



Legislation Text

File #: 2014-0437, **Version:** 1

Clerk 10/20/2014

AN ORDINANCE relating to the imposition of a natural resource conservation rate and charge in the King Conservation District and authorizing the executive to enter into an interlocal agreement between King County and the King Conservation District.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. The King Conservation District is a governmental subdivision of the state of Washington, organized under chapter 89.08 RCW to protect and conserve natural resources throughout King County except within the boundaries of the incorporated cities of Enumclaw, Federal Way, Milton, Pacific and Skykomish.

B. RCW 89.08.405 authorizes a county legislative authority to approve by resolution revenues to a conservation district by fixing a system of rates and charges to fund conservation district activities and programs to conserve natural resources.

C. The King Conservation District provides the benefits of resource practices, programs and projects authorized by chapter 89.08 RCW available to all land owners or land occupiers within the district including but not limited to: soil conservation; measures to address property compliance with federal, state and local laws and regulations, including Clean Water Act standards and Endangered Species Act requirements; aquatic and upland habitat protection and restoration, including technical assistance; National Pollutant Discharge Elimination System permit support; educational and demonstration projects; water quality monitoring; rain garden programs; invasive species programs; assistance relating to stewardship of working lands, such as

agricultural and forest lands; assistance to farmers; assistance to county and municipal departments with water quality coordination and protections; coordination of intergovernmental partnerships to carry out joint projects, including the development and implementation of water quality and habitat protection projects; cost-sharing funding for sensitive area best management practices implementation; and other such natural resource conservation activities as provided for in chapter 89.08 RCW.

D. The declaration of legislative intent in establishment of conservation districts in RCW 89.08.010 is incorporated in this ordinance, notably the Washington state Legislature's acknowledgement that "there is a pressing need for the conservation of renewable resources in all areas of the state, whether urban, suburban, or rural, and that the benefits of resource practices, programs, and projects, as carried out by the state conservation commission and by the conservation districts, should be available to all such areas; therefore, it is hereby declared to be the policy of the legislature to provide for the conservation of the renewable resources of this state, and for the control and prevention of soil erosion, and for the prevention of flood water and sediment damages, and for furthering agricultural and nonagricultural phases of conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state."

E. King County and the King Conservation District are authorized under chapter 39.34 RCW, the Interlocal Cooperation Act, and RCW 89.08.341 to enter into interlocal agreements for the purpose of engaging in cooperative efforts to promote, facilitate and undertake programs and activities relating to the conservation of natural resources and to keep, according to RCW 89.08.341, "...local agencies fully informed concerning the status and progress of the preparation of their resource conservation programs and plans."

F. The county and the district have historically expressed their cooperative relationship through use of these interlocal agreements which have described the processes and mechanisms by which they were to carry

out their respective roles.

G. In response to the provisions in an interlocal agreement between King County and the King Conservation District, dated December 17, 2012, and authorized by Ordinance 17474, a multijurisdictional task force was created to investigate the availability of conservation and natural resource programs and services in King County, to identify the needs within King County for such services and programs and to identify actual and prospective sources of funding to meet such needs.

H. On April 1, 2013, the county and the district, through a memorandum of understanding, agreed on a process and approach to implementing the terms of the ILA and specified that by no later than December 31, 2013, the multijurisdictional task force would forward a common set of recommendations to the district board of supervisors and the county council.

I. To provide guidance to the task force in meeting the mandates of the ILA, in 2013 a conservation panel comprised of local elected officials within the district, was convened by the county and the district. A task force, comprised of staff level representatives from all of the organizations represented on the conservation panel and landowner, nonprofit and other stakeholder representatives, assisted the conservation panel in its policy and programmatic and recommendations.

J. Between April 8, 2013, and October 23, 2013, the conservation panel met four times and its task force eight times, including three joint meetings of both bodies, and on December 26, 2013, the district and the county executive transmitted the final conservation panel and task force report and recommendations to the county council.

K. A key recommendation in the report was that in January 2014 the King Conservation District convene a reconstituted advisory committee to complete the tasks initiated as part of the 2013 conservation panel and task force process and work with the advisory committee on a routine basis in arriving at an annual program of work and budget. The report also contained recommendations

regarding current and future program opportunities currently unfunded or underfunded to address:

1. Rural small lot and urban forest canopy;
2. Rural farmer plans;
3. Urban agriculture;
4. Expanded landowner incentive program;
5. Shoreline education; and
6. Regional food system.

L. The district convened the reconstituted advisory committee, which first met on March 3, 2014, and determined that its first order of business would be to review the district proposed program of work for 2015 and the associated system of rates and charges necessary to implement the conservation programs and service.

M. The advisory committee met five times and an executive committee of the advisory committee met three times between March 3 and July 23, 2014, to evaluate and provide input on the King Conservation District program of work for 2015 and system of rates and charges, and on July 23, 2014, voted to support the King Conservation District's program of work 2015, Exhibit A to Attachment A to this ordinance.

N. On July 23, 2014, during the discussion of the district's proposed system of rates and charges and proposed 2015 program of work, an advisory committee member noted that the King Conservation District had at earlier meetings projected a significant rate reserve in the first year of the new rates and charges structure and requested that any unallocated rate revenue be allocated to the district's jurisdictional grants program for member jurisdictions on a pro-rata basis. The advisory committee recommended that this request be addressed as the district and the advisory committee work together on an implementation plan for the 2015 program of work and rates and charges budget.

O. On July 28, 2014, the district board of supervisors met and ratified the recommendation of the advisory committee by adopting Resolution No. 14-004, which proposed a system of rates and charges to King County for five years. The board of supervisors also adopted Resolution No. 14-003, which approved the 2015 proposed annual program of work and the rates and charges appropriations budget. The 2015 annual program of work and budget reflected the six areas of programs recommended in the conservation panel/task force report, as identified in subsection K. above, and as recommended by the advisory committee.

P. On July 28, 2014, the district transmitted to the county council and executive the proposed system of rates and charges, the 2015 annual program of work and the 2015 rates and charges appropriations budget.

Q. District Resolution No. 14-004, in proposing a system of rates and charges, references and utilizes a rate structure study done by FCS Group, described in the resolution as a financial consulting firm that provides economic, public finance, financial, which includes rates, charges and fees, and management consulting services to public sector entities throughout the country, including city and county governments, utilities, ports, special purpose districts and state agencies. The King Conservation district Rate Study Report (FCS Group, July 2014), Exhibit B to Attachment A to this ordinance, allocates the costs of district services to various classes of property, and the district board of supervisors considered the discretionary factors provided for in RCW 89.08.405 and found seven classes of property to be appropriate: residential, commercial, agricultural, institutional/public, open space, vacant/undeveloped and forested.

R. In Resolution No. 14-004, the district board of supervisors found that it is appropriate to assign weighting factors to each class of property that reflect distinctions among those properties relating to the services and/or benefits received, to be received or available. The weighting factors included services and/or benefits received, to be received or available that are insignificant or

immeasurable to certain property; services and/or benefits received, to be received or available to classes of property to a lesser degree; and services and/or benefits received, to be received or available that more fully support property (compared to other classes of property). The board found that for land classified as forested, the cost to administer a rate program for this class appeared to outweigh the likely revenues under the formula set out in RCW 89.08.405(4), and thus exempted such land from being charged under the system of rates and charges.

S. Forested lands under RCW 89.08.405 may not be charged on a per parcel basis, and they may be charged on a per acre basis only if the proposed system of rates and charges includes a per acre charge for non-forested classes of property. Since the proposed system of rates and charges does not include a per acre charge for non-forested classes of property, forested lands are not charged on a per acre basis, and thus receive no charge. The King Conservation District considered a per acre charge for the six other classes of property, but determined that a per acre charge could result in miscalculations and confusion among ratepayers and determined that at this time such a charge was not appropriate.

T. While forested lands are not charged under the FCS Rate Study Report, the lands of ratepayers adjacent to and in the vicinity of forested lands do receive multiple benefits from the presence of forests, including cleaner air, preserved wildlife habitat, and reduced stormwater impacts due to forest absorption and evapotranspiration of rainwater, and so receive benefits and burden offsets from the activities and programs of the King Conservation District that improve the management of nearby forests.

U. In Resolution No. 14-004, the following rates are proposed by the King Conservation District board of supervisors for a five year period: agricultural land, ten dollars per parcel per year; residential land, nine dollars and forty-five cents per parcel per year; institutional or public land, nine dollars and twenty-five cents per parcel per year; commercial land, nine dollars and twenty-three cents per parcel per

year; open space land, eight dollars and ninety three cents per parcel per year; vacant or undeveloped land, seven dollars and seventy cents per parcel per year; with the following lands exempted from such charges: forested parcels and parcels owned by federally recognized Native American tribes or members of such tribes that are located within the historical boundaries of a reservation. In the Resolution, the King Conservation District defined each of the seven classes based on the King County assessor's property classifications.

V. In accordance with RCW 89.08.405, the county legislative authority in approving a system of rates and charges may in its discretion consider the information provided by a conservation district in proposing a system of rates and charges. The King Conservation District provided such information in its 2015 annual program of work and budget, and Resolution No. 14-004, which describes the information the board of supervisors considered in proposing a system of rates and charges, including but not limited to, services furnished, to be furnished or available to the landowner; benefits received, to be received or available to the property; land use categories in the district; and the impacts of proposed programs on categories of lands, including burdens offset and benefits received both directly and indirectly. The district also provided to King County the FCS Group Rate Study Report, which the district participated in, that created the rate structure and supporting analysis that provided for different rates by land use, based on benefits, programs and services received, to be received or to be available from each proposed district program in the 2015 annual program of work.

W. The classes proposed by the district are based on property use, and among the different classes there are sufficient differences in services and/or benefits received, to be received, or available from the district's programs and activities, to establish a rational basis for the different classes.

X. Those properties located within the jurisdictions in King County that are not within the King Conservation District may receive some small incidental benefit from the activities of the district but the owners of such properties do not have direct access to conservation programs and services provided as a result of the revenues derived from the system of rates and charges. In contrast, member jurisdictions may receive

conservation district grant funds and participate in budget and policy discussions through membership on the reconstituted advisory committee.

Y. RCW 89.08.220(4) authorizes the King Conservation District to cooperate and enter into agreements with, and within the limits of appropriations made available to it, to furnish financial or other aid to any agency, government or otherwise, or any occupier of land within the district in the carrying on of preventative and control measures and works of improvement for the conservation of renewable natural resources within the district.

Z. The King Conservation District under RCW 89.08.220(1) is authorized to engage in investigation and research that relates to the conservation of renewable natural resources provided that, in order to avoid duplication of research activities, any research is done in cooperation with state government and agencies of the state and the United States and agencies of the United States.

AA. The county and the King Conservation District continue to share a mutual goal of providing a stable and predictable source of funding for the district's conservation programs, and local jurisdictions' natural resource conservation programs and activities, so that the district, the county and member jurisdictions and other stakeholders can implement long-range plans for natural resource conservation. The attached interlocal agreement, Attachment A to this ordinance, provides for such stability and predictability as to funding needs.

BB. The attached interlocal agreement also provides a framework for the county and the district to continue to cooperatively undertake and fund natural resource conservation programs, projects and activities that are consistent with and reflective of the priorities recommended by the conservation panel/task force report and by the advisory committee.

CC. For the purposes set forth in chapter 89.08 RCW, the public interest is served by the approval of a system of rates and charges for the King Conservation District in accordance with this ordinance, with parcels owned by federally recognized tribes or members of such tribes that are located within the historical boundaries of a reservation being exempted from charge. All lands within the boundaries of the King Conservation District

have derived and will continue to derive benefits both directly and indirectly and burden offsets both directly and indirectly from the natural resource conservation projects and programs of the district.

DD. The conservation activities funded by this ordinance consist of those projects, programs and activities that are more fully described in the attached proposed interlocal agreement, and they meet the purposes of RCW 89.08.010 as described in subsection D. of this section to improve the quality of water and the conservation of natural resources in the district and to assist landowners in the district to comply with laws and regulations that protect the quality of the county's water and natural resources. In fulfilling these purposes, the district furnishes and makes available services to landowners and benefits to properties, and offsets burdens caused by uses of lands so as to protect and preserve renewable natural resources, thereby promoting the health, safety and general welfare of the landowners within the district.

EE. In accordance with RCW 89.08.405(5), the district board of supervisors has established by Resolution 14-005 a process providing for landowner appeals of the individual rates and charges as applicable to a parcel or parcels. The district is encouraged through the appeal process to consider including the status of low income senior citizen, and low income disabled person as bases for reducing or eliminating the charge that would otherwise be imposed on parcels owned by such persons.

FF. The proposed interlocal agreement between the King Conservation District and King County specifies the use of rates and charges expenditures for identified natural resource conservation programs and activities. These programs and activities identified in the interlocal agreement and funded by rates and charges as authorized herein will furnish and make available services to landowners and benefits to properties, and offset burdens caused by uses of land, so as to promote the health, safety and general welfare of the people and properties within the district and thereby serve the public interest. Programs and activities provided with rates and charges revenues as allocated in the proposed interlocal agreement satisfy RCW 89.08.405 for each of the five years of the collection of the rates and charges.

GG. The imposition of the system of rates and charges proposed by the King Conservation District

constitutes an exercise of King County's police power, as it protects and preserves renewable natural resources, thereby promoting the public interest, health, safety and general welfare of the properties and property owners within the district.

SECTION 2. A natural resource conservation rate and charge is hereby approved for collection effective January 1, 2015, through December 31, 2019, and imposed on each parcel of real property within the King Conservation District for the district as follows: agricultural lands, ten dollars per parcel per year; residential lands, nine dollars and forty-five cents per parcel per year; institutional or public lands, nine dollars and twenty-five cents per parcel per year; commercial lands, nine dollars and twenty-three cents per parcel per year; open space lands, eight dollars and ninety-three cents per parcel per year; vacant or undeveloped lands, seven dollars and seventy cents per parcel per year; and forested lands, zero dollars and zero cents per parcel per year; with the following lands exempted from such charges: lands owned by federally recognized Native American tribes or members of such tribes that are located within the historical boundaries of a reservation. The use of revenues from this system of rates and charges is subject to the terms of the proposed interlocal agreement between the King Conservation District and King County, Attachment A to this ordinance, which may be amended upon mutual agreement of the county and the district. In approving this system of rates and charges, the county in the exercise of its police powers is authorizing the use of revenues by the district to protect and preserve renewable natural resources, thereby paying for and regulating the services provided, paying for and regulating the burdens on natural resources that landowners have created and promoting the health, safety and general welfare of the people and properties within the district. This system of rates and charges for any year may be modified or repealed by ordinance on or before December 31 of the preceding year.

SECTION 3. The amount of the rate and charge shall constitute a lien against any property for which the rate and charge has not been paid by the date it is due. A notice of lien shall be sent to each owner of the property.

SECTION 4. In accordance with RCW 89.08.405(5), the district board of supervisors has established by Resolution 14-005 a process providing for landowner appeals of the individual rates and charges as applicable to a parcel or parcels and providing that any such appeal must be filed by the landowner with the district no later than twenty-one days after the date property taxes are due. The decision of the district's board of supervisors regarding any appeal shall be final and conclusive.

SECTION 5. The King County executive is hereby authorized to enter into an interlocal agreement with the King Conservation District, substantially in the form of Attachment A to this ordinance, that establishes the roles and responsibilities of the county and the district in cooperatively undertaking natural resource conservation programs, projects and activities under funding obtained through a system of rates and charges.

SECTION 6. By December 31, 2014, the King County executive shall file with the clerk of the council a fully executed original of the interlocal agreement, substantially in the same form as Attachment A to this ordinance. If the executive fails to timely file the original of the fully executed interlocal agreement, this ordinance shall be null and void and the rates and charges provided for in this ordinance shall not be collected. If either party to the interlocal agreement terminates the agreement, the rates and charges provided for in this ordinance shall not be collected for the calendar year or years following the termination.

SECTION 7. All provisions of this ordinance are necessary to accomplish the intent of the county in approving the natural resource rates and charges for the duration of time from January 1, 2015, through December 31, 2019, and are not severable from each other. If any provision of this ordinance is declared by a final court order to be invalid, all provisions of this ordinance shall be deemed to be of no force or effect and the natural resource system of rates and charges authorized in this ordinance shall not be collected, or if collected, shall be returned to the office of the King County treasurer, who shall hold the moneys until further instruction by the court, or in the absence of such an instruction, upon the terms provided for in the interlocal agreement, Attachment A to this ordinance.

SECTION 8. This ordinance is enacted under the county's police power authority, including Article XI, Section 11 of the Washington state Constitution and RCW 36.32.120, and its contracting authority, including under chapter 89.08 RCW and Section 120 of the King County Charter.