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On agenda:	11/4/2013	Final action:	11/4/2013
Enactment date:	11/14/2013	Enactment #:	17691
Title:	AN ORDINANCE relating to fees and other charges for processing real estate services section permits that authorize the use of King County property; and amending Ordinance 12045, Section 11, as amended, and K.C.C. 4.56.115, Ordinance 17515, Section 2, and K.C.C. 4A.675.010, Ordinance 17515, Section 4, and K.C.C. 4A.675.020, Ordinance 17515, Section 8, and K.C.C. 4A.675.030, Ordinance 17515, Section 11, and K.C.C. 4A.675.050, Ordinance 17515, Section 13, and K.C.C. 4A.675.060, Ordinance 10171, Section 1, as amended, and K.C.C. 6.27.054, Ordinance 6254, Section 8, and K.C.C. 14.30.080, Ordinance 1711, Section 1, as amended and K.C.C. 14.44.010, Ordinance 1711, Section 2, as amended and K.C.C. 14.44.020, Ordinance 1711, Section 4, as amended and K.C.C. 14.44.040, Ordinance 1711, Section 7, as amended, and K.C.C. 14.44.070, Ordinance 14264, Section 9, and K.C.C. 14.44.115, Ordinance 13734, Section 6, and K.C.C. 14.45.040, Ordinance 13734, Section 9, as amended, and K.C.C. 14.45.070, Ordinance 13734, Section 10, as amended, and K.C.C. 14.45.080 and Ordinance 4099, Section 9, as amended, and K.C.C. 14.46.090.		
Sponsors:	Joe McDermott		
Indexes:	Budget, Property		
Code sections:	14.30.020 -, 14.30.025 -, 14.30.060 -, 14.30.080 - , 14.44.010 -, 14.44.020 -, 14.44.040 -, 14.44.070 - , 14.44.115 - , 14.45.040 - , 14.45.070 - *, 14.45.080 -, 4.56.115 -, 4A.675.010 - , 4A.675.020 - , 4A.675.030 - , 4A.675.040 - , 4A.675.050 - , 4A.675.060 - , 6.27.054 -		
Attachments:	1. Ordinance 17691.pdf, 2. 2013-0430 transmittal letter.pdf, 3. 2013-0430 fiscal note.xlsx, 4. 2013-0430 regulatory note.doc, 5. 2013-0428-0429-0430-0431-0432 fee notice draft an edits.doc, 6. 2013-0430 Affidavit of Publication Seattle Times.pdf, 7. 2013-0430 RES Fee Ord-final.doc, 8. 2013-0430 RES Fee Ord-final RECON 2.doc, 9. 17691 Amendment Package. 11-4-13.pdf		

Date	Ver.	Action By	Action	Result
11/4/2013	1	Metropolitan King County Council	Hearing Held	
11/4/2013	1	Metropolitan King County Council	Passed as Amended	Pass
10/30/2013	1	Budget and Fiscal Management Committee	Passed Out of Committee Without a Recommendation	Pass
10/29/2013	1	Budget and Fiscal Management Committee	Deferred	
10/23/2013	1	Budget and Fiscal Management Committee	Deferred	
10/22/2013	1	Budget and Fiscal Management Committee	Deferred	
9/30/2013	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to fees and other charges for processing real estate

services section permits that authorize the use of King County property; and

amending Ordinance 12045, Section 11, as amended, and K.C.C. 4.56.115, Ordinance 17515, Section 2, and K.C.C. 4A.675.010, Ordinance 17515, Section 4, and K.C.C. 4A.675.020, Ordinance 17515, Section 8, and K.C.C. 4A.675.030, Ordinance 17515, Section 11, and K.C.C. 4A.675.050, Ordinance 17515, Section 13, and K.C.C. 4A.675.060, Ordinance 10171, Section 1, as amended, and K.C.C. 6.27.054, Ordinance 6254, Section 8, and K.C.C. 14.30.080, Ordinance 1711, Section 1, as amended and K.C.C. 14.44.010, Ordinance 1711, Section 2, as amended and K.C.C. 14.44.020, Ordinance 1711, Section 4, as amended and K.C.C. 14.44.040, Ordinance 1711, Section 7, as amended, and K.C.C. 14.44.070, Ordinance 14264, Section 9, and K.C.C. 14.44.115, Ordinance 13734, Section 6, and K.C.C. 14.45.040, Ordinance 13734, Section 9, as amended, and K.C.C. 14.45.070, Ordinance 13734, Section 10, as amended, and K.C.C. 14.45.080 and Ordinance 4099, Section 9, as amended, and K.C.C. 14.46.090.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12045, Section 11, as amended, and K.C.C. 4.56.115 are each hereby amended as follows:

A. The executive is authorized to execute utility easements, bills of sale or related documents necessary for the installation, operation and maintenance of utilities to county property, provided that the documents are reviewed and approved by the custodial department or agency and the real estate services section of the facilities management division. Temporary and permanent easements for utility purposes other than service to county property may be granted by the executive if the easements will not interfere with or hinder the use of the property by the custodial department or agency though the utility easements that exceed fifty thousand dollars in value shall be subject to prior approval by ordinance. Any other permanent easements granted by the county shall be subject to prior approval by ordinance when the value of the easement would exceed fifty thousand

dollars. A party requesting a new easement, amended easement or easement transfer shall pay an easement application fee as set forth in K.C.C. 4A.675.010. The fee is for reimbursement to the real estate services section for the administrative costs and expenses incurred in the processing ~~((of))~~ the easement application. The easement application fee is payable at the time the easement is requested from the real estate services section. The easement application fee and other fees are not refundable, even if the application is disapproved or not executed by the applicant. In addition, the real estate services section shall have the authority to require applicants to reimburse the real estate services section for the actual costs and all expenses incurred by the real estate services section as a result of the grant, issuance, ~~((of))~~ renewal ~~((of))~~ or amendment of an easement, to the extent the costs exceed the costs of processing the easement application recovered by the application fee. The payment of actual costs balances shall be made at the time of the easement issuance.

B. The executive is authorized to relinquish any easements granted to the county which are determined to be surplus to the county's foreseeable needs or to trade an easement for real property or easements of a similar nature and value, though relinquishments of easements where the county spent more than fifty thousand dollars in their acquisition shall be subject to prior approval by ordinance.

SECTION 2. Ordinance 17515, Section 2, and K.C.C. 4A.675.010 are each hereby amended as follows:

The easement application fee for a party requesting a new easement, amended easement or easement transfer under K.C.C. 4.56.115 is three thousand dollars, plus actual costs and all expenses incurred by the real estate services section in excess of this fee as specified in K.C.C. 4.56.115.

SECTION 3. Ordinance 17515, Section 4, and K.C.C. 4A.675.020 are each hereby amended as follows:

A. The franchise application fee for a party requesting a new franchise, amended franchise, renewal, extension of an existing franchise or transfer under K.C.C. 6.27.054 is two thousand five hundred dollars.

B. The advertising fee under K.C.C. 6.27.054 is the full advertising costs associated with the

application.

C. The real estate services section of the facilities management division may assess a surcharge to recover actual costs and all expenses as specified in K.C.C. 6.27.054.B.

SECTION 4. A. Section 5 of this ordinance proposes changes to the structure of fees currently charged for right-of-way construction permits by eliminating fee categories and establishing a new base fee.

B. These fees are established and assessed pursuant to K.C.C. 2.99.030.

SECTION 5. Ordinance 17515, Section 8, and K.C.C. 4A.675.030 are each hereby amended as follows:

~~((The following fee schedule applies for the administrative costs and expenses of processing a right-of-way construction permit:~~

~~A. Pole lines, such as power and telephone:~~

Every six poles or portion thereof:	\$200.00
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~~B. Water:~~

Installing mains (1000 linear feet or less):	\$200.00
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Additional 1000 linear feet or fraction thereof:	\$180.00
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Excavation for connection:	\$200.00
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~~C. Sewer:~~

Installation of mains (1000 feet or fraction thereof):	\$200.00
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Additional 1000 linear feet or fraction thereof:	\$180.00
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Excavation for connection:	\$200.00
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~~D. Cable or conduit:~~

Installing cable or conduit (1000 feet or less):	\$200.00
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Additional 1000 linear feet or fraction thereof:	\$180.00
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Excavation for connection:	\$200.00
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~~E. Gas or oil:~~

~~Installing mains (1000 linear feet or less): \$200.00~~

~~Additional 1000 feet or fraction thereof: \$180.00~~

~~Excavation for connection: \$200.00~~

~~F. Attachment to existing poles for every three attachments: \$140.00~~

~~G. Immediate response permit requests: In addition to the required permit fees an additional fee of one hundred twenty dollars shall be charged.~~

~~H. Maintenance permits: Fees per number of connections:~~

~~1. 0 to 50 connections: \$200.00~~

~~2. 51 to 100 connections: \$250.00~~

~~3. 101 to 200 connections: \$300.00~~

~~4. 201 to 500 connections: \$400.00~~

~~5. 501 or more: \$450.00))~~

A. The right-of-way construction permit application fee for a party requesting a permit under K.C.C. chapter 14.44, is two-hundred dollars, as specified in K.C.C. 14.44.040.A.

B. The real estate services section of the facilities management division may assess a surcharge to recover actual costs and all expenses as specified in K.C.C. 14.44.040.B.

C. The total of the permit application fee under subsection A. of this section and the surcharge assessed under subsection B. of this section shall not exceed two-thousand dollars.

SECTION 6. Ordinance 17515, Section 11, and K.C.C. 4A.675.050 are each hereby amended as follows:

A. The ~~((fee for the administrative costs and expenses of))~~ application ~~((processing and coordinating))~~ fee for a party requesting a wireless right-of-way use agreement ((application)) as provided in K.C.C. 14.45.080, is five hundred dollars.

B. The real estate services section of the facilities management division may assess a surcharge to recover costs as specified in K.C.C. 14.45.080.B.

SECTION 7. Ordinance 17515, Section 13, and K.C.C. 4A.675.060 are each hereby amended as follows:

A. The annual use payment for continuing use of the county rights-of-way shall be as follows:

Type of Equipment/Facility within the right-of-way	Use Payment
Separate support structure (such as a monopole or lattice) used solely for wireless antenna, with antenna/receiver transmitter and/or equipment cabinet	\$5,000
Antenna/receiver transmitter (on an existing or replacement pole) and equipment cabinet	\$3,000
Antenna/receiver transmitter (on an existing or replacement pole) or equipment cabinet, but not both	\$2,000

B. For the purpose of this section, "replacement pole" means a new utility pole replacing an existing utility pole in the county right-of-way with no increase in the total number of utility poles in the right-of-way. Replacement poles provide extra capacity to support attached wireless telecommunications facilities.

C. All use payments prescribed by subsection A. [of this section] shall be automatically escalated annually, beginning January 1, 2001, and every year thereafter, ~~((for the change in the))~~ using the most recent available U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers ("CPI-U") for the Seattle-Tacoma-Bremerton Statistical Metropolitan Area for the preceding calendar year. In the event the CPI-U (or a successor or substitute index) is no longer published, a reliable government or other non-partisan index of inflation selected by the county shall be used to calculate the adjusted amounts.

SECTION 8. Ordinance 10171, Section 1, as amended, and K.C.C. 6.27.054 are each hereby amended

as follows:

A. A party requesting a new franchise, amended franchise, renewal, extension of an existing franchise or transfer shall pay a franchise application fee as set forth in K.C.C. 4A.675.020. The fee is for reimbursement to the real estate services section of the facilities management division for the administrative costs and expenses incurred in the processing of the franchise application. The franchise application fee is payable at the time the application is filed with the clerk of the council. In addition, each applicant shall pay an advertising fee as set forth in K.C.C. 4A.675.020.B. Franchise application and advertising fees are not refundable, even if the application is disapproved.

B. The real estate services section may require applicants to reimburse the real estate services section for the actual costs and all expenses incurred by the real estate services section as a result of issuance, renewal, ~~or~~ amendment, extension or transfer of a franchise, to the extent the costs exceed the costs of processing the application recovered by the application fee. The payment of actual cost balances shall be made at the time of the franchise issuance.

C. All franchise application payments received shall be credited to the county current expense fund.

D. This section shall not apply to franchise applications, renewal, amendments or transfers made under the county's cable television regulations, K.C.C. chapter 6.27A.

SECTION 9. Ordinance 6254, Section 8, and K.C.C. 14.30.080 are each hereby amended as follows:

The manager of the ~~((property services division))~~ real estate services section and director of the applicable custodial department are authorized to enforce ~~((the provisions))~~ of this chapter, ~~((pursuant to))~~ in accordance with K.C.C. Title 23.

SECTION 10. Ordinance 1711, Section 1, as amended and K.C.C. 14.44.010 are each hereby amended as follows:

The purpose of this chapter is to regulate the granting of right-of-way construction permits and to ~~((insure))~~ ensure that utility construction work undertaken pursuant to such permits is consistent with the

applicant's right-of-way franchise from the county, the applicable district comprehensive plan, the critical areas code, the county comprehensive plan, sound engineering and design standards, health and sanitation regulations, and county standards for water mains and fire hydrants.

SECTION 11. Ordinance 1711, Section 2, as amended and K.C.C. 14.44.020 are each hereby amended as follows:

A. All construction work performed by franchised utilities, telephone and telegraph companies and within King County right-of-way shall require a right-of-way construction permit to be issued by the ~~((property services division))~~ real estate services section of the ~~((department of construction and facility))~~ facilities management~~((; provided))~~ division, except that construction work undertaken by King County or under contract to King County or requested by King County due to new construction shall be exempted from this requirement. Construction work shall include, but not be limited to, the construction and maintenance of waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, cable TV and petroleum products and any other such public and private utilities.

B. The department of transportation and all other county departments during the construction of capital improvement projects shall install vacant conduit reserved for the future installation of fiber optic cable in accordance with the county's I-Net and Wide Area Network Plans; all capital improvement projects not requiring trenching or modification to the subgrade, such as overlays and shoulder widening, shall be exempted from this requirement.

SECTION 12. A. Section 13 of this ordinance proposes to provide the real estate services section the ability to collect reimbursement for actual costs and expenses associated with issuing right of way construction permits and establishes a maximum fee.

B. These fees are established and assessed pursuant to K.C.C. 2.99.030.

SECTION 13. Ordinance 1711, Section 4, as amended and K.C.C. 14.44.040 are each hereby amended as follows:

A. Each application for a right-of-way construction permit requires a fee payable to the real estate services section as set forth in K.C.C. 4A.675.030 for the administrative costs and expenses of processing the application.

B. The real estate services section shall have the authority to require applicants to reimburse the real estate services section for the actual costs and all expenses incurred by the real estate services section as a result of issuance, renewal or amendment of a right-of-way construction permit, to the extent the costs and expenses exceed the costs of processing the application recovered by the application fee. The payment of actual costs shall be made at the time of permit issuance.

SECTION 14. Ordinance 1711, Section 7, as amended, and K.C.C. 14.44.070 are each hereby amended as follows:

A. The applicant, at the time of submitting an application for a right-of-way construction permit, shall notify all other public and private utility entities known to be using or proposing to use the same right-of-way of the applicant's proposed construction and the proposed timing of such construction. Any such an entity notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant.

B. The ~~((property services division))~~ real estate services section shall also coordinate the approval of right-of-way construction permits with county street improvements and maintenance and may delay the commencement date for the applicant's right-of-way construction for ninety days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to county road users from construction activities, if it finds that such delay will not create undue economic hardship on the applicant, or if it finds that such delay will allow the county to install conduit for future installation of fiber optic cable.

C. The ~~((property services division))~~ real estate services section shall inform the department of transportation of all right-of-way construction permits issued.

D. The ~~((property services division))~~ real estate services section shall forward copies of all right-of-way construction permit applications for projects ~~((1,000))~~ one thousand feet or longer to the department of information and administrative services. The division of information technology services will determine within ~~((15))~~ fifteen working days whether the installation of conduit may be needed for the future installation of fiber optic cable to connect county or other public facilities.

SECTION 15. Ordinance 14264, Section 9, and K.C.C. 14.44.115 are each hereby amended as follows:

Concurrent with the annual submittal of the executive proposed budget, on or about October 1 of each year, a report shall be provided to the county council by the ~~((property services division))~~ real estate services section or its successor detailing performance measurements for each function within the permit and franchises section or its successor. The performance measurements shall include historical reporting for the current year-to-date and the preceding three years. The data reported is to include, but not be limited to: the number of permits and other transactions processed and the number of employees for each period; the average, longest and shortest periods of time for permits processed by the division for each year; the criteria used to determine the value of easements and of annual fees for use of county property, demonstrating utilization of commonly accepted principles of real estate appraisal; and the appraisal reports and fee calculation formulas for easements and annual fees for uses for all fees assessed in excess of one thousand dollars.

SECTION 16. Ordinance 13734, Section 6, and K.C.C. 14.45.040 are each hereby amended as follows:

Wireless minor communication facilities shall only be located or constructed within King County rights-of-way after a right-of-way use agreement is issued by the ~~((property services division))~~ real estate services section of the ~~((department of construction and facility))~~ facilities management division. ~~((Prior to))~~ Before issuing the agreement, the division shall ensure that the proposed facility is located, designed and proposed to be constructed in a manner that complies with all applicable county policies and codes, including but not limited to ~~((the provisions of))~~, Ordinance 13734, zoning code, the county ~~((e))~~ Comprehensive ~~((p))~~ Plan, county road standards, and the Regulation for Accommodations of Utilities on county Roads Right-of-Way

adopted by K.C.C. 14.44.060. Furthermore, the right-of-way use agreement shall only allow placement of wireless telecommunication facilities on improved and maintained county road rights-of-way.

SECTION 17. Ordinance 13734, Section 9, as amended, and K.C.C. 14.45.070 are each hereby amended as follows:

The ((~~property services division~~)) real estate services section, roads services division of the department of transportation and the department of permitting and environmental review shall coordinate review and inspection of the application for a right-of-way use agreement and, to the extent required, any zoning approvals, building permits and environmental review under the state Environmental Policy Act, as follows:

- A. The ((~~property services division~~)) real estate services section shall coordinate the review by all departments of right-of-way use agreement applications.
- B. The roads services division shall review and evaluate applications with respect to the hazard and risk of the proposed construction and location of the proposed construction in relation to other utilities in the right-of-way.
- C. The department of permitting and environmental review shall review and evaluate all applications to determine consistency with respect to the standards and requirements of K.C.C. chapter 21A.26 and Ordinance 13734. The department shall also be the lead agency for purposes of any environmental review required under K.C.C. chapter 20.44.

SECTION 18. Ordinance 13734, Section 10, as amended, and K.C.C. 14.45.080 are each hereby amended as follows:

- A. The following fees shall be required for the administrative costs and expenses of processing and inspecting a wireless right-of-way use agreement application.

Review Agency	Fee
Real estate services section of the facilities management division (application processing and coordinating)	as set forth in K.C.C. 4A.675.050
Department of permitting and environmental review (zoning review)	as provided in K.C.C. 27.10.120

Road services division (inspection)

\$125 per hour

The application processing and coordination fee to recover the cost of processing the application by the real estate services section shall be paid thereto upon filing of the application, and is nonrefundable.

B. In addition, the real estate services section shall have the authority to require applicants to reimburse the real estate services section for actual costs and all expenses incurred by the real estate services section as a result of issuance, renewing or amending a wireless right-of-way use agreement under this chapter, to the extent the costs exceed the costs of processing the application recovered by the application processing and coordination fee. The payment of actual cost balances shall be made at the time the wireless right-of-way use agreement is executed.

SECTION 19. Ordinance 4099, Section 9, as amended, and K.C.C. 14.46.090 are each hereby amended as follows:

A. The ((~~property services division~~)) real estate services section shall coordinate the review by all departments of permit applications.

B. The department responsible for the management of the property to be affected shall review and evaluate applications with respect to the hazard and risk of the proposed construction or use; location of the proposed construction or use in relation to other facilities using the property; the adequacy of the engineering and design of the proposed construction or use; and applicable federal, state, county and local laws and regulations.

C. The Seattle-King County department of public health shall review and evaluate applications for the construction of waterworks, except for domestic service connections, to determine consistency with state and local health and sanitation regulations.

D. The King County fire marshal shall review and evaluate applications for the construction of waterworks to determine consistency with county standards for water mains and fire hydrants.

E. All applications for the construction of sewer or water facilities must be certified by the department of permitting and environmental review as consistent with a sewer or water comprehensive plan approved by

the county council pursuant to K.C.C. chapter 13.24.

F. In any case, the ((~~property services division~~)) real estate services section shall forward the application to the department for recommendations on critical area issues and the ((~~property services division~~)) real estate services section shall be responsible for assuring that any application meets the requirements of K.C.C. chapter 21A.24 and the administrative rules promulgated thereunder before the permit is issued.

SECTION 20. This ordinance takes effect January 1, 2014.

10 days prior, official paper

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Public Hearing: 11/4/13