



Legislation Text

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AN ORDINANCE establishing rates and charges for the use of the county's metropolitan water pollution abatement facilities by sewage collection entities that do not contract with the county for such service and declaring that the health, safety and welfare of people within the Seattle metropolitan area require that certain entities discharge the sewage they collect to the county's metropolitan water pollution abatement facilities until such time as construction and financing of the capital projects authorized by the regional wastewater services plan are complete.

PREAMBLE:

Pursuant to chapters 36.56 and 35.58 of the Revised Code of Washington ("RCW"), the county owns and operates metropolitan water pollution abatement facilities for the conveyance and treatment of sewage and control of combined sewer overflows that include, but are not limited to, wastewater treatment plants, interceptor and trunk sewers, pumping stations, regulator stations, outfall sewers, storm sewers to divert storm water from sanitary sewers, lands for application of biosolids, property rights, and buildings and other structures (collectively the "Sewer System" or the "System"), all in accordance with the comprehensive plan for metropolitan water pollution abatement, including the regional wastewater services plan (the "RWSP") adopted as a supplement to the comprehensive plan as set forth in K.C.C. 28.86.030. Long-term service agreements with participating entities (the "Participants") obligate the county to treat and dispose of sewage collected by the Participants. Sewage disposal charges paid by

Participants pay the costs of providing sewage treatment, including costs of maintenance and operation of the System and debt service on sewer revenue bonds issued by the county to finance capital costs of the System. The service agreements with most current Participants expire in 2036. For long-term planning purposes and to provide security for sewer revenue bonds of the county that mature after 2036, the county wishes to establish the terms and conditions upon which service will be provided to Participants and other entities in the absence of a contract, including rates and charges for sewage treatment service in accordance with RCW 35.58.200(4). The county council has evaluated whether, in accordance with RCW 35.58.200(3), the health, safety and welfare of people within the metropolitan area of the county require that certain entities serving portions of the metropolitan area that can drain by gravity flow into facilities of the System discharge the sewage collected by such entities to the System until such time as construction and financing of the capital projects authorized by the RWSP are complete.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings. The council hereby finds, as follows:

A. The legislature has determined as a matter of policy in chapter 35.58 RCW that metropolitan powers are necessary because certain problems, such as water pollution abatement, cannot be met by the individual cities, counties and districts of a metropolitan area. The legislature declared that the purpose of chapter 35.58 RCW was to grant metropolitan powers to meet common problems, such as water pollution abatement, "in order that the proper growth and development of the metropolitan areas of the state may be assured and the health and welfare of the people residing in them may be secured."

B. Consistent with the legislative policy and purpose of chapter 35.58 RCW, it is the policy of the county, as set forth in K.C.C. 28.81.020, to provide water pollution abatement service within King County and to provide water pollution abatement service for such areas adjacent to the county as may, in the judgment of the council, be feasibly served upon such terms, conditions and rates as the council shall determine.

C. The county's policy of providing water pollution abatement service on a regional basis promotes the public health and safety of the residents of the entire region by providing service throughout the Seattle, Lake Washington-Cedar River, Lake Sammamish-Sammamish River, and Green-Duwamish River drainage areas within the metropolitan area, thus maximizing the ability of the System to improve sanitary conditions, reduce water pollution, and preserve the fresh and salt water resources of the area for current and future residents of the region.

D. The county's policy of providing water pollution abatement service on a regional basis promotes the public welfare of the residents of the entire region by providing reliable, high quality sewage disposal service at rates that are reasonable, equitable and predictable. Residential, commercial and industrial development in the region depend on reliable, high quality sewage disposal service - for both domestic and industrial sewage -- at rates that are reasonable, equitable and predictable. The uniformity of rates across the metropolitan area promotes orderly economic development and efficient planning for growth in the region.

E. Current Participants have experienced and will continue to experience substantial population growth over the next forty years or more. To provide reliable, high quality water pollution abatement service in time to serve the population growth anticipated by current Participants over the next forty years or more, the RWSP authorizes capital projects to upgrade and expand facilities of the System, which projects are scheduled through 2030.

F. The capital projects set forth in the RWSP include sewage treatment facilities that require complex planning and design, are difficult to site, and are expensive and time-consuming to construct. Such facilities also have long useful lives.

G. To maintain reliable service and predictable rates for service while undertaking the capital projects included in the RWSP, the county must be able to continue issuing long-term sewer revenue bonds to finance the costs of such projects. This is in accordance with the county's equitable financial policy, set forth at KCC 28.86.160.C.2, that the term of the county's borrowings for the System should be structured to match the

expected useful life of the assets to be financed.

H. To finance current costs of projects that are necessary to serve existing and new customers of the Participants for thirty-five to forty years or more, it is necessary and desirable for the county to be able to issue sewer revenue bonds maturing at least 35 years from the date of their issuance, which is later than the 2036 expiration date of the county's current service agreements with the Participants.

I. The economic stability of the metropolitan sewerage system depends on a predictable, long-term source of revenue (i) to repay bonds issued for the capital costs of the RWSP and (ii) to pay the operating costs of the System.

J. The economic stability of the metropolitan sewerage system would be adversely affected if the county could not rely on sewage collection entities that serve the existing and growing customer base to continue to provide rate revenue while the county's long-term sewer revenue bonds to finance capital costs of the RWSP remain outstanding.

K. To provide security for the county's sewer revenue bonds maturing later than 2036, it is necessary and desirable for the county to establish sewage disposal rates applicable to sewage collection entities that discharge to the System but are not subject to service contracts.

L. The following cities and special districts collect sewage from portions of King County that can drain by gravity flow into facilities currently provided by the System:

Cities:

Algona

Auburn

Bellevue

Black Diamond

Bothell

Issaquah

Kent

Kirkland

Lake Forest Park

Mercer Island

Pacific

Redmond

Renton

Seattle

Tukwila

Special Districts:

Cedar River Water-Sewer District

Coal Creek Utility District

Highlands Sewer District

Lakehaven Utility District

Northeast Sammamish Sewer and Water District

Northshore Utility District

Ronald Sewer District

Sammamish Plateau

Skyway Water and Sewer District

Soos Creek Water and Sewer District

Val-Vue Sewer District

Vashon Sewer District

Woodinville Sewer District

M. The entities listed in Paragraph L presently discharge most or all of the sewage they collect to the

System. None of the entities listed in such paragraph has wastewater treatment facilities sufficient to treat the sewage it discharges to the System. Requiring such entities to continue to discharge sewage to the System until such time as construction and financing of the capital projects authorized by the RWSP are complete promotes uniformity in the quality of sewage treatment throughout the metropolitan area's drainage basin. If sewage collected from any entity designated in Paragraph L were not discharged to the System, such sewage would threaten the public's health and safety associated with the contamination of groundwater and surface water. If sewage collected from the entities designated in Paragraph L were not discharged to the System, the security for the county's sewer revenue bonds would be jeopardized and sewer rates for service by the System could rise sharply, threatening the public welfare. To protect the public health, safety and welfare, it is necessary and desirable for the county to require that those entities listed in Paragraph L discharge to the System all sewage collected from the areas so designated until such time as construction and financing of the capital projects authorized by the RWSP are complete. Such entities that do not contract with the county for sewage treatment service shall be subject to the rates and charges for such service established under section 3 of this ordinance

N. The county council hereby finds and determines that the rates and charges established by this ordinance are fair, just and reasonable.

O. The county council hereby finds and determines that the rates and charges established by this ordinance, in combination with revenues pursuant to Participant contracts, will produce revenues sufficient to pay the costs of maintenance and operation, debt service required for county debt payable from revenue of the System, and all other charges necessary for the efficient and proper operation of the System.

P. In short, the county council hereby finds and determines that the county must continue to issue long-term sewer revenue bonds to finance necessary capital costs of the System as provided in the RWSP and, to secure such revenue bonds so long as they remain outstanding, the county must exercise its authority under RCW 35.58.200 (i) to require certain entities to discharge sewage to the System after 2036 whether or not they have contracts with the county for such service and (ii) to impose rates and charges for such service on entities

that do not have contracts with the county for such service.

Q. It is the intent of the council that the county executive continue to seek contract renewals and that these service contracts are the preferred means of implementing wastewater treatment service.

R. The county council hereby finds and determines that adoption of this ordinance is in the public interest.

SECTION 2. Definitions. The following capitalized terms used in this ordinance shall have the following meanings:

"Agency Customer" means any city, town, water-sewer district or other political subdivision, person, firm or private corporation that collects sewage from customers and disposes of any portion of that sewage into the Metropolitan Sewerage System and is not a Participant.

"Comprehensive Plan" means the county's comprehensive water pollution abatement plan authorized by RCW 35.58.200 and defined in K.C.C. 28.82.150 as the Comprehensive Sewage Disposal Plan adopted by Resolution No. 23 of the Metro Council on April 22, 1959, and all amendments thereto, together with any amendments hereafter approved by ordinance of the county, including the RWSP.

"Local Sewerage Facilities" means all facilities owned or operated by a Participant or Agency Customer for the local collection of sewage to be delivered to the Metropolitan Sewerage System and all side sewers and connection fittings connected directly to such System that serve customers of such Participant or Agency Customer.

"Metropolitan Area" means the area contained within the boundaries of King County as now or hereafter constituted.

"Metropolitan Sewerage System" means all of the facilities to be constructed, acquired or used by the county as a part of the Comprehensive Plan. The Metropolitan Sewerage System shall generally include sewage disposal facilities with capacity to receive sewage from natural drainage areas of approximately one thousand acres or more. The Metropolitan Sewerage System shall thus include trunk or interceptor sewers

extending to a point within each tributary and natural drainage area where not more than one thousand acres remain to be served beyond the upper terminus of such trunk and interceptor sewer.

"Participant" means each city, town, county, water-sewer district, municipal corporation, person, firm or private corporation that disposes of any portion of its sanitary sewage into the Metropolitan Sewerage System and has entered into an agreement with the county providing for such disposal.

"Residential Customer" means a single family residence billed by a Participant or Agency Customer for sewerage charges.

SECTION 3. Rates and Charges. Each Participant shall make payments to the county as provided in its contract with the county. Each Agency Customer shall pay to the county a monthly sewage disposal charge, commencing with the first month in which (i) sewage is collected and delivered by such Agency Customer to the county and (ii) no contract with the county governs the collection and delivery of such sewage, determined as follows:

1. Quarterly Reports.

(a) For the quarterly periods ending March 31, June 30, September 30 and December 31 of each year, every Agency Customer shall submit a written report to the county setting forth (i) the number of Residential Customers billed by such Agency Customer for local sewerage charges as of the last day of the quarter, (ii) the total number of all customers billed by such Agency Customer as of such day, and (iii) the total water consumption during such quarter for all customers billed by such Agency Customer other than Residential Customers. The quarterly water consumption report shall be taken from water meter records and may be adjusted to exclude water which does not enter the sanitary facilities of a customer. Where actual sewage flow from an individual customer is metered, the metered sewage flows shall be reported in lieu of adjusted water consumption. The total quarterly water consumption report in cubic feet shall be divided by 2,250 to determine the number of Residential Customer equivalents represented by each Agency Customer's customers other than single family residences. The county shall maintain permanent records of the quarterly customer reports from

each Agency Customer.

(b) An Agency Customer's first quarterly report shall cover the first quarterly period following the date when sewage is first delivered to the county and shall be submitted within thirty days following the end of the quarter. Succeeding reports shall be made for each quarterly period thereafter and shall be submitted within thirty (30) days following the end of the quarter.

2. Residential Customers and Residential Customer Equivalents.

(a) To form a basis for determining the monthly sewage disposal charge to be paid by each Agency Customer during any particular quarterly period, the county shall ascertain the number of Residential Customers and Residential Customer equivalents of each Agency Customer. This determination shall be made by taking the sum of the actual number of Residential Customers reported as of the last day of the next to the last preceding quarter and the average number of Residential Customer Equivalents per quarter reported for the four quarters ending with said next to the last preceding quarter, adjusted for each Agency Customer to eliminate any Residential Customers or Residential Customer equivalents whose sewage is delivered to a governmental agency other than the county or to a Participant or Agency Customer for disposal outside of the Metropolitan Area.

(b) For the initial period until the Agency Customer shall have submitted six consecutive quarterly reports, the basic reported number of Residential Customers and Residential Customer equivalents of the Agency Customer shall be determined as provided in this subparagraph 2(b). On or before the tenth day of each month beginning with the month prior to the month in which sewage from the Agency Customer is first delivered to the county, the Agency Customer shall submit a written statement of the number of Residential Customers and Residential Customer equivalents estimated to be billed by the Agency Customer during the next succeeding month. For the purpose of determining the basic reported number of Residential Customers or Residential Customer equivalents of the Agency Customer for such next succeeding month, the county may at its discretion adopt either such estimate or the actual number of Residential Customers and Residential

Customer equivalents reported by the Agency Customer as of the last day of the next to the last preceding reported quarter. After the Agency Customer shall have furnished six consecutive quarterly reports the basic reported number of Residential Customers and Residential Customer equivalents of the Agency Customer shall be determined as provided in the immediately preceding subparagraph 2(a).

(c) If the Agency Customer shall fail to submit the required monthly and/or quarterly reports when due, the county may make its own estimate of the number of Residential Customers and Residential Customer equivalents of the Agency Customer and such estimate shall constitute the reported number for the purpose of determining sewage disposal charges.

3. Monthly Sewage Disposal Charge. The monthly sewage disposal charge payable to the county shall be determined as follows:

(a) Prior to July 1st of each year the county shall determine its total monetary requirements for the disposal of sewage during the next succeeding calendar year. Such requirements shall include the cost of administration, operation, maintenance, repair and replacement of the Metropolitan Sewerage System, establishment and maintenance of necessary working capital and reserves and the requirements of any resolution providing for the issuance of revenue bonds of the county to finance the acquisition, construction or use of sewerage facilities, and general administrative overhead costs.

(b) To determine the monthly rate per Residential Customer or Residential Customer equivalent to be used during said next succeeding calendar year, the total monetary requirements for the disposal of sewage as determined in subparagraph 3(a) of this section shall be divided by twelve and the resulting quotient shall be divided by the total number of Residential Customers and Residential Customer equivalents of all Agency Customers for the October-December quarter proceeding said July 1st. The county council shall establish this monthly rate by ordinance no later than July 1 of each year.

(c) Each Agency Customer shall pay the county monthly sewage disposal charge determined by multiplying the monthly rate by the number of Residential Customers and Residential Customer equivalents of

the Agency Customer. The county may by separate ordinance impose additional charges for sewage or wastes of unusual quality or composition requiring special treatment by the county and for quantities of storm or ground waters entering those Local Sewerage Facilities that are constructed after January 1, 1961 in excess of the minimum standard established by the general rules and regulations of the county.

(d) The county may by separate ordinance impose an additional charge on Agency Customers to recover unforeseen costs to operate and maintain the Metropolitan Sewerage System or meet debt requirements.

4. Capacity Charges. The county shall impose capacity charges directly on the future customers of an Agency Customer for purposes of paying for capacity in Metropolitan Sewage Facilities in accordance with the provisions of K.C.C. 28.84.050.O, as amended. The Agency Customer shall, at the county's request, provide such information regarding new Residential Customers and Residential Customer equivalents as may be reasonable and appropriate for purposes of implementing capacity charges.

5. Billing. A statement of the amount of the monthly sewage disposal charge shall be submitted by the county to each Agency Customer on or before the first day of each month and payment of such charge shall be due on the last day of such month. If any charge or portion thereof due to the county shall remain unpaid for fifteen days following its due date, the Agency Customer shall be charged with and pay to the county interest on the amount unpaid from its due date until paid at the rate of six percent per annum, and the county may, upon failure to pay such amount, enforce payment by any remedy available at law or equity.

6. Security Deposit. The Agency Customer shall (i) deposit as security with the county an amount equal to the county's estimate of sewage disposal charges for one year for such Agency Customer, (ii) provide a letter of credit in an amount equal to the county's estimate of sewage disposal charges for one year for such Agency Customer, or (iii) enter into an agreement with the county requiring the Agency Customer (A) to establish, maintain and collect rates and charges for sewer service that produce revenue sufficient to pay all costs of maintenance and operation of the Agency Customer's sewer system, including the rates and charges established by this ordinance, and to pay debt service on any revenue bonds of the Agency Customer secured

by a pledge of such revenue; (B) to recognize that the sewage disposal charges payable to the county under this ordinance constitute a cost of maintenance and operation of the Agency Customer's sewer system, and (C) in the issuance of its sewer revenue bonds, the Agency Customer shall provide that expenses of maintenance and operation of its sewer system shall be paid before payment of principal and interest of such bonds.

7. Amendments. The provisions of this section 3 are subject to amendment at any time and from time to time, in accordance with laws and regulations applicable to utility rates and charges.

SECTION 4. Conditions of Service for Agency Customers. Agency Customers are subject to all rules and regulations of the System relating to sewage disposal, including but not limited to the provisions of K.C.C. chapters 28.82 and 28.84. Any Participant whose contract with the county for sewage disposal services terminates shall become an Agency Customer subject to the rates and charges established under section 3 of this ordinance. Any other entity wishing to discharge sewage to the System shall apply to the Director of the County's Department of Natural Resources and Parks regarding service. The provision of service to any applicant shall be subject to approval by the county council on terms and conditions to be established by the county council.

SECTION 5. Declaration regarding Public Health, Safety and Welfare. The county council hereby finds that the following cities and special districts collect sewage from portions of the Metropolitan Area that can drain by gravity flow into facilities currently provided by the System:

Cities:

Algona

Auburn

Bellevue

Black Diamond

Bothell

Issaquah

Kent

Kirkland

Lake Forest Park

Mercer Island

Pacific

Redmond

Renton

Seattle

Tukwila

Special Districts:

Cedar River Water-Sewer District

Coal Creek Utility District

Highlands Sewer District

Lakehaven Utility District

Northeast Sammamish Sewer and Water District

Northshore Utility District

Ronald Sewer District

Sammamish Plateau

Skyway Water and Sewer District

Soos Creek Water and Sewer District

Val-Vue Sewer District

Vashon Sewer District

Woodinville Sewer District

Based on the findings set forth in section 1 of this ordinance, the county council hereby declares that the

public health, safety and welfare of people within the Metropolitan Area require that the above-referenced entities discharge to the System all sewage collected from the areas designated above until such time as construction and financing of the capital projects authorized by the RWSP are complete. Such entities shall contract with the county for sewage treatment service or be subject to the rates and charges for such service established under section 3 of this ordinance.

SECTION 6. Severability. If any one or more of the provisions of this ordinance is held to be invalid for any reason, such invalidity shall not affect or invalidate any other provision of this ordinance, but this ordinance shall be construed and enforced as if such invalid provision had not been contained herein; provided, however, that any provision held to be invalid for any reason shall be deemed to be in effect to the extent permitted by law.

SECTION 7. Effective date. This ordinance shall be effective ten days after its enactment, in accordance with Article II of the county charter.