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Title: AN ORDINANCE relating to fees for sensitive area review, providing for financial guarantees of mitigation for and restoration of sensitive areas, and amending Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, and K.C.C. 23.24.140, Ordinance 13263, Section 36, and K.C.C. 23.28.030, Ordinance 13263, Section 37, and K.C.C. 23.32.010, Ordinance 13332, Section 6, and K.C.C. 27.06.030, Ordinance 13332, Section 25, and K.C.C. 27.10.100, Ordinance 13332, Section 28, and K.C.C. 27.10.130, Ordinance 13332, Section 29, and K.C.C. 27.10.140 and Ordinance 12020, Section 28, as amended, and K.C.C. 27A.40.080, and prescribing penalties.

Sponsors: Larry Phillips

Indexes: Fees

Code sections: 23.24.140 -, 23.28.030 -, 23.32.010 -, 27.06.030 -, 27.10.100 -, 27.10.130 -, 27.10.140 -, 27A.40.080 -

Attachments: 1. 1999-0352 Table Of Contents.doc, 2. 1999-0352 Transmittal.doc, 3. None

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Clerk 03/01/2000

AN ORDINANCE relating to fees for sensitive area review, providing for financial guarantees of mitigation for and restoration of sensitive areas, and amending Ordinance 13263, Section 30, and K.C.C. 23.24.110, Ordinance 13263, Section 33, and K.C.C. 23.24.140, Ordinance 13263, Section 36, and K.C.C. 23.28.030, Ordinance 13263, Section 37, and K.C.C. 23.32.010, Ordinance 13332, Section 6, and K.C.C. 27.06.030, Ordinance 13332, Section 25, and K.C.C. 27.10.100, Ordinance 13332, Section 28, and K.C.C. 27.10.130, Ordinance 13332, Section 29, and K.C.C. 27.10.140 and Ordinance 12020, Section 28, as amended, and K.C.C. 27A.40.080, and prescribing penalties.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13263, Section 30, and K.C.C. 23.24.110 are each hereby amended to read as follows:

Remedies - denial of permit. A. The county may deny a development proposal permit, when, with regard to the site or project for which the permit application is submitted:

1. Any person has been found in violation and remains in violation of any ordinance, resolution, regulation or public rule of the county that regulates or protects the public health or the use and development of land or water, whether or not such ordinance, resolution, regulation or public rule is codified;

2. any person has been found in violation and remains in violation of the conditions of any permit, notice and order or stop work order issued pursuant to any such ordinance, resolution, regulation or public rule;

((~~and~~))or

3. for any property which has been found in violation and remains in violation of K.C.C. chapter((s)) 21.54 or 21A.24 or of any rule, permit, approval, order, easement, plan or agreement issued thereunder.

B. In order to further the remedial purposes of this title, such denial may continue until the violation is cured by restoration accepted as complete by the county or until corrective work plans and performance and maintenance guarantees to ensure completion have been approved by the county, and ((by)) payment of any civil penalty imposed for the violation has been received, except that applications for permits or approvals shall be accepted, processed and granted to the extent necessary to accomplish any required restoration or cure.

C. For the purposes of this section, "found in violation" means:

1. that a citation, notice and order or stop work order has been issued and not timely appealed; ((or))
2. that a voluntary compliance agreement has been entered into; or
3. that the hearing examiner has determined that the violation has occurred and such determination has not been stayed or reversed on appeal.

SECTION 2. Ordinance 13263, Section 33, and K.C.C. 23.24.140 are each hereby amended to read as follows:

Code compliance and abatement funds - authorized. A. All ((monies)) moneys collected from the assessment of civil penalties and for abatement costs and work, except those ((monies)) moneys designated for the ((S))sensitive ((A))areas ((Mitigation)) violation ((F))fund as set forth in K.C.C. ((chapters 21.54 and 21A.24)) 23.24.140B, shall be allocated to support expenditures for abatement, and shall be accounted for through either creation of a fund or other appropriate accounting mechanism in the department issuing the notice and order under which the abatement occurred.

B. All moneys received from penalties resulting from the violation of rules or laws regulating development and activities within sensitive areas as set forth in K.C.C. chapters 21.54 and 21A.24 shall be deposited into the sensitive areas violation fund. This fund shall be administered by the department of finance. Moneys from the sensitive areas violation fund shall only be used for paying the cost of enforcing sensitive areas laws and abating violations. Moneys in the sensitive areas violation fund not needed for immediate expenditure shall be deposited in a separate investment fund pursuant to RCW 36.29.020. The director of the department of finance shall be designated as the investment fund director.

SECTION 3. Ordinance 13263, Section 36, and K.C.C. 23.28.030 are each hereby amended to read as follows:

Remedy - civil penalties. A. In addition to any other judicial or administrative remedy, a director may assess civil penalties for the violation of any stop work order according to the civil penalty schedule established in K.C.C. chapter 23.32.

B. Civil penalties for the violation of any stop work order shall begin to accrue on the first day the stop work order is violated and shall ((ease on)) accrue daily in the amount of the initial civil penalty until the day the work is actually stopped.

C. Violation of a stop work order shall be a separate violation from any other civil code violation. Civil penalties assessed create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of King County may collect the civil penalties assessed by any appropriate legal means.

D. Civil penalties assessed also authorize King County to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.

SECTION 4. Ordinance 13263, Section 37, and K.C.C. 23.32.010 are each hereby amended to read as follows:

Assessment ((S))schedule. A. Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each violation identified in a citation, notice and order or stop work order pursuant to the following schedule:

1. Citations \$100
2. Notice and Orders and Stop Work Orders

- a. Basic initial penalty \$500
- b. Additional initial penalties may be added in the following amounts for violations where there is:
 - 1) public health risk +\$100-500 depending on severity
 - 2) environmental damage +\$100-500 depending on severity
 - 3) damage to property +\$100-500 depending on severity
 - 4) history of similar violations (less than three) +\$200
 - 5) history of similar violations (three or more) +\$500
 - 6) economic benefit to person responsible for violation +\$200
 - 7) damage to any sensitive area pursuant to K.C.C. chapters 21.54 and 21A.24 +\$500-1000
depending on severity

- c. The above penalties may be offset by the following credits for efforts to comply:
 - 1) entering into a voluntary compliance agreement -\$100
 - 2) full compliance with voluntary compliance agreement and no history of prior violations -\$300
 - 3) full compliance with voluntary compliance agreement and history of less than three prior violations -\$200

B. The total initial penalties assessed for notice and orders (~~and stop work orders~~) pursuant to this section shall apply for the first thirty-day period following the issuance of the order, unless another time period is specified in the voluntary compliance agreement. If a voluntary compliance agreement is not entered into within that time period, and no appeal is filed, the penalties for the next fifteen-day period shall be one hundred fifty percent of the initial penalties, and the penalties for the next fifteen-day period shall be double the amount of the initial penalties.

SECTION 5. Ordinance 13332, Section 6, and K.C.C. 27.06.030 are each hereby amended to read as follows:

Counter service fees - land use services division.

- A. Group 1: small, simple applications, affidavits including short plats, revisions, shoreline exemptions, right-of-way use, lot line adjustments, all extensions, road and drainage variances and other miscellaneous services: \$85.00
- B. Group 2: applications more complex than group 1, including clearing and grading, final plats and final public utility district applications, alterations to final plats, or public utility districts and engineering plans: \$170.00
- C. Group 3: applications more complex than groups 1 and 2, including variances, shoreline, preliminary short plats, and SAO (~~utility~~) exceptions and modifications: \$235.00
- D. Group 4: the most complex applications, including preliminary plats, variances, conditional use permits, special use permits and zone and shoreline reclassifications: \$400.00

SECTION 6. Ordinance 13332, Section 25, and K.C.C. 27.10.100 are each hereby amended to read as follows:

Clearing site plan review. Clearing site plan review includes review for compliance with King County clearing code requirements, and with the surface mine interlocal agreement. Clearing site plan review shall include a base fee plus the department's current hourly rate as follows:

Area in Acres Base Hourly

- A. Clearing review fees:
 - 1. Clearing review of residential site plan not subject to ((s))state Environmental Policy Act

| | | | | | |
|---------|----------|--------------|--------|-----------------|--|
| to 0.20 | \$165.00 | NA | | | |
| | | 0.20 to 2.00 | 450.00 | NA | |
| | | over 2.00 | 660.00 | Over four hours | |
 - 2. Clearing review of residential site plan subject to ((s))state Environmental Policy Act

| | | | | | |
|--------|--|-----------------|--|--|--|
| 660.00 | | Over four hours | | | |
|--------|--|-----------------|--|--|--|
 - 3. Clearing review of nonresidential site plan

| | | | | | |
|--|--|------------------|--|--------------|--------|
| | | Over three hours | | 0.00 to 0.20 | 500.00 |
|--|--|------------------|--|--------------|--------|

| | | | | |
|---------|--|----------------|-------------------|-----------------------|
| | 0.20 to 2.00 | 990.00 | Over six hours | |
| | over 2.00 | 1,980.00 | Over twelve hours | |
| 4. | Hazardous tree removal or other miscellaneous clearing | | | Current hourly rate |
| 5. | Moratorium relief - Basic | 330.00 | | Over six hours |
| | Complex | 1,980.00 | Over twelve hours | |
| 6. | <u>Review of programmatic permit applications</u> | <u>330.00</u> | | <u>Over two hours</u> |
| 7. | Review of permit applications for residential developments | 165.00 | | Plus per hour |
| ((7))8. | Review of all other development proposals for other than single family residential development | | | |
| | is one-half of the rates specified above for clearing review | | One-half | One-half |
| B. | Miscellaneous clearing review fees: | | | |
| 1. | Plan revision fee - each occurrence | \$165.00 | | Plus per hour |
| 2. | <u>Chemical application in sensitive areas</u> | <u>\$15.00</u> | | <u>NA</u> |
| 3. | Adjustments to clearing permit base fees: | | | |
| a. | base fees may be doubled for work started without a permit. | | | |
| b. | base fees may be increased by fifty percent if permit includes activities affecting sensitive areas. | | | |
| c. | base fees may be increased by fifty percent if the applicant requests priority review. | | | |

SECTION 7. Ordinance 13332, Section 28, and K.C.C. 27.10.130 are each hereby amended to read as follows:

Sensitive area review. Sensitive area review fees shall be charged a base fee and hourly charge as follows:

- A. Basic review: \$275.00
- B. Complex review:
 - 1. Residential 620.00 plus hourly after four and one-half hours
 - 2. Nonresidential 825.00 plus hourly after six hours
- C. Miscellaneous:
 - 1. Sensitive area inquiries 275.00 plus hourly after two hours
 - 2. Sensitive area designation reviews 410.00 plus hourly after three hours
 - 3. Inspection monitoring Hourly.

SECTION 8. Ordinance 13332, Section 29, and K.C.C. 27.10.140 are each hereby amended to read as follows:

Sensitive area exceptions, modifications and variances. Sensitive area reasonable use exceptions and variances and modifications to sensitive areas requirements shall require a deposit and charge an hourly fee based on the department's current hourly rate.

SECTION 9. Ordinance 12020, Section 28, as amended, and K.C.C. 27A.40.080 are each hereby amended to read as follows:

Sensitive areas. A. Financial guarantees for mitigation or corrective work required pursuant to K.C.C. chapter 21A.24 shall include performance and maintenance guarantees and be sufficient to guarantee that all required mitigation measures or corrective work will be completed no later than the time established by King County in accordance with K.C.C. chapter 21A.24.

B. Performance and maintenance guarantees shall ~~((also))~~ be required for restoration or enhancement of a sensitive area or buffer not performed as part of a mitigation or ~~((maintenance))~~ corrective work plan except that no financial guarantee shall be required for minor stream or wetland restoration carried out or sponsored by a public or tribal agency with resource management responsibilities pursuant to K.C.C. chapter 21A.24.

C. For maintenance guarantees associated with mitigation, corrective work, restoration or enhancement, the financial guarantee shall be sufficient to guarantee satisfactory workmanship, materials, and performance of structures and improvements required by K.C.C. chapter 21A.24 and any monitoring of those structures and improvements required by approved plans and conditions.

D. In the event a contingency plan is implemented pursuant to K.C.C. chapter 21A.24 or contingency measures are necessary to meet required performance, new financial guarantees under this section shall be required including, but not limited to, maintenance guarantees.

E. Public development proposals shall be relieved from having to comply with the provisions of this section if public funds have previously been committed for mitigation, (~~maintenance, monitoring or~~) restoration or enhancement.
official paper 10 days prior and posted outside chambers