

## Legislation Text

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Clerk 05/26/2009

AN ORDINANCE relating to fees and charges at King County parks; amending existing code and ordinance provisions regarding parking fees at King County parks to reduce administrative expenses and promote compliance with parking fees, and authorizing the director of the department of natural resources and parks to issue parking citations, impose civil fines and pursue other remedies; amending Ordinance 14509, Section 7, and K.C.C. 7.08.060 and adding a new chapter to K.C.C. Title 7 and prescribing penalties.

### STATEMENT OF FACTS:

1. Ordinance 14509 and K.C.C. 7.08.050 authorize and direct the department of natural resources and parks to impose fees on certain activities within park and recreation facilities, including parking, to help generate non-tax revenue to support King County parks.
2. In accordance with Ordinance 14509 and K.C.C. 7.08.050, the department of natural resources and parks imposed parking fees at certain park and recreation facilities, including Marymoor park.
3. Although parking fees have generated significant non-tax revenue for King County parks and are widely supported as a means of allocating the costs of parks programs and facilities, significant numbers of parks users do not pay applicable parking fees.
4. Efficient and effective collection of parking fees is crucial to meet parks and recreation division revenue goals, to meet users' expectations for a quality parks experience and to meet the

requirements of Ordinance 14509.

5. The parks and recreation division has worked diligently to increase compliance with parking fee requirements, but currently lacks adequate enforcement mechanisms.

6. The lack of parking fee compliance by some users puts a disproportionate financial burden on users who do comply with applicable parking fees. Users who pay for parking perceive that it is unfair for other users to refuse repeatedly to pay parking fees without any significant consequences. This perception may further reduce compliance with applicable parking charges and corresponding revenue.

7. Major user groups at Marymoor park support enhanced enforcement of parking fees, and the revenue generated by providing the parks and recreation division with additional enforcement mechanisms will exceed the costs of implementation.

8. Providing the parks and recreation division with enhanced parking enforcement authority will promote fairness among parks users and increase revenue for King County parks, consistent with Ordinance 14509.

9. Ordinance 14509 and K.C.C. 7.08.060 also prohibit fee increases of more than fifty percent, unless authority for greater increases is granted by the King County council by ordinance. If the department of natural resources and parks were to raise its one-dollar daily parking fee, that limit would currently require the department to collect coins, which means less than whole-dollar amounts, from parks users. Collecting coins would be cumbersome for parks users and extremely expensive for the parks and recreation division.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 14 of this ordinance should constitute a new chapter in K.C.C. Title 7.

NEW SECTION. SECTION 2. The director may enforce the terms and provisions of this chapter.

NEW SECTION. SECTION 3. A person who fails to pay a duly adopted parking fee in violation of

this chapter is subject to a civil penalty to be directly assessed by the director in an amount not to exceed one hundred dollars per violation. All civil penalties assessed shall be enforced and collected in accordance with the procedures specified in this chapter.

NEW SECTION. SECTION 4.

A. The director shall issue a notice and order when the director determines that an applicable parking fee has not been paid. The notice and order shall contain:

1. A description of the vehicle parked in violation of this title, including make, model, color and license plate number;
2. Date and time issued;
3. A description sufficient to identify the area where the vehicle was parked when the violation was discovered such as lot identification letter;
4. A statement that the director has found the vehicle parked in violation of parking fee requirements, with a brief and concise description of the conditions that establish the violation;
5. A statement that the director is assessing a civil penalty, the amount of the penalty and a time certain by which the penalty shall be paid from the date of the order; and
6. Statements advising:
  - a. the director may review and reconsider the notice and order, provided that a request for review and reconsideration is made in writing as provided in this chapter and filed with the director within ten days from the date of service of the notice and order;
  - b. the address to which the request for review and reconsideration should be sent;
  - c. the director's decision may be appealed to the King County office of the hearing examiner, provided the appeal is made in writing and filed with the director within 14 days from the mailing of the director's decision, as provided in K.C.C. chapter 20.24;
  - d. failure to timely request director's review and reconsideration will constitute a waiver of all rights

to any administrative hearing and determination of the matter;

e. a vehicle with three or more unpaid notice and orders may be immobilized in accordance with any applicable legal requirements and a vehicle with five or more unpaid notice and orders or a vehicle that has been immobilized for more than twenty-four hours may be towed and impounded without prior notice and at the owner's expense, under this chapter and K.C.C. chapter 46.08; and

f. if, in accordance with section 5 of this ordinance, the director chooses to provide a uniform automatic civil penalty reduction for prompt payment of a notice and order, then the notice and order shall also include a statement advising how to qualify for that reduction.

B. The notice and order, and any amended or supplemental notice and order, shall be served by affixing the notice and order to the vehicle for which the parking fee was not paid, in a conspicuous location, usually the windshield.

C. Proof of service of the notice and order shall be made at the time of service by a written declaration under penalty of perjury, executed by the person effecting service and declaring the time, date, and manner in which service was made. A copy of the notice and order shall be kept on file by the department of natural resources and parks.

#### NEW SECTION. SECTION 5.

A. A person served with a notice and order pursuant to this chapter may request in writing, within ten days of being served with a notice and order, that the director review and reconsider the notice and order.

B. The review shall be performed without a hearing and be based solely on written information provided by the person requesting review and by county personnel or agents.

C. Upon review, the director may uphold the notice and order or waive or reduce the fine or any other penalty contained in the notice and order.

D. The director shall mail the written decision to the person requesting review.

E. The decision shall notify the person requesting review of the right to appeal the director's decision

pursuant to this chapter and the procedure for filing the notice of appeal of the director's decision.

F. In addition, the director may implement a uniform system to automatically reduce civil penalties that are paid within a specified period. If the director chooses to implement such an automatic penalty reduction for prompt payment, then the director shall notify the public of that option, and take steps to facilitate the public's ability to promptly pay a reduced civil penalty. The amount of the penalty reduction, the duration of the grace period, and the penalty collection mechanism shall be established by the director in the director's sole discretion. However, the director may not change the amount of the reduction, the duration of the grace period, or the penalty collection system more frequently than once every six months.

NEW SECTION. SECTION 6.

A. The King County office of the hearing examiner shall hear appeals of the director's decisions under this chapter.

B. Any person having received a director's decision under Section 5 of this ordinance may appeal that decision by filing a notice of appeal pursuant to K.C.C. chapter 20.24.

C. The procedures for initiating and conducting the appeal shall be governed by K.C.C. chapter 20.24.

D. Enforcement of any notice and order of the director shall be stayed during the pendency of a director's review or an appeal therefrom which is properly and timely filed pursuant to K.C.C. chapter 20.24.

NEW SECTION. SECTION 7. The registered owner of a vehicle is liable to pay any civil penalty imposed for a violation under this chapter. However, the registered owner of a vehicle may avoid liability if the owner proves that the vehicle was reported to the police as a stolen vehicle before the notice and order was issued, and the vehicle had not been recovered.

NEW SECTION. SECTION 8. Except as provided in section 7 of this ordinance, a civil penalty imposed for failure to pay a parking fee at a King County park or recreation facility is a personal obligation of the registered owner of the vehicle involved.

NEW SECTION. SECTION 9. If the penalties assessed by the director are not paid to King County

within thirty days from the service of the notice under section 4 of this ordinance, the mailing of the director's decision under section 5 of this ordinance, or the mailing of the hearing examiner's decision under section 6 of this ordinance, whichever occurs last, then the director may send a final warning letter to the registered owner of the vehicle to the address on file with the state Department of Licensing. If the civil penalties are not paid within ten days after the final warning letter is sent, then the director may pursue other applicable legal remedies. In pursuing payment of civil penalties which remain delinquent after the final warning letter is sent, and to cover administrative expenses associated with the pursuit of such penalties, the director may charge the registered owner of the vehicle an additional fee not to exceed fifty percent of the total delinquent civil penalties.

NEW SECTION. SECTION 10. Unpaid parking fees and civil penalties assessed and collected in accordance with this chapter shall be applied solely to parks and recreation purposes.

NEW SECTION. SECTION 11.

A. In addition to the remedies provided elsewhere in this chapter and in K.C.C. Title 23, the director may impound a vehicle without giving prior notice to its owner, but only if:

1. The vehicle to be towed has received five or more notice and orders under this chapter for which appeals have been waived or been completed; and
2. All or a portion of the amount owed pursuant to those notices and orders remains an outstanding debt to King County.

B. Before impounding any vehicle under this section, the director shall cause signs to be posted in King County parks and recreation facilities to clearly communicate that parked vehicles may be towed and impounded for failure to pay parking fees.

C. When impoundment is authorized by this chapter, a vehicle may be impounded by a towing contractor acting at the request of an employee or other authorized agent of the King County department of natural resources and parks. The employee or authorized agent shall provide to the towing contractor a signed

authorization for the tow and the impound before the towing contractor may proceed with the impound.

D. Notice to the owner of an impounded vehicle, redemption of impounded vehicles and post impoundment procedures shall occur in accordance with K.C.C. 46.08.070, 46.08.080, 46.08.100, 46.08.110, 46.08.120, 46.08.130, 46.08.132 and 46.08.134.

E. Nothing in this section shall be construed to authorize seizure of a vehicle without a warrant where a warrant would otherwise be required. Nothing in this section limits K.C.C. 46.08.040, or derogates from the power of police officers under the common law or other statute or ordinance.

NEW SECTION. SECTION 12. In addition to any prescribed penalty, any person failing to comply with this chapter shall, in the director's sole discretion, be subject to the loss of park or recreation facility use privileges and ejection from the county park and recreation facility where the violation took place.

NEW SECTION. SECTION 13.

A. Service of a notice and order under section 4 of this ordinance shall be deemed effective on the date the notice and order is placed on the vehicle.

B. Service of a director's decision under section 5 of this ordinance shall be deemed effective three days after a written copy of the decision is mailed to the person requesting review.

C. Service of a hearing examiner's decision under section 6 of this ordinance shall be deemed effective three days after a written copy of the decision is mailed to the person appealing the director's decision.

NEW SECTION. SECTION 14. The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the county from remedying civil code violations, including failure to pay applicable parking fees, in any other manner authorized by law, including but not limited to legal or equitable relief.

SECTION 15. 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.

SECTION 16. Ordinance 14509, Section 7, and K.C.C. 7.08.060 are hereby amended to read as follows:

A. The director shall set user fees in accordance with this section.

B. The director shall set user fees for all parks and recreation facilities and programs for which specific users can be readily identified and charged, unless the director determines that the administrative costs to collect the fees are likely to exceed revenues.

C. In setting user fees, the director shall consider the following, among other factors:

1. The cost of providing services and the demand for services;
2. The administrative costs of collecting the fees;
3. The user's ability to pay;
4. Maximizing nontax revenue for the support of parks and recreation facilities;
5. The target revenue rate from user fees, which are:
  - a. for swimming pools, at least fifty percent of operation and maintenance costs, including overhead;
  - b. for the Weyerhaeuser King County Aquatic Center, at least fifty percent of the operation and maintenance costs, including overhead;
  - c. or the King County fairgrounds, at least one hundred percent of operation and maintenance costs, including overhead;
  - d. for ballfields, at least thirty percent of operation and maintenance costs, including overhead; and
  - e. for all other activities, at least thirty percent of operation and maintenance costs, including overhead.

D. User fees for youth shall generally be set lower than comparable fees for adults.

E. Consistent with applicable law, the director may waive, in whole or in part, user fees or provide or facilitate scholarships for individuals meeting federally established low-income criteria, to help ensure that no one is denied access to parks and recreation facilities or activities based solely on an inability to pay. The



director shall adopt rules in accordance with K.C.C. chapter 2.98 that establish the circumstances for which these waivers or scholarships are available and the process for granting the waivers or scholarships. In addition, the director may waive user fees as part of a concession, advertising or sponsorship agreement under which the county receives consideration equal to or greater than the total amount of the fees to be waived. The director shall document all waivers of user fees.

F. The director shall set user fees in a way that clearly and simply states the amounts and the facilities or programs to which the fees apply. The director may set ranges for particular user fees and select fees within those ranges.

G. The director shall make available to the public a description of the department's procedures for setting user fees. The description shall include information on how to inquire about the department's proposed and adopted user fees and public comment opportunities.

H.1. The director shall give at least twenty days' notice of its intention to set user fees by providing notice:

a. in writing or by electronic format, to:

(1) the clerk of the council;

(2) all council members; and

(3) all persons who have made a timely request for advance notice of fee setting;

b. by posting notice at affected facilities; and

c. by publishing in the official county newspaper a summary of the notice of the proposed action, including the information in subsection H.2. a. through e. of this section.

2. The notice made in subsection H.1. a. and b. of this section shall:

a. include a reference to this section;

b. include a reference to the facility or program to which the fee will be applied;

c. include a date and place by which comments must be submitted;

- d. specify whether the proposal is the determination, change or elimination of a fee;
  - e. if the proposal is to change a fee, indicate both the amount of the existing fee and the proposed fee; and
  - f. state the reason for and methodology used to determine the proposed new fee.
3. Selecting a different user fee within a set range does not require notice.
4. The director shall consider all comments received by the prescribed date for comment before the user fee is set.
- I. A user fee is set when signed by the director. A user fee takes effect ten days after it is set.
  - J. Once a user fee is set, the division shall post the amount of the fee in both written and electronic form for inspection, review and copying by the public, including providing a copy, in writing or by electronic format, of the fee to the clerk of the county council and each member of the county council and posting the fee on the Internet.
  - K. ~~((Beginning January 1, 2004, to))~~The director may not increase a fee, or the upper end of the range of a fee, more than fifty percent of that which is in place for the fee or range, unless the authority to set the fee is granted by the council by ordinance. However, for the convenience of parks users and to reduce administrative expenses, an increase in the daily parking fee of no more than fifty percent may be rounded up one time only to the next highest dollar.
  - L. ~~((Beginning January 1, 2004, to))~~The director may not increase a fee or the upper end of the range of a fee, within one hundred twenty days of a previous increase to the fee or range, unless the authority for the increase is granted by the council by ordinance.
  - M. A fee may not be established unless the fee is approved by the council by ordinance.
  - N. All persons using King County parks and recreation facilities shall pay any applicable user fees, except as provided in subsection E of this section.
  - O. User fees generated under this chapter shall be applied solely to parks and recreation purposes.

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