

Metropolitan King County Council

Budget and Fiscal Management Committee

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| **Agenda Item No.:** | 4 |  | **Date:** | April 15, 2014 |
| **Proposed No.:** | 2012-0358 |  | **Prepared By:** | Amy Tsai |

***STAFF REPORT***

**SUBJECT:**

Proposed Ordinance 2012-0358 would update provisions in Title 4 (Revenue and Financial Regulation) related to property taxes, and move the provisions to Title 4A or other applicable locations in the King County Code.

**SUMMARY**

Proposed Ordinance 2012-0358 is part of the ongoing effort to move and clean up chapters from Title 4 to Title 4A. This effort has been underway since 2011.

The proposed ordinance updates and clarifies property tax related provisions in Title 4 particularly due to changes in state law and removes unnecessary provisions.

The chapters to be modified by the proposed ordinance cover topics of 1) certification of junior taxing districts for levying property taxes; 2) compliance provisions, 3) property tax refunds; and 4) proof of non-delinquency of real property taxes for permit approval.

The chapters include the following:

* K.C.C. 4.48 Junior Taxing District Levy Certification
* K.C.C. 4.52 Delinquent Local Improvement Assessment Foreclosure
* K.C.C. 4.60 Subdivision Parcel Property Taxes
* K.C.C. 4.62 Property Valuation
* K.C.C. 4.63 Property Tax Notice
* K.C.C. 4.64 Property Tax Refunds
* K.C.C. 4.68 Non-delinquent Property Tax Certification

**This is the first hearing on this item. Although the proposed ordinance covers many chapters, most of the proposed changes are clarifications, or are changes that reflect updates in state law. However, a permit change that is being considered for a proposed striker would represent a policy change.**

The Department of Assessments and Treasury Section (in the Finance and Business Operations Division of the Department of Executive Services) were involved in the development of the proposed ordinance. The Department of Permitting and Environmental Review has proposed changes to reduce the types of permits that require property tax certifications prior to approval. The Prosecuting Attorney’s Office has reviewed the proposed ordinance. Legal review by Council legal counsel is continuing. **A striker is being prepared. This item is not yet ready for action.**

**BACKGROUND**

The Title 4 Effort

Title 4 of the King County Code relates to Revenue and Financial Regulation. As of 2011, Title 4 had not been comprehensively reviewed since the Council began codification in-house in the late 1980's – almost thirty years ago. The last reviews were attempted in 1999 and 2005, but the efforts did not reach conclusion and the title was not comprehensively revised.

In 2011, the County Council directed a new effort to clean up provisions of Title 4 and move them into a new Title 4A. The chapters that have been moved to date and the remaining areas of Title 4 are summarized in Table 1, below.

**Table 1. Bodies of Work for Title 4 Comprehensive Review and Title 4A Migration**

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| **Date of Action** | **Subject Area** | **Citation** | **Description of Work** |
| * 07/25/11 | Court Fees | Ord. 17150  (2011-0222) | Ordinance 17150 incorporated Superior Court and Dept. of Judicial Administration-related fees into the new Title 4A. |
| * 11/09/11 | Interim Definitions | Ord. 17229  (2011-0403) | Ordinance 17229 aligned Title 4 phase definitions with the Accountable Business Transformation (ABT) project management system that was about to go live. |
| * 04/02/12 | Taxes | Ord. 17291 (2012-0086) | Ordinance 17291 moved tax chapters relating to sales and use taxes, excise taxes, and hotel-motel tax to Title 4A, including 4.28, 4.29, 4.30, 4.31, 4.32, 4.33, 4.34, and 4.42. |
| * 04/02/12 | Title 4 Fees | Ord. 17292 (2012-0087) | Ordinance 17292 moved the rest of Title 4 county fee chapters to Title 4A, capturing non-court-related fees such as vehicle license fees, sewer rates, transit fares, etc. |
| * 04/02/12 | Definitions | Ord. 17293  (2012-0088) | Ordinance 17293 moved all Title 4 definitions into the new Title 4A. |
| * 09/10/12 | Risk Mgmt. | Ord. 17408  (2012-0236) | Ordinance 17408, heard in GAOFP Committee, updated Chapter 4.12 and 4.13 risk management provisions, and recodified them in Title 2, relating to county administration. |
| * 1/28/13 | Fees | Ord. 17515  (2012-0453) | Ordinance 17515 moved all Real Estate Services fee amounts (primarily in Title 14) to Title 4A. |
| * 2/11/13 | Procurement | Ord. 17522  (2012-0445) | Procurement provisions (4.16) moved to Title 2, relating to county administration. Passed out of GAO. |
| * 2/19/13 | Funds | Ord. 17527  (2012-0438) | The ordinance adopting funds and fund managers cleaned up, and Funds (4.08) moved to Title 4A. |
| * 3/25/13 | Bonds | Ord. 17540  (2012-0472) | Bond provisions (4.20) moved out of Title 4. Chapter 4.84 repealed. |
| * 9/9/13 | Contracting Opportunities | Ord. 17652 (2013-0245) | Contracting Opportunities Program code provisions (4.18, 4.19) made consistent with state law and moved to Title 2 Administration. Passed out of GAO. |
| * BFM | Property Taxes | 2012-0358 | Property tax provisions (4.48, 4.52, 4.60, 4.62, 4.64, 4.68) would be updated and moved to Title 4A. |
| **Date of Action** | **Subject Area** | **Citation** | **Title 4 Chapters Remaining to Migrate** (may be multiple pieces of legislation per subject area) |
| 2014 | Budget, Reporting & Oversight | 4.04, 4.06, 4.40 | A large body of work remains regarding operating budget, capital budget, capital oversight, art in county construction projects, and reporting requirements. |
| 2014 | Funds | 4.10, 4.24 | Investment of funds, Executive Finance Committee and interfund borrowing |
| 2014 | Contracting | 4.14 | Contracting provisions relating to bidding procedures |
| 2014 | Real & Personal Property | 4.36, 4.44, 4.56 | Real and personal property (county property payment of rent, tax title sales, sales and leasing) |
| 2014 | Excise Taxes | 4.35 | Excise taxes from timber harvested from public lands |
| 2014 | Misc. | 4.26, 4.29, 4.57, 4.81 | Vehicle license fee, public transportation funding, concession contracts, law library support |
| **Date of Action** | **Subject Area** | **Citation** | **Other Titles with Parts to Migrate to Title 4A** |
| TBD | Fees | Various | Department fees in other titles, such as K.C.C. 10.12 Solid waste site disposal fees, could be moved to Title 4A. |
| TBD | Misc. | Various | This is a placeholder for other areas that might be identified as the Title 4A work continues. |

The goal is to continue working on Title 4 revisions throughout 2014, with proposed legislation on budgeting and reporting (Chapter 4.04) ready for Council discussion and possible action by mid-year. The work on Chapter 4.04 will be the most labor intensive as it includes the entire budgeting and reporting framework for operating and capital budgets.

Proposed Ordinance 2012-0358

Proposed Ordinance 2012-0358 relates to property taxes and proposes changes to the following chapters:

* K.C.C. 4.48 Junior Taxing District Levy Certification
* K.C.C. 4.52 Delinquent Local Improvement Assessment Foreclosure
* K.C.C. 4.60 Subdivision Parcel Property Taxes
* K.C.C. 4.62 Property Valuation
* K.C.C. 4.63 Property Tax Notice
* K.C.C. 4.64 Property Tax Refunds
* K.C.C. 4.68 Non-delinquent Property Tax Certification

Any provisions that are not repealed by PO 2012-0358 are **moved to Title 4A**. Other changes that are proposed are summarized below.

K.C.C. 4.48 Junior Taxing District Levy Certification – This chapter directs junior taxing districts of King County to annually certify to the Council the amounts to be raised by their tax levies for the ensuing year.

PO 2012-0358 does the following:

* **Cleans up** date references that have changed in state law,
* **Updates** contents of the formal resolution to be used by the districts for the certification, in order to reflect information that is currently collected and needed by the Department of Assessments, and
* **Repeals** a provision containing timelines for the Assessor to annually certify to junior taxing districts the assessed valuation of property within the districts, which is covered by state law.

K.C.C. 4.52 Delinquent Local Improvement Assessment Foreclosure – Directs the manager of the Finance and Business Operations Division to foreclose on delinquent properties in accordance with state law.

* PO 2012-0358 **repeals** this chapter as it is covered by state law.

K.C.C. 4.60 Subdivision Parcel Property Taxes – The purpose of this chapter is to prevent landowners from segregating parcels for tax purposes without satisfying the requirements of state and local subdivision laws and ordinances. It provides that the Assessor and Treasurer shall refuse to recognize a division or segregation of assessment unless the building and land development division (now Department of Permitting and Environmental Review, DPER) has certified that the segregation conforms with applicable state and local laws.

* PO 2012-0358 **streamlines** the language and updates the departmental reference to DPER.

K.C.C. 4.62 Property Valuation – This chapter relates to Assessor valuation of properties.

* PO 2012-0358 **repeals** 4.62.010 regarding factors the Assessor considers in determining property values, as it is covered by state law.

K.C.C. 4.63 Property Tax Notice – This chapter covers Treasury notice of property taxes to taxpayers. No changes are contained in the proposed ordinance, but the section is currently undergoing further analysis.

K.C.C. 4.64 Property Tax Refunds – This chapter contains provisions regarding petitions for refund of taxes under RCW Chapter 84.69.

* PO 2012-0358 **cleans up and updates** language to reflect changes in state law. State law used to allow the Council to exercise discretion in waiving statutory time limits for granting petitions for property tax refunds; this authority was eliminated in state law in 2009 (RCW 84.69.030).
* There is also a state law change that will go into effect on June 12, 2014 (HB 2446) that will no longer require petitions for certain types of refunds. This development occurred after the proposed ordinance was introduced. A striker is being prepared that would **update** K.C.C. 4.64.020 and **repeal** K.C.C. 4.64.040 effective in June to reflect the change in state law.

K.C.C. 4.68 Non-delinquent Property Tax Certification – This chapter requires a permit applicant for certain types of permits to provide certification from the manager of the Finance and Business Operations Division that property taxes of the subject property are not delinquent prior to county issuance of the permit. County permits covered by K.C.C. Chapter 4.68 currently include:

A. Building permits authorized by Title 16;   
B. Reclassification permits authorized by Title 21A;   
C. Subdivisions permits authorized by Title 19;   
D. Short subdivisions permits authorized by Title 19;   
E. Shoreline development permits authorized by Title 25;   
F. Grading permits authorized by Title 16;   
G. Condominium conversion permits authorized by Title 20;   
H. Demolition permits authorized by Title 16;   
I. Right-of-way use permits authorized by Title 6;   
J. Septic tank permits authorized by Title 13.

* PO 2012-0358 **moves** the non-delinquent property tax certification language out of Title 4 and into the applicable Titles.
* The Department of Permitting and Environmental Review has proposed language that would eliminate the non-delinquent property tax certification requirement for all of the permit types except for Title 19 permits dealing with lot segregation, boundary line adjustments, or condominium-related approvals. This proposal requires further staff and legal analysis.

**ANALYSIS**

With the exception of the permitting proposal that is discussed further below, all of the proposed changes are language clarifications, updates, or provisions that are repealed due to being covered by state law.

Noteworthy changes include:

* Junior Taxing District Levy Certification – The levy certification format that is currently in K.C.C. 4.48.020 was created in 1974 and has not been amended since. It contains outdated references, such as a “coupon warrant fund” that is not used by the Assessor. A striker is being prepared to streamline the code appearance and update the required contents to reflect information requested by and collected by the Assessor for the levy certification process.
* State law changes – As identified above, various provisions are repealed because they are covered by state law. It is a policy choice whether to update the code to accurately reflect state law changes, or to remove the provision altogether when it is duplicative of state law. Repealing the provisions ensures that when there are changes in state law, the county code does not become out of date or in conflict with the state law. Staff analyzed the proposed changes to ensure that the differences between existing code provisions and state law were due to changes in state law over time, as opposed to differences that were deliberately placed in county code based on policy choices.

Permitting Requirements Proposal

The Department of Permitting and Environmental Review has proposed language that would eliminate the non-delinquent property tax certification requirement for all of the permit types except for Title 19 permits dealing with lot segregation, boundary line adjustments, or condominium-related approvals.

In accordance with KCC 4.68.010, when a citizen applies for certain types of permits from the county, the county cannot release the permit application until the manager of FBOD has certified that the applicant's property taxes are not delinquent. Types of applicable permits include building permits (furnaces, plumbing, gas piping, etc.), grading permits, subdivisions, shoreline development, condominium conversions, demolition permits, right of way permits, and septic tank permits. The majority of these permits are handled by the Department of Permitting and Environmental Review (DPER). Gas, plumbing, and septic tank permits are issued by Public Health. Right of Way permits are issued by the Roads Division.

DPER processes approximately 5,000 permits per year. About 1,500 permits are over-the-counter simple permits such as a furnace replacement. A very few in the neighborhood of 100 are simple permits such as decks that require minimal review. The remainder, about 2,500 to 3,500, are more complex permits requiring review.

One of the main rationales for the request is that DPER would like to move simple permits to an on-line automated approval system, but it is difficult to do so when certification of property tax non-delinquency is required. It should be noted, however, that there are possibly ways that DPER could accomplish online automation without eliminating the property tax certification requirement, such as perhaps a code change in how taxpayers can show proof of property tax payment. There are likely alternatives that would meet DPER’s needs that could be explored further.

A second reason given by DPER for the proposal is that the requirement results in the denial of 15 to 20 percent of over-the-counter simple permit applications annually, not because the taxes are unpaid, but because during the months property taxes are due it takes longer to verify that property taxes have been paid. Normally, for over-the-counter permits, DPER will immediately check on-line for payment of property taxes for the applicant. When the information is not available online around May/June or October/November, the permit is denied and the applicant must come back with certification of non-delinquent property taxes. It should be noted that county code requires all other permit applicants to obtain certification from FBOD as well; but as a practical matter DPER performs the certification check on their behalf online when possible. Nevertheless, the end result is a greater inconvenience to about 250 applicants per year.

A third reason given by DPER for the proposal is that if a citizen has not paid his or her property taxes, it would be a barrier to obtaining a permit that can have health and safety implications, such as the replacement of a furnace during wintertime. A taxpayer who is not current on their property taxes might either be deterred from doing the needed work, or proceed with the work without obtaining proper permits and performing the work up to code. It is unknown how many times this situation may have arisen.

The property tax certification requirement has been in place since 1995. Staff was unable to confirm the reasons for adoption of the certification requirement. The certification appears to accomplish two purposes.

1. For land segregation types of permits, it ensures that property taxes are free and clear prior to changing boundary lines. The proposed change would not affect these types of permits. Property tax certification would still be required.
2. The requirement is an incentive for a permit applicant to be current on property taxes. The proposed change would eliminate this incentive for most permits, but the impact is hypothesized to be small as discussed below.

Most permit applicants are current on their property taxes. DPER does not track how many permits it rejects per year due to delinquent property taxes. Anecdotally, DPER reports that about three to five permits per year may be denied due to discovering that they have delinquent taxes (as opposed to those who have been turned away because payment of taxes cannot be immediately verified).

It is unknown how many permit applicants are current on their taxes solely due to their desire to obtain a permit. This number is believed to be small for the following reasons:

* On average, according to Treasury, roughly 2 percent of taxpayers countywide are delinquent on their taxes.
* One can hypothesize that taxpayers who apply for a permit are more legally abiding than those who unlawfully proceed with work without a permit, and therefore may be more likely to pay their taxes.
* People who apply for permits for improvements to properties have money for the improvements, and therefore may be more likely to be able to afford to pay their taxes.
* Two percent of 5,000 applicants would equal about 100 people who be incentivized to pay their property taxes in order to get a permit. For the reasons given above, this number is believed to be a conservatively high estimate.
* 50% of parcels have their taxes paid by mortgage companies irrespective of any need/desire for building permits.

The amount of revenue impacted by removing the property tax certification requirement for certain types of permits, as proposed, is likely to be small. According to Treasury, a rough estimate of an average property tax bill would be $4,000. If the proposed code change allowed 100 citizens to obtain permits without being current on their taxes, this would represent a tax loss of approximately $400,000 in total jurisdictional taxes, or approximately $72,000 for King County.

If the property tax certification requirement is eliminated, it is possible that in the future there could be a building permit granted for a property with a large amount of delinquent property taxes. On the other hand, it is worth noting that when property taxes are unpaid, the county has regular processes to seek collection of those property taxes, including foreclosure.

Council staff are continuing our analysis with legal counsel, FBOD, DOA and DPER. Further information will be included at the May 6th BFM meeting.

**REASONABLENESS**

This item is not ready for action at this time.

**ATTACHMENTS**

1. Proposed Ordinance 2012-0358

**INVITED**

* Warren Cheney, Chief Financial Officer, Department of Permitting and Environmental Review