



Legislation Text

File #: 2016-0269, **Version:** 1

Clerk 05/19/2016

AN ORDINANCE relating to fees; amending Ordinance 18230, Section 77, and K.C.C. 4A.780.010, Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040, Ordinance 18230, Section 16, and K.C.C. 20.22.070, Ordinance 10662, Section 43, as amended, and K.C.C. 27.02.020, Ordinance 10662, Section 44, as amended, and K.C.C. 27.02.030, Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040, Ordinance 10662, Section 46, as amended, and K.C.C. 27.02.050, Ordinance 10662, Section 47, as amended, and K.C.C. 27.02.060, Ordinance 11141, Section 39, as amended, and K.C.C. 27.02.090, Ordinance 17224, Section 43, and K.C.C. 27.10.425, Ordinance 12020, Section 12, and K.C.C. 27A.30.010, Ordinance 12020, Section 13, as amended, and K.C.C. 27A.30.020, and Ordinance 12020, Section 15, as amended, and K.C.C. 27.30.040, and repealing Ordinance 14683, Section 4, as amended, and K.C.C. 27.02.025, Ordinance 16026, Section 8, and K.C.C. 27.04.043, Ordinance 16026, Section 7, and K.C.C. 27.04.045, Ordinance 16026, Section 6, and K.C.C. 27.04.047, Ordinance 16026, Section 10, and K.C.C. 27.50.010, Ordinance 16026, Section 11, as amended, and K.C.C. 27.50.020, Ordinance 16026, Section 12, and K.C.C. 27.50.030, Ordinance 16026, Section 13, and K.C.C. 27.50.040, Ordinance 16026, Section 14, as amended, and K.C.C. 27.50.050, Ordinance 16026, Section 15, as amended, and K.C.C. 27.50.060, Ordinance 16026, Section

16, as amended, and K.C.C. 27.50.070, Ordinance 16026, Section 17, and K.C.C.

27.50.080 and Ordinance 16026, Section 18, and K.C.C. 27.50.090.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. A. Sections 2 through 15 of this ordinance propose changes in the administration of fees and financial guarantees by the department of permitting and environmental review, the department of transportation and the department of natural resources and parks.

B. These fees are assessed under K.C.C. 2.99.030.E.1.

SECTION 2. Ordinance 18230, Section 77, and K.C.C. 4A.780.010 are each hereby amended to read as follows:

A. Except as otherwise provided in subsection B. of this section, the fee for filing an appeal to the office of the hearing examiner under K.C.C. 20.22.080, is two hundred fifty dollars.

B.1. The fee for filing an appeal to the office of the hearing examiner under K.C.C. 20.22.080, of a permit fee (~~(estimate and billing)~~) waiver decision by the director of the department of permitting and environmental review under K.C.C. (~~(chapter 27.50)~~) 27.02.040 is fifty dollars.

2. There is no fee for filing an appeal to the office of the hearing examiner of an enforcement or penalty action under K.C.C. Title 6, K.C.C. Title 11 or K.C.C. Title 23.

C. The fee for filing an appeal to the council under section K.C.C. 20.22.230.D. is two hundred fifty dollars.

SECTION 3. Ordinance 4461, Section 2, as amended, and K.C.C. 20.22.040 are each hereby amended to read as follows:

The examiner shall issue final decisions in the following cases:

A. Appeals of orders of the ombudsman under the lobbyist disclosure code, K.C.C. chapter 1.07;

B. Appeals of sanctions of the finance and business operations division in the department of executive services imposed under K.C.C. chapter 2.97;

- C. Appeals of career service review committee conversion decisions for part-time and temporary employees under K.C.C. chapter 3.12A;
- D. Appeals of electric vehicle recharging station penalties of the department of transportation under K.C.C. 4A.700.700;
- E. Appeals of notice and orders of the manager of records and licensing services or the director of permitting and environmental review under K.C.C. chapter 6.01;
- F. Appeals of adult entertainment license denials, suspensions and revocations under K.C.C. chapter 6.09;
- G. Appeals of the fire marshal's decisions on fireworks permits under K.C.C. chapter 6.26;
- H. Appeals of cable franchise nonrenewals under K.C.C. 6.27A.060 and notices and orders under K.C.C. 6.27A.240.
- I. Appeals of notices and orders of the department of natural resources and parks under K.C.C. chapter 7.09;
- J. Appeals of decisions of the director of the department of natural resources and parks on surface water drainage enforcement under K.C.C. chapter 9.04.
- K. Appeals of decisions of the director of the department of natural resources and parks on requests for rate adjustments to surface and storm water management rates and charges under K.C.C. chapter 9.08;
- L. Appeals of decisions on water quality enforcement under K.C.C. chapter 9.12.
- M. Appeals of notices and orders of the manager of animal control under K.C.C. chapter 11.04;
- N. Certifications by the finance and business operations division of the department of executive services involving K.C.C. chapter 12.16;
- O. Appeals of orders of the office of civil rights under K.C.C. chapter 12.17, K.C.C. chapter 12.18, K.C.C. chapter 12.20 and K.C.C. chapter 12.22;
- P. Appeals of noise-related orders and citations of the department of permitting and environmental

review under K.C.C. chapter 12.86;

Q. Appeals of utilities technical review committee determinations on water service availability under K.C.C. 13.24.090;

R. Appeals of decisions regarding mitigation payment system, commute trip reduction and intersection standards under K.C.C. Title 14;

S. Appeals of suspensions, revocations or limitations of permits or of decisions of the board of plumbing appeals under K.C.C. chapter 16.32;

T. Appeals of all Type 2 decisions under K.C.C. chapter 20.20, with the exception of appeals of shoreline permits, including shoreline substantial development permits, shoreline variances and shoreline conditional uses, which are appealable to the state Shoreline Hearings Board;

U. Appeals of SEPA decisions, as provided in K.C.C. 20.44.120 and public rules adopted under K.C.C. 20.44.075;

V. Appeals of completed farm management plans under K.C.C. 21A.30.045;

W. Appeals of decisions of the interagency review committee created under K.C.C. 21A.37.070 regarding sending site applications for certification under K.C.C. chapter 21A.37:

X. Appeals of citations, notices and orders, notices of noncompliance, stop work orders issued pursuant to K.C.C. Title 23 or Title 1.08 of the rules and regulations of the King County board of health;

Y. Appeals of notices and certifications of junk vehicles to be removed as a public nuisance as provided in K.C.C. Title 21A and K.C.C. chapter 23.10;

Z. Appeals of decisions not to issue a citation or a notice and order under K.C.C. 23.36.010.A.2;

AA. Appeals of permit fee ~~((estimates and billings))~~ waiver decisions by the department of permitting and environmental review, as provided in K.C.C. ~~((chapter 27.50))~~ 27.02.040;

BB. Appeals from decisions of the department of natural resources and parks related to permits, discharge authorizations, violations and penalties under K.C.C. 28.84.050 and 28.84.060;

CC. Appeals of department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of the department of public safety as provided in RCW 69.50.505;

DD. Other applications or appeals that are prescribed by ordinance.

SECTION 4. Ordinance 18230, Section 16, and K.C.C. 20.22.070 are each hereby amended to read as follows:

A. K.C.C. 20.22.080 applies to all appeals to the office of the hearing examiner. If there is a direct conflict between the appeal provisions in K.C.C. 20.22.080, and the appeal provisions found in subsection B. of this section, the appeal provisions found in subsection B. of this section shall control.

B. The provisions for appealing the following decisions are found in the following chapters of the King County Code:

1. Career service review, K.C.C. chapter 3.12A;
2. Appeals under K.C.C. Title 6, except for for-hire transportation, K.C.C. chapter 6.64, shall follow this chapter;
3. Discrimination and equal employment opportunity in employment by contractors, subcontractors and vendors, K.C.C. chapter 12.16;
4. Unfair housing practices, K.C.C. chapter 12.20;
5. Regional motor sports facility, K.C.C. 21A.55.105;
6. Abandoned, wrecked, dismantled or inoperative vehicles, K.C.C. chapter 23.10;
7. Citations, K.C.C. chapter 23.20;
8. Penalty appeals, K.C.C. chapter 23.32;
9. Permit fee waiver decision appeals, K.C.C. (~~chapter 27.50~~) 27.02.040; and
10. Other appeals that are prescribed by ordinance.

SECTION 5. Ordinance 10662, Section 43, as amended, and K.C.C. 27.02.020 are each hereby amended to read as follows:

This chapter deals with provisions general to the administration of this title and includes (~~late penalties,~~) fee waivers, fee assessments, refunds, expedited review fees and general services.

SECTION 6. Ordinance 10662, Section 44, as amended, and K.C.C. 27.02.030 are each hereby amended to read as follows:

A. (~~Fees are due and payable at the time of application for service or the due date stated on the department's invoice.~~) The director shall have the discretion to require payment of fees by cashier's check or credit card by customers with a history of payments rejected for insufficient funds.

B. (~~A late penalty payment equal to one percent of the delinquent unpaid balance, compounded monthly, shall be assessed on any delinquent unpaid balance.~~) The director shall have the discretion to establish a trust account into which an applicant may deposit funds to be held by the department until spent for services requested by the applicant. Interest shall not be paid on funds held in trust. Unused funds held in trust shall be returned to applicants within thirty days of written request for release.

C. The director shall have the discretion to accept purchase orders from government agencies in lieu of fee payment at application. When a purchase order is accepted, fees shall be paid by the due date indicated on the invoice from the department.

D. The department shall charge an insufficient funds charge of (~~thirty-five~~) forty dollars.

SECTION 7. Ordinance 10662, Section 45, as amended, and K.C.C. 27.02.040 are each hereby amended to read as follows:

A. The director shall have the discretion to waive all or a portion of the fees administered by the department and required pursuant to this title, provided, the waiver is warranted in the director's judgment. A fee shall be waived if the service for which the fee was collected satisfies one or more of the following conditions:

1. The service was not performed;
2. The service is duplicative; which means a service or similar body of work was already performed

and fees were collected for that service;

3. The service is not required for permit approval;

4. The service was based on a professional or processing error caused by the department;

5. The service was in response to a natural disaster as declared by the executive in accordance with

KCC 12.52.030; or

6. The service was in response to a public health or safety emergency, for which in the judgement of the director the public benefit of permitting services exceeds the fee for the services.

B. An applicant must file a fee waiver request with the department in writing no later than twenty-one days after final approval of the permit by the department.

C. The department shall notify the applicant of the director's decision within fourteen days after the applicant files the fee waiver request with the department, or within fourteen days after the department concludes the service for which a waiver of fees has been requested, whichever occurs later.

D. Any fee waiver decision shall be in writing and shall state ((a compelling need))the reason or public purpose to be served by the waiver, if granted. ((The need or purpose must be consistent with standards established pursuant to K.C.C. chapter 2.98.))

E. The director's fee waiver decision is final unless the applicant then files with the department a combined written notice and statement of appeal of the decision, together with the required appeal fee, within twenty-four calendar days after the date of issuance by the department of the fee waiver response. The applicant may appeal a fee waiver decision only if the director has denied all or a portion of the applicant's request. The department shall forward the combined notice and statement of appeal to the hearing examiner. The department shall also preserve the record, and comply with the appeal provisions outlined in K.C.C. 20.22.080.E. The examiner shall conduct an open record hearing, and affirm, modify or reverse the decision of the director.

F. In an appeal of a fee waiver decision, the burden is on the applicant to prove that the particular fee

was unreasonable or inconsistent with this title. If the applicant fails to meet that burden, the examiner shall affirm the decision of the director. If the examiner determines that a particular fee was unreasonable or inconsistent with the provisions of this title, the examiner shall modify the fee, order the department to modify the fee in accordance with the examiner's ruling, or provide such other relief as reasonably necessary. If the examiner determines that the applicant is the substantially prevailing party, the department shall waive and refund the appeal fee. The examiner's decision is final.

G. In an appeal under this section, the applicant may only challenge the department's application of the development permit fees provided for in this title to the applicant's permit and approval.

SECTION 8. Ordinance 10662, Section 46, as amended, and K.C.C. 27.02.050 are each hereby amended to read as follows:

A. Unless otherwise required by this title, ~~((development permit and environmental review))~~ fees shall be assessed at the fee rate in effect at the time the fee is ~~((assessed))~~ paid.

B. Fees for application review are due upon application submittal.

C. Fees for expedited review are due when an expedited review request is granted by the department.

D. Fees owed for the resubmittal of plans or applications are due at the time of resubmittal.

E. Fees for permit issuance, inspection, or monitoring are due upon permit issuance, and shall be assessed at the fee rate in effect at the time that the permit is ready to issue or approval granted. Fees assessed for permit issuance, inspections, or monitoring shall remain in effect for up to sixty days from the date that the applicant is notified that the permit is ready to issue or approval granted. After sixty days have elapsed, fees for permit issuance, inspections, or monitoring shall be assessed at the fee rate in effect at the time the fee is paid. The director may grant exceptions in cases where the basis as prescribed in this title for calculating fees for a permit issuance, inspection, or monitoring was amended after an application was accepted but prior to permit issuance.

F. Fees for re-inspection of construction work or site conditions are due prior to final construction

approval and shall be assessed at the fee rate in effect at the time of re-inspection.

G. Unless otherwise allowed by this title, the department fees shall not accept payment of fees before fees are due.

H. Changes in the ownership of an application or permit shall neither revoke nor change fees previously incurred under the application or permit, or the requirement to post financial guarantees for permitted construction.

SECTION 9. Ordinance 10662, Section 47, as amended, and K.C.C. 27.02.060 are each hereby amended to read as follows:

A. Fixed fees are refundable in proportion to the amount of work performed as of the date of application or permit withdrawal or cancellation by the applicant if, within sixty days after the date that fixed fees were paid, the applicant or permit holder in writing withdraws, cancels or otherwise terminates the application or permit and requests a refund

B. The department ~~((may))~~ shall refund a fee that has been paid but waived or, if other fees are owed to the department by the same applicant or its legal successor, apply the payment to outstanding fees.

C. Fees ~~((will only))~~ shall be refunded to the applicant of record.

D. The department shall ~~((adopt public rules in accordance with K.C.C. chapter 2.98 providing for))~~ wave and refund((s-of)) the fee((s-associated with the)) for filing an appeal((,)) when an applicant is the substantially prevailing party in an administrative appeal.

E. Development permit and environmental review fees shall not be refunded except as provided for in this title.

SECTION 10. Ordinance 11141, Section 39, and K.C.C. 27.02.090 are each hereby amended to read as follows:

The fee for expedited review shall be ~~((one hundred))~~ fifty percent of the regular review fee, and shall be charged in ~~((lieu of))~~ addition to the regular review fee set forth in this title. ~~((When services not otherwise~~

~~listed in this title are expedited at customer request, the actual cost of service will be charged.))~~

SECTION 11. Ordinance 17224, Section 43, as amended, and K.C.C. 27.10.425 are each hereby amended to read as follows:

A. Whenever any work for which a permit or application approval required under K.C.C. Titles 16, 19A, 20, 21A or 25 has commenced without first obtaining the required permit or application approval or has proceeded without obtaining necessary inspections, a fixed fee shall be charged for investigation of work done without a required permit or approval whether or not a permit or application approval is subsequently issued.

B. The investigation fee shall equal the amount of the plan review and inspection fees for site and building construction activity required by this title.

C. Property owners not responsible for initiating work without a permit shall be exempted from the fees in this section.

D. Investigation fees for work done without a required permit or approval are due when permits are issued.

SECTION 12. Ordinance 12020, Section 12, and K.C.C. 27A.30.010 are each hereby amended to read as follows:

A. Every financial guarantee shall obligate the applicant to comply with all of the provisions of the King County Code and complete all conditions required by the permit or approval within the time limit specified.

B. The applicant shall record on title of the property all permit conditions before the department accepts any financial guarantees.

C. Permit holders must maintain the financial guarantees in the amounts required by the terms or conditions of the issued permits or approvals until project completion or until the property is restored to the satisfaction of the department.

D. The county may collect against the financial guarantee when work is not completed in a timely

manner in accordance with either or both conditions of the permit and ~~((or))~~ approval granted ~~((pursuant to))~~ under Titles 9, 14, 16, 19~~(,)~~ or 21A ~~((or their successors))~~. It is in the director's sole reasonable discretion to determine whether the permit or approval conditions have been satisfied in a timely manner, and to determine whether the performance guarantee shall be collected to remedy the violation. The director shall notify the applicant in writing of any such determination.

SECTION 13. Ordinance 12020, Section 13, as amended, and K.C.C. 27A.30.020 are each hereby amended to read as follows:

A. Financial guarantees shall be in a form approved by the director, in consultation with the department of natural resources and parks, department of transportation, the prosecuting attorney's office, and other affected agencies. The amounts of the financial guarantees shall be based on the schedules appropriate to the required work which are updated on a periodic and frequent basis to ensure that the amount fully captures likely costs. Financial guarantees shall also require a contingency in an amount to be determined by the director.

B. At the director's sole reasonable discretion, the director may require that the entire amount of the financial guarantee be in the form of a cash deposit by any applicant that has in the past forfeited a financial guarantee posted with county.

SECTION 14. Ordinance 12020, Section 15, and K.C.C. 27A.30.040 are each hereby amended to read as follows:

A. The department shall not release performance guarantees until all permit fees have been paid to date; maintenance guarantees and defect guarantees have been posted, if applicable; inspection of the development site has been performed; and the director has determined that the conditions and requirements of the permit/approval otherwise specified in the financial guarantee have been met and granted final construction approval if applicable.

B. When ownership of property subject to a financial guarantee is transferred, the financial guarantee posted by or on behalf of the former property owner shall not be released unless a financial guarantee of like

form and amount is posted by or on behalf of the current property owner.

SECTION 15. The following are each hereby repealed:

- A. Ordinance 14683, Section 4, as amended, and K.C.C. 27.02.025;
- B. Ordinance 16026, Section 8, and K.C.C. 27.04.043;
- C. Ordinance 16026, Section 7, and K.C.C. 27.04.045;
- D. Ordinance 16026, Section 6, and K.C.C. 27.04.047;
- E. Ordinance 16026, Section 10, and K.C.C. 27.50.010;
- F. Ordinance 16026, Section 11, as amended, and K.C.C. 27.50.020;
- G. Ordinance 16026, Section 12, and K.C.C. 27.50.030;
- H. Ordinance 16026, Section 13, and K.C.C. 27.50.040;
- I. Ordinance 16026, Section 14, as amended, and K.C.C. 27.50.040;
- J. Ordinance 16026, Section 15, as amended, and K.C.C. 27.50.060;
- K. Ordinance 16026, Section 16, as amended, and K.C.C. 27.50.070;
- L. Ordinance 16026, Section 17, and K.C.C. 27.50.080; and
- M. Ordinance 16026, Section 18, and K.C.C. 27.50.090;

SECTION 16. If any provision of this ordinance or its application to any person

or circumstance is held invalid the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.