

Metropolitan King County Council Budget and Fiscal Management Committee

Agenda Item No.:	4	Date:	March 6, 2012
Proposed No.:	2011-0485	Prepared By:	Amy Tsai

STAFF REPORT

SUBJECT

Proposed Ordinance 2011-0485 would restructure the fees charged by Real Estate Services for processing right of way construction permit applications. It would create four main categories ranging from \$200 to \$2,000. There would be no significant impact on revenue as a result of the change. The goal of the proposal is to have a schedule that reflects economies of scale and is easy for applicants to understand. This is the first hearing for the proposal. The ordinance is not ready for action today.

BACKGROUND

The purpose of this staff report is to provide a briefing on proposed right of way construction permit fee changes. Staff analysis is continuing on the reasonableness of the proposed fee schedule.

Proposed Ordinance 2011-0485 proposes to change the fee schedule for county right of way construction permits. Right of way (ROW) construction permits allow utilities, telephone and telegraph companies to install or do maintenance utility work in the county right of way. Examples include waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, cable TV, petroleum products and any other such public and private utilities.

Under K.C.C. 14.44.030, permit applications for utility franchises doing construction on county rights of way are submitted to the Real Estate Services section of the Facilities Management Division (RES). ROW construction permits set the conditions for the utilities' work (see Attachment 4 for a sample permit).

K.C.C. 14.44.040, which delineates the fee amounts, states, "Each application requires a fee payable to the real estate services section for the administrative costs and expenses of processing the application."

Administrative costs and expenses for RES include activities such as verifying contents of the application for completeness and accuracy, phone or email contact when submittals are not detailed or clear, reviewing construction plans, confirming work jurisdiction, calculating fees, preparing a package for Utility Inspection review, computer entry, filing, billing, and overhead.

Current Permit Fees

The current fee schedule has been in place since 2009. In late 2008 during the 2009 budget adoption process, the Council approved ROW construction permit fee increases that doubled the prior fee amounts. Prior to that, ROW construction permits had not increased since 2005. The update was made in order to achieve full cost recovery for the county (Ordinance 16295).

The current fee schedule charges a base price of \$200, and then the cost goes up based on number of additional poles, linear feet of mains, or excavation sites.

Under K.C.C. 14.44.040, permit fees are currently as follows:

- \$200 for every six poles for pole lines, for installing water/sewer/gas main pipes, cable or conduits of 1,000 linear feet or less, or for each excavation for a connection
- \$180 for each additional 1,000 linear feet of mains
- \$140 for every three attachments to existing poles

Proposed Permit Fees

Under Proposed Ordinance 2011-0485, the permit fee schedule would be as follows:

- Level 1: \$200
 - Up to six poles or attachments
 - Water/sewer/gas main pipes, cable or conduits of 1,000 linear feet or less
 - One excavation
- Level 2: \$500
 - o 7-15 poles or attachments
 - Water/sewer/gas main pipes, cable or conduits of 1,001 to 3,000 linear feet
 - Two to three excavations
- Level 3: \$1,000
 - o 16-30 poles or attachments
 - Water/sewer/gas main pipes, cable or conduits of 3,001 to 7,000 linear feet
 - Four to seven excavations
- Level 4: \$2,000
 - 31+ poles or attachments
 - Water/sewer/gas main pipes, cable or conduits of 7,001 or more linear feet
 - Eight or more excavations

There are also fees for immediate response permits (rush orders) and annual maintenance permits that do not change under the proposal. Those fees are as follows:

- \$120 for an immediate response permit
- \$450 maximum for annual maintenance permits (based on number of customer connections)

Under the proposed new fee schedule, instead of adding on incremental costs for additional poles, linear feet, or excavation sites, four main categories are created. An applicant would be charged separately for the total number of poles, total linear feet of each type of main or cable or conduit, and/or total number of excavation sites. For example, installing a water main and a sewer main of 1,000 linear feet each would result in a permit fee of \$400 (\$200 x 2). For excavations, if the purpose is to access work, the permit charge is based on the number of excavations. But if the purpose of the excavation is to install or replace piping or poles, the permit charge is based on the linear feet of pipes or number of poles.

According to the Executive's transmittal letter (see Attachment 2), the proposed fee revisions were prompted by inquiries from two utilities, Sallal Water Association and Soos Creek Water and Sewer District, who had unusually high permit fees due to having a large number of excavations. Sallal had a permit fee of \$20,600 in 2009 and Soos Creek had a permit fee of \$15,600 in 2010. By comparison, the highest permit fee charged in 2011 was \$7,700.

The Executive states that the proposed new fee schedule would simplify the permit application process and better reflect economies of scale in reviewing permit applications for larger construction projects. RES states that the proposed fee levels are more proportional to the amount of staff time that RES spends on processing permits at those levels compared to the current fee schedule. The Executive also projects no significant change in revenue as a result of the proposal.

ANALYSIS

Monetary Impact on Applicants

Slight or No Change for Most Applicants

For the majority of applicants the fee would not change. Three-quarters of all permit application fees are \$200 (see Figure 1 below). Under the proposed new fee schedule, applicants currently charged \$200 would continue to be charged \$200 (Level 1 fee).

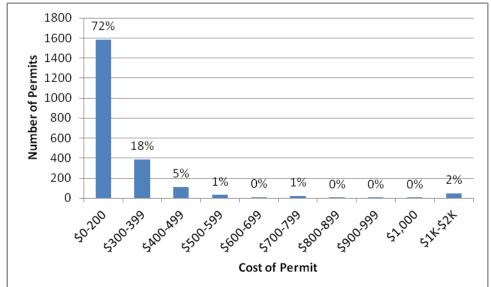


Figure 1. Distribution of ROW Permit Amounts in 2010

Of the remaining three categories (Levels 2, 3, and 4), an applicant would see its fee go up or down depending on where in the new cut-offs the applicant fell. However, on balance there would be an <u>increase</u> in revenue from applicants at proposed Level 2 (\$500) and proposed Level 3 (\$1,000), and a <u>decrease</u> in revenue from applicants at proposed Level 4 (\$2,000).

Significant Increases or Decreases for a Few Applicants

Because a fairly wide range of current fees are proposed to be consolidated into fewer categories, a very few applicants (roughly five percent) in Levels 2 to 4 would experience a significant percentage <u>increase</u> of 25 to 60 percent under the proposed rates compared to 2010 applicant fees. The dollar amount of those increases would be around \$100-\$500.

At the upper end, there were 13 applicants out of 2,205 in 2010 who had permit fees in excess of \$2,000. The fees for those applicants ranged from \$2,040 to over \$8,000. Many of them likely would see their permit fees <u>decrease</u> due to the \$2,000 charge for Level 4 permits. (Note: Level 4 applicants could still be charged over \$2,000 if they were doing work that fell into multiple categories, or if RES required them to apply for multiple permits due to the complexity of their project.)

The cumulative impact of the proposed changes on revenue is as follows:

- Level 1 (\$200): Stays same
- Level 2 (\$500): Slight increase in revenue collected compared to current fees
- Level 3 (\$1,000): Slight increase in revenue collected compared to current fees
- Level 4 (\$2,000): Decrease in revenue collected compared to current fees Revenues are discussed in more detail below.

Revenue Impacts

RES estimates that the new fee schedule will generate substantially the same revenue as the existing fee schedule (see Attachment 3 for fiscal note). Table 1 below shows the amount of revenue generated by permit applications in 2010 compared to an estimate of how much those permits would have generated if they were following the proposed new fee schedule.

Table 1. 2010 Revenues under Current Model vs. Proposed Model

		Current Fee		Proposed	Fee
Proposed Rate	2010 Number	2010	2010	Projected	Projected
	of Permits	Revenue	Percentage	Revenue	Percentage
	(% of Total)		of Revenue		of Revenue
Level 1: \$200	583	\$316,600	49.2%	\$316,600	49.5%
	(71.8%)				
Level 2: \$500	148	\$ 64,090	10.0%	\$ 74,000	11.6%
	(6.7%)				
Level 3: \$1,000	47	\$ 44,050	6.8%	\$ 47,000	7.3%
	(2.1%)				
Level 4: \$2,000	33	\$ 82,910	12.9%	\$ 66,000	10.3%
	(1.5%)				
\$320 (Basic +	315	\$100,480	15.6%	\$100,480	15.7%
Emergency \$120)	(14.3%)				
\$450 (Maintenance	79	\$ 35,550	5.5%	\$ 35,550	5.6%
Permits)	(3.6%)				
TOTAL PERMITS	2,205	\$643,680	100%	\$639,630	100%
	(100%)				

Based on actual revenues, implementing the proposed fee schedule in 2010 would have resulted in about \$4,000 less revenue, or a decrease of less than one percent. RES estimates that implementing the proposed fee schedule in 2011 would have resulted in about \$5,000 more in revenue.

In theory an applicant might look for ways to modify its needs in order to fall into a lower permit category under the new fee schedule. Unlike the current fee schedule, a difference of just one pole for an applicant who is on the border between two categories would mean a difference of \$1,000. However, the number of applicants in that situation would be small and applicants are unlikely to let permit fees drive business decisions.

AMENDMENT

An amendment will be needed to correct wording in the proposed ordinance and to clarify fee provisions. Staff is preparing an amendment for the Committee's consideration.

ATTACHMENTS

- 1. Proposed Ordinance 2011-0485
- 2. Transmittal letter dated November 15, 2011
- 3. Fiscal note
- 4. Sample Right of Way construction permit

INVITED

Dwight Dively, Director, Office of Performance Strategy and Budget (PSB) Kathy Brown, Director, Facilities Management Division (FMD), DES Steve Salyer, Manager, Real Estate Services Section, FMD, DES Doug Williams, Property Supervisor, Real Estate Services Section, FMD, DES



KING COUNTY

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Signature Report

March 6, 2012

Ordinance

	Proposed No. 2011-0485.1 Sponsors Patterson
1	AN ORDINANCE relating to fees and other charges
2	assessed by the real estate services section for processing
3	applications and authorizing use of King County property
4	through right-of-way construction permits; and amending
5	Ordinance 1711, Section 4, as amended, and K.C.C.
6	14.44.040.
7	BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:
8	SECTION 1. A. Section 2 of this ordinance proposes changes to the fee structure
9	currently charged for right-of-way construction permits by consolidating fees into fewer
10	categories and proposing a maximum fee for right-of-way construction permits.
11	B. These fees are established and assessed pursuant to K.C.C. 2.99.030.
12	SECTION 2. Ordinance 1711, Section 4, as amended, and K.C.C. 14.44.040 is
13	hereby amended as follows:
14	Each application requires a fee payable to the real estate services section for the
15	administrative costs and expenses of processing the application. The following fee
16	schedule applies:
17	((A. Pole lines:
18	Power, telephone, etc. (every six poles or portion thereof): \$200.00
19	B. Water:

20	Installing mains (1000 lin. ft. or less): \$200.00	
21	Additional 1000 lin. ft. or fraction thereof: \$180.00	
22	Excavation for connection: \$200.00	
23	C. Sewer:	
24	Installation of mains (1000 ft. or fraction thereof): \$200.00	
25	Additional 1000 lin. ft. or fraction thereof: \$180.00	
26	Excavation for connection: \$200.00	
27	D. Cable or conduit:	
28	Installing cable or conduit (1000 ft. or less): \$200.00	
29	Additional 1000 lin. ft. or fraction thereof: \$180.00	
30	Excavation for connection: \$200.00	
31	E. Gas or oil:	
32	Installing mains (1000 lin. ft. or less): \$200.00	
33	Additional 1000 ft. or fraction thereof: \$180.00	
34	Excavation for connection: \$200.00	
35	F. Attachment to existing poles for every three attachments: \$140.00))	
36	A. Level One (Basic or Minimum Fee): \$200.00	
37	A Level One fee shall be charged for a single residential connection; a single	
38	excavation; one thousand linear feet or less of main pipe, cable or conduit; or one to si	X
39	poles or attachments.	
40	B. Level Two: \$500.00	

41	A Level Two fee shall be charged for two to three separate excavations; one
42	thousand one to three thousand linear feet of main pipe, cable or conduit; or seven to
43	fifteen poles or attachments.
44	<u>C. Level Three:</u> \$1,000
45	A Level Three fee shall be charged for four to seven separate excavations; three
46	thousand one to seven thousand linear feet of main pipe, cable or conduit; or sixteen to
47	thirty poles or attachments.
48	D. Level Four (maximum fee): \$2,000
49	A Level Four fee shall be charged for eight or more separate excavations; seven
50	thousand one or more linear feet of main pipe, cable, or conduit; or more than thirty-one
51	poles or attachments.
52	$((G_{-}))$ <u>E</u> . Immediate response permit requests: In addition to the required permit
53	fees, an additional fee of ((sixty)) one hundred twenty dollars shall be charged.
54	$((H))\underline{F}$. Annual $((M))\underline{m}$ aintenance permits: Fees per number of connections:
55	1. 0 to 50 connections: \$200.00
56	2. 51 to 100 connections: \$250.00
57	3. 101 to 200 connections: \$300.00
58	4. 201 to 500 connections: \$400.00
59	5. 501 or more: \$450.00

60	SECTION 3. This ordinance takes	effect thirty days after the adoption of this
61	ordinance by the King County council.	
62		
		KING COUNTY COUNCIL KING COUNTY, WASHINGTON
	ATTEST:	Larry Gossett, Chair
	Anne Noris, Clerk of the Council	
	APPROVED this day of	,·
		Dow Constantine, County Executive
	Attachments: None	

November 15, 2011

The Honorable Larry Gossett Chair, King County Council Room 1200 COURTHOUSE

Dear Councilmember Gossett:

Attached is a proposed ordinance to amend fees currently charged by the Real Estate Services Section of the Facilities Management Division (RES/FMD) for processing right-of-way construction permit applications. The ordinance proposes restructuring the application fee schedule by consolidating existing permit fees from fourteen sub-categories to four major categories: a minimum fee, a maximum fee and two mid-range fee categories. The proposed new fee structure will simplify the permit application process, provide certainty to permit applicants regarding overall fees, and provide a more equitable distribution of permit processing costs. The proposed fee consolidation can be accomplished with no significant change to the annual revenue collected.

Right-of-way construction permit application fees are assessed on water, sewer, gas or oil, communication, cable and electric franchise holders who plan to perform construction activities in King County right-of-way. Unlike permits administered by the Department of Development and Environmental Services, which provides regulatory oversight of development on any property in unincorporated King County, right-of-way construction permits provide temporary property rights allowing private and quasi-governmental utility entities to use King County right-of-way for their own purposes. This type of permit is a property management function similar to the granting of easements or leasing of land.

Under the current fee structure, the vast majority of permit application fees range from a \$200 basic permit fee to less than \$1,000. The current fee structure for larger projects is based on the number of excavations, lineal feet of pipe, cable, or conduit, or utility poles or attachment to poles, without a maximum fee amount. The proposed ordinance will establish a maximum fee of \$2,000 to take into account the economies of scale and decreasing incremental costs in processing these permit applications.

This review of right-of-way permit application fees was prompted by inquiries from two utilities: Sallal Water Association and Soos Creek Water and Sewer District. Each had

The Honorable Larry Gossett November 15, 2011 Page 2

submitted an application for right-of-way construction permits for projects that included an unusually large number of excavations which resulted in unusually high permit fees. Following our review of the existing fee schedule, RES/FMD concluded that a simplified permit fee schedule would better reflect economies of scale in reviewing permit applications for larger construction projects, like these two projects, without a significant impact on revenue.

Should you have any questions, please contact Kathy Brown, Director, Facilities Management Division, at 206-296-0630.

Sincerely,

Dow Constantine King County Executive

Enclosures

cc: King County Councilmembers

ATTN: Cindy Domingo, Acting Chief of Staff

Mark Melroy, Senior Principal Legislative Analsyt, BFM Committee

Anne Noris, Clerk of the Council

Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)

Rhonda Berry, Assistant Deputy County Executive, KCEO

Frank Abe, Director of Communications, KCEO

The Honorable Dan Satterberg, King County Prosecuting Attorney

Dwight Dively, Director, Office of Performance Strategy and Budget (PSB)

Sid Bender, Capital Budget Manager, PSB

Caroline Whalen, County Administrative Officer, Department of Executive Services (DES)

Kathy Brown, Director, Facilities Management Division (FMD), DES

Steve Salyer, Manager, Real Estate Services Section, FMD, DES

FISCAL NOTE

Ordinance/Motion No. 2011-0485

Title: Right-of-Way Construction Permit Fee Consolidation

Affected Agency and/or Agencies: FMD

Note Prepared By: Steve Salyer, Facilities Management Division

Note Reviewed By:

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue to:

Fund/Agency	Fund	Revenue	Current Year ¹	1st Year ²	2nd Year	3rd Year
	Code	Source				
		Right-of-Way				
Executive		Construction Permit				
Services	0010	Fees	\$531,075	\$527,734	\$527,734	\$527,734
TOTAL			\$531,075	\$527,734	\$527,734	\$527,734

Expenditures from:

Fund/Agency	Fund	Department	Current Year	1st Year	2nd Year	3rd Year
	Code					
			0	0	0	0
TOTAL			0	0	0	0

Expenditures by Categories Labor and ROW charges from Real Estate Services to be reimbursed by Roads CIP

	Current Year	1st Year	2nd Year	3rd Year
Option 001	0	0	0	0
Option 002	0	0	0	0
Option 003	0	0	0	0
Option 007	0	0	0	0
Option 008	0	0	0	0
TOTAL	0	0	0	0

Notes:

¹ 2011 estimate based on existing fee schedule (assumes 1,550 Right-of-Way Construction Permits)

 $^{^{2}}$ 2012 estimate based on proposed new fee schedule (assumes 1,550 Right-of-Way Construction Permits)

[Blank Page]

Utility Right of Way Construction Permit



Department of . . . ve Services
Real Estate Se vices Section
King County Administration Bidg.
500 Fourth Avenue, Room 500
Seattle, WA 98104-0236
Permits 206-296-7456 Fax 206-296-0196
Job Starts/Inspections 206-296-8122

Franchis N-	W-94-11 Job No.		Environmental Assessment
rranchise No		Kroll Page No. 421 -	Date Received
Date03/	01/201 Section TWP	Range	☐ Not Required ☐ Existing Assessment ☐ Replacement ☐ Categorically Exempt
Applicant	NORTHSHORE UTILITY DISTRICT	Phone No.	425-398-4403
Address	P O BOX 82489	ULID No	
Job Description	KENMORE, WA 98028 on & Location	Bond Amou	unt
,		ergency Contact Name:	KELLY NESBITT
install service	Chattam Ridge plat irrigation systeff	ergency Contact Phone Nu	mber:425-398-4403

THIS PERMIT IS FOR KING COUNTY RIGHT OF WAY ONLY.
GIVE DISTANCE BY STREET OR ROAD WITH AN ON, FROM AND TO DESCRIPTION.
ALL WATER MAIN EXTENSIONS MUST HAVE APPROVAL FROM THE FIRE MARSHAL.
ALL UNDERGROUND UTILITY LINES MUST HAVE A MINIMUM 36" COVER.
ALL WORK TO BE DONE SUBJECT TO THE APPROVAL OF THE KING COUNTY ROAD ENGINEER.
ALL WORK SHALL BE PERFORMED IN CONFORMANCE WITH KING COUNTY ROAD STANDARDS.

The undersigned agrees to comply with provisions, conditions and requirements contained in the "Standards of Good Practice for County Road Departments" published by County Road Administration Board.

All work to be done in conformity with conditions and requirements of the King County Code 6.27, 13.24 and 14.44, and the petitioner agrees to prosecute with all diligence and speed with due regard for the rights, interests and convenience of the public. If at the end of 6 months after issuance of permit the grantee shall not have in operation said utilities, then the rights herein conferred shall cease and terminate, unless specific written provisions are made for a renewal or extension.

The undersigned, its successors and assigns, agrees if granted the above permit, to comply with the provisions, conditions, requirements, regulations and recommendations herein contained and as may apply to any utility franchise granted the applicant and under whose provisions same is issued. It will respect and protect all property contracts, persons and rights that might be affected by it.

INDEMNITY AND HOLD HARMLESS: The Permittee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Permittee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials and employees from and against liability for all claims, demands, sults, and judgments, including cost of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Permittee's exercise of rights and privileges granted by this permit. The Permittee's obligations under this permit shall include: (a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Permittee, the concurrent negligence of both parties, or the negligence of one or more third parties; (b) The duty to promptly accept tender of defense and provide defense to the County at the Permittee's own expense; (c) Indemnification of claims made by the Permittee's own employees or agents; and (d) Waiver of the Permittee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties. In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from the Permittee. In the event it is determined that RCW 4.24.115 applies to this permit, the Permittee agrees to defend, hold harmless, and indemnify King County to the maximum extent permittee.

		Signature of Applicant	Approval o	n tile
Application Received	02/16/2011	Entered	02/16/2011	Permit Fee \$00.00
Permit Issued03	/01/2011	Bv:	A PERLMAN	
	Date		Permit Clerk	

This application is granted subject to the requirements and conditions thereof as listed below and on back of page.

- A King County inspector will be assigned to the project for inspection of road restoration. Costs of inspection applicable to the project will be reimbursed to
 the County monthly by applicant. Permittee is required to notify King County Department of Transportation at 206.295.8122 between 24 and 72 hours
 before starting work. Failure to give notice will result in the assessment of a one hour inspection time charge against the permittee. This assessment is in
 addition to any other remedy available under law or equity which the County may wish to pursue and shall not be construed as an election of remedies by
 the County.
- All hard surfaced roads to be jacked or bored. Exceptions will be on a case-by-case basis with the express permission of the King County Department of Transportation.
- 3. One-way traffic at all times. Signs and traffic control will be in accordance with the manual on uniform traffic control devices for streets and highways.
- 4. Asphalt to be neat line cut 1 foot back from trench. Restoration as a minimum shall include 6-1/2" of crushed surfacing top course and 2" asphalt Class "B" or replaced to original condition.
- 5. It is the responsibility of the grantee to notify all utility districts and private property owners when such property is liable to injury or damage through the performance of the above work. Call 1.800.424.5555 48 hours in advance for underground utility location. This instruction does not relieve the grantee from required notification of County inspectors as specified in paragraph 1, above.

Approved by	SIGNATURE ON FILE		APPROVAL ON FILE	
	Manager	•	Engineer	

COUNTY OF KING, STATE OF WASHINGTON

Permit No: W-94-11	Date: 2-16-11
PETITION FOR PERMIT TO PERFORM I	WORK ON KING COUNTY RIGHTS OF WAY
The Road Engineer of the County of King	
	be a bonafide resident of the State of Washington, rk hereinafter described, and asks to be granted a on the County Right-of-Way known as:
THE FOLLOWING DESCRIBED WORK:	
THE FOLLOWING DESCRIBED WORK:	
REMARKS:	
APPROVED BY:	APPLICANT:
	AMOUNT OF BOND: BB
Bridge Engineer	INSPECTOR:



Northshore Utility District

ADDRESS 6830 NE 185th Street Kenmore WA 98028-2684

TELEPHONES Engineering: Administration:

FAX NUMBERS

February 14, 2011

King County Administrative Building 500 Fourth Avenue, RM 500 Seattle, WA 98104

RE:

Request for Right of Way Construction Permit

Work order M34704

Dear Real Estate Services:

RECEIVED BY FEB 15 2011

REAL ESTATE SERVICES PERMIT SECTION

We are requesting issuance of a right of way permit, to install one water service at 82^{nd} Ave NE & NE 117^{th} PL. The location is on Kroll page 421.

Please note project name, or work order on the permit. If you have any questions or are in need of more information, please call me at 425-398-4403.

Sincerely,

Kelly Nashall

Kelly Nesbitt Senior Administrative Specialist

HAM RIDGE PLAT SHOWS

Accountable Management - Responsible Usage

