



Legislation Text

File #: 2007-0399, **Version:** 2

Clerk 10/10/2007

AN ORDINANCE relating to the functioning of the department of development and environmental services in regards to the setting of permit fees, publication of administrative rules, administration of fee waivers, establishment of fixed fees in regards to financial guarantees and establishment of a permit fee technical advisory body; amending Ordinance 14683, Section 4, and K.C.C. 27.02.025, Ordinance 10662, Section 44, and K.C.C. 27.02.030 and Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040 and adding new sections to K.C.C. chapter 27.02.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. A department of development and environmental services ("DDES") Fee Study was conducted in 1994, as a follow-up to the DDES 1993 Fee Structure Analysis, which examined nearly one year's permit services and made comparisons between costs of services and the fees generated. The study concluded goals could only be achieved through additional external support to the annual financing of DDES operations.

B. The 1996 Final Report of DDES Restructuring Task Force recommended that permit activities should recover all of their direct and indirect costs and that all nonbillable general governmental services be financed by current expense funds. The task force also recommended that each type of permit recover its associated direct and indirect costs, thereby ending subsidy of one permit type from revenue of another.

C. The 1996 DDES review of a proposal to split the building services division was drafted in response

to Ordinance 11955, which combined Metro into King County and included a provision requiring that DDES divide the building services division into two divisions. Rather than adopt the proposed split of the division, DDES recommended continuing its efforts at regulatory review and reinventing the permit process as the best alternatives for improving efficiency and customer service and for achieving the results intended by county regulations.

D. In its 1997 report No. 97-03, the King County auditor generally concluded that there were few problems associated with permit fee waivers. However, there were instances of incomplete records that made determination of the waiver amount difficult and there were instances in which waivers may have violated the Uniform Building Code.

E. The Executive Audit Services 2003 review of the 1998 DDES Fee Proposal found that the then-current fee charging methods, in many cases, seemed to have little relationship to the cost of services. The 1998 DDES Fee Proposal recommended revised fees that recover costs of services for each type of permit, are easy to administer and understand and achieve financial stability for the Development and Environmental Services Fund.

F. The King County auditor's Report No. 2000-05 found DDES average time for processing of residential permits frequently exceeded the code-established timelines during 1998 and 1999 because of high workload volumes and budgetary constraints on staffing. The auditor also found that lengthy waiting times for permit appointments increased DDES permit processing times and effectively restricted the acceptance of new permit applications.

G. In 2002, a King County auditor's review of DDES billing practices was conducted by request of the council to analyze new permit review standards developed by DDES. The auditor limited its review to status of the implementation of the standards. The auditor found that DDES established its standards based on internal experience over the previous two years. DDES indicated its intent to improve the efficiency of permit processing by reviewing its performance.

H. The 2003 executive audit services review of DDES billing practices recommended that DDES: structure its fees to recover full costs of services, maintain working capital and provide for contingencies; continue developing staffing models that provide timely, flexible adjustments to staff resources in response to changes in demand for services; utilize a project management approach to permit processing activity to fix accountability and provide a one-voice focal point for applicants' questions and concerns; and continue to improve on performance standards and measurement methods and, further, that county policy makers provide the resources or funding mechanism needed to accomplish this.

I. The 2003 Report of the DDES Permit Fee Committee recommended numerous changes to DDES, including: project manager responsibility for individual permits; project-specific fee estimation at intake; use of flat fees and base-plus-hourly fee; maintenance of reserve funds to increase flexibility; lists of consultants subject to less stringent review; and one-year performance report to the council.

J. Ordinance 14683 established the current flat-rate permit fee structure for certain permit types, the fee estimation process, and strengthened the fee waiver system exercised by the director of DDES.

K. A 2007 judicial decision established a number of clarifications to the DDES permit fee system, including the formal adoption of agency public rules regarding administrative financial policies, fee estimates and a reduction in the amount of finance charges.

L. Additional rulings in the case of Tiger Mountain, LLC. v. King County ordered the county to:

1. Adopt a sliding scale of costs, based upon job classification and responsibilities, in particular, to staff members performing financial guarantee management and monitoring services. The judge stated it is "patently unreasonable" to charge the current rate of one hundred forty-four dollars and ninety cents per hour for financial guarantee management and monitoring work that does not require high-level professional skills;

2. Establish "an independent neutral decision-maker," who is not the director of DDES, with authority over hearing-fee challenges;

3. Refund fees charged for staff work on permit appeals when applicants prevail; and

4. Lower monthly charges on delinquent payments and give applicants worksheets to show how fee estimates were derived.

M. DDES has recently formally adopted public rules, as required by the court order, regarding fee waivers, fee estimates, and lower monthly charges on delinquent payments.

N. King County values transparency in government, including issues related to complex development permitting and protection of the environment, which involve substantial time and cost for applicants.

SECTION 2. Ordinance 14683, Section 4, and K.C.C. 27.02.025 are each hereby amended to read as follows:

The department (~~may~~) shall adopt public rules pursuant to K.C.C. chapter 2.98 to implement (~~the provisions of~~) this title.

SECTION 3. Ordinance 10662, Section 44, and K.C.C. 27.02.030 are each hereby amended to read as follows:

All invoiced fees shall be due and payable on or before the thirtieth day after receipt of an invoice. A late penalty payment equal to one (~~and one-half~~) percent of the delinquent unpaid balance, compounded monthly, shall be assessed on the delinquent unpaid balance.

SECTION 4. Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040 are each hereby amended to read as follows:

The director shall have the discretion to waive all or a portion of the (~~development review~~) fees administered by the department and required pursuant to this title, provided the waiver is warranted in the director's judgment. Any fee waiver shall be in writing and shall state a compelling need or public purpose to be served by the waiver. The need or purpose must be consistent with standards established pursuant to K.C.C. chapter 2.98.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. chapter 27.02 a new section to read as follows:

The department shall adopt public rules in accordance with K.C.C. chapter 2.98 providing for refunds of fees associated with the appeal, when an applicant is the substantially prevailing party in an administrative appeal.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 27.02 a new section to read as follows:

The department shall, within a reasonable time, provide fee estimates to the applicant for all project managed permits. Copies of employee worksheets used in preparing binding fee estimates and fee estimate revisions shall be included along with the fee estimates. The department shall develop uniform standards and criteria for revising fee estimates in accordance with K.C.C. chapter 2.98.

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 27.02 a new section to read as follows:

A. There is hereby created a development permit technical advisory committee, referred to in this section as "the advisory committee."

B. The advisory committee is created to provide expert policy advice to the council on issues relating to the implementation of project management. An advisory committee structure should provide representation of a broad spectrum of ideas and interests for the citizens and businesses in the King County and meet the goal of providing representation from individuals and organizations significantly impacted by development-related King County ordinances.

C. The advisory committee shall be composed of the following members:

1. One representative nominated by the Master Builders Association of King and Snohomish Counties;
2. One representative nominated by the Seattle-King County Association of Realtors;
3. One representative for agricultural or forestry interests, nominated by the executive;
4. One representative for environmental interests, nominated by the executive;

5. One representative from the department of development and environmental services, nominated by the executive;

6. One representative nominated by the King County Fire Chiefs Association;

7. The senior deputy ombudsman for rural affairs nominated by the council; and

8. Two representatives, one residing in the urban unincorporated area and one residing in the rural unincorporated area, nominated by the Unincorporated Area Councils.

D. Each seat on the advisory committee has one vote.

E. Each member nominated to serve on the advisory committee shall be subject to confirmation by the King County council.

F. The advisory committee shall adopt other rules governing its operations at, or promptly after, its first meeting.

G. The advisory committee shall review and recommend rules relating to:

1. Review of financial policies adopted by the department of development and environmental services pursuant to K.C.C. chapter 2.98;

2. Review of a flat fee for staff members performing financial guarantee management and monitoring services;

3. Review of fee waiver procedures as outlined in financial policies adopted by the department of development and environmental services pursuant to K.C.C. chapter 2.98;

4. Establishment of an administrative appeals process for regulatory fee disputes that utilizes the hearings examiner for review of cases described in this chapter;

5. Establishment of a cap on fees relating to department research conducted before a preapplication meeting;

6. Exploration of funding options that are not fee-for-service for departmental customer outreach, information requests and consultation relating to permitting, including funding from the county current expense

fund;

7. Recommendations for improvements and refinements to the project management process; and
8. Determination of the necessity for the continuation of the committee; and
9. Any other applicable issues relating to the permitting operations of the department.

H. Eleven copies of the advisory committee's recommendations shall be filed with the clerk of the council no later than September 15 each year, for distribution to all council members and the lead staff of the growth management and natural resources committee or its successor.