(K) as a “person responsible for the violation,” and shall expressly include
the owner, occupier, or other person responsible for the condition of the buildings, structures, dwelling units, or premises within the scope of the building codes.

C. In case of conflict between the provisions of the building codes and of this chapter, the provisions of this chapter shall be controlling. In the case of any conflict between this chapter and Ch. 1.04 KCC, this chapter shall control.

SECTION 4. Amendment – KCC 14.08.060. Section 14.08.060 of the Kent City Code, entitled "Investigation and Notice of Violation" is amended to read as follows:

Sec. 14.08.060. Investigation and notice of violation.

A. The building official 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 codes.

B. If, after investigation, the building official determines that the standards or requirements of the building codes have been violated, the building official may seek compliance and serve a notice of violation on a person responsible for the violation or may otherwise enforce the building codes pursuant to this chapter, Ch. 14.02 KCC, and Ch. 1.04 KCC.

SECTION 5. Amendment – KCC 14.08.200. Section 14.08.200 of the Kent City Code, entitled "Violations" is amended to read as follows:

Sec. 14.08.200. Violations.
A. It shall be unlawful to intentionally fail to comply with a notice of violation, final order, emergency order, or stop work or stop use order, or any other notice, complaint or order issued pursuant to this chapter, Ch. 14.02 KCC, or Ch. 1.04 KCC.

B. It shall be unlawful to remove or deface any sign, notice, complaint or order posted by the building official in accordance with his enforcement duties under this chapter, Ch. 14.02 KCC, or Ch. 1.04 KCC.

C. It shall be unlawful for any person to intentionally obstruct, impede or interfere with any lawful attempt to serve any notice of a violation, final order, emergency order, stop work or stop use order, or any other notice, complaint or order, or intentionally obstruct, impede or interfere with any lawful attempt to comply with any notice of violation, final order, emergency order, or stop work or stop use order, or any other notice, complaint or order issued pursuant to this chapter, Ch. 14.02 KCC or Ch. 1.04 KCC.

SECTION 6. - Repealer - KCC 14.01.080. Section 14.01.080 of the Kent City Code, entitled "Amendments to the Uniform Code for the Abatement of Dangerous Buildings" is hereby repealed in its entirety.

SECTION 7. - Savings. The existing sections of the Kent City Code that are repealed by this ordinance, KCC 14.01.010(G) and KCC 14.01.080, shall remain in full force and effect until the effective date of this ordinance.

SECTION 8. - Severability. If any one or more section, subsection, or sentence of this ordinance is 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.

31 Ordinance Amending Title 14 KCC—Unfit Dwellings, Buildings, and Structures
SECTION 9. - Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state or federal laws, codes, rules, or regulations.

SECTION 10. - Effective Date. This ordinance shall take effect and be in force thirty days from and after its passage, as provided by law.

SIGNED FOR:

SUZETTE COOKE, MAYOR

ATTEST:

RONALD F. MOORE, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 19th day of January, 2016.

APPROVED: 19th day of January, 2016.

PUBLISHED: 22nd day of January, 2016.
I hereby certify that this is a true copy of Ordinance No. 4186 passed by the city council of the city of Kent, Washington, and approved by the Mayor of the city of Kent as hereon indicated.

RONALD F. MOORE, CITY CLERK

(SEAL)