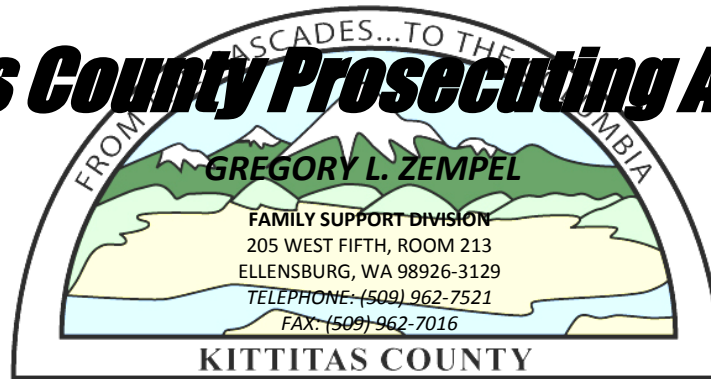


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MEMO

To: Kittitas County Board of Health
From: DPA Stephanie Hartung
Re: Amendment to Chapter 13.75-Enforcement Costs Ordinance
Date: 9/13/17

Dear Board of Health,

Enclosed is a draft ordinance of the proposed requested amendments to Chapter 13.75 of the Kittitas County Code.

The first change is to section 13.75.010(3) which enumerates what should be included in a Health Order. The following language is to be added:

- f. A statement advising that the costs incurred by any Kittitas County Department involved in enforcing a final Health Order will be assessed and charged as a joint and separate personal obligation of any person in violation;
- g. A statement advising that imposed enforcement costs may be appealed directly to the Board of County Commissioners, in writing, no later than ten (10) days after receipt of an invoice for costs.

The purpose of adding such language is to provide notice to Health Order recipients that they will be charged any costs associated with the enforcement of a Health Order.

The second proposed change is to section 13.75.050, Enforcement of Final Health Order. The following language is to be added:

- d. Impose and charge the costs incurred by any Kittitas County Department involved in enforcing the Health Order against the property as a joint and separate personal obligation of any person in violation.

- 3. An invoice for enforcement costs shall be served in the same manner as detailed in section 13.75.020 for Health Orders.

4. Enforcement costs may be appealed directly to the Kittitas County Board of County Commissioners, in writing, no later than ten (10) days after receipt of an invoice for costs.

Again this language is to serve as notice. I had originally proposed that the enforcement costs be charged as a lien (in addition to a personal obligation) in an effort to provide leverage to secure the debt, however, after much research I have concluded that that may not be enforceable considering the lack of specific statutory authority or a court order. It should still be possible to obtain a judgement via court action if the owing party does not pay which can lead to a judgment lien on the property, but it does not appear to be a legally supported remedy to include in the code the way I had originally proposed.

The 3rd and final proposed change is to add a new section, 13.75.075 Appeal of Enforcement Costs, which shall read as follows:

13.75.075 Appeal of Enforcements Costs.

1. The imposition of enforcement costs may be appealed, by the aggrieved party, directly to the Kittitas County Board of County Commissioners. A request for appeal must be made within ten (10) days of the service of the invoice for costs. The request shall include:
 - a. The Health Order that initiated the enforcement costs assessment.
 - b. The name and address of the appellant and his or her interest(s) in the matter;
 - c. The specific reasons why the appellant believes the enforcement costs should not be imposed; and
 - d. The appeal fee.
2. Notice of Hearing.
 - a. Not later than fifteen (15) calendar days after the receipt of one or more timely Notices of Appeal, the Kittitas County Board of County Commissioners shall issue and serve a Notice of Hearing to the appellant(s). Requests from multiple parties concerning the same invoice may be consolidated.
 - b. The Notice of Hearing shall be served by the same means as a Health Order as detailed in Section 13.75.020 KCC.
 - c. The Notice of Hearing shall contain the date, time, and location of the hearing.
3. Evidence.
 - a. Evidence, including hearsay evidence, is admissible if in the judgment of the Board of Commissioners it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
 - b. All testimony of parties and witnesses shall be made under oath or affirmation.
 - c. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
 - d. Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the Board's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, of this state, or by a nationally recognized organization or association. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be

afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

4. Each party shall have the following rights:

- a. To call and examine witnesses on any matter relevant to the issues of the hearing;
- b. To introduce document and physical evidence;
- c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- d. To impeach any witness;
- e. To rebut evidence against him;
- f. To represent himself or be represented by an attorney of his or her own choosing.

5. Hearing

- a. The appeal hearing shall be conducted on the record and the Kittitas County Board of County Commissioners shall have such rulemaking and other powers necessary for conducting the hearing.
- b. The Board must find that the facts that allege that the enforcement costs are due and owing by the appellant(s) are true and accurate by a preponderance of the evidence.
- c. The existence of a valid and final Health Order shall be prima facia evidence that enforcement costs may be imposed.
- d. Following review of the evidence submitted, the Kittitas County Board of County Commissioners shall make written findings and conclusions, and shall affirm or modify the enforcement costs issued if the Board finds that they were properly imposed. The Board shall revoke the imposition of costs if they find that they were improperly imposed. The written decision of the Board shall be mailed by certified mail and first class mail, five day return receipt requested, to the appealing party.

This section was added at the request of the BOCC members at the last BOH meeting and provides the mechanism for appeals of enforcement costs. This section mimics the appeal process for BOH re Health Orders, but is specific to enforcement costs and appeals are made to BOCC rather than BOH.

These proposed amendments should accomplish the desired goal to impose and collect costs associated with enforcing future Health Orders.

Sincerely,

Stephanie Hartung, DPA