



Legislation Text

File #: 2019-0424, **Version:** 2

Clerk 11/14/2019

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 Ordinance 17938, adopted in 2014, the county council approved the following rates for collection effective January 1, 2015, through December 31, 2019: 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.

H. The rates adopted in Ordinance 17938 were based on the district's proposed 2015 program of work in Resolution 14-003 and proposed system of rates and charges in Resolution 14-004, both transmitted to the council in July 2014. In Resolution 14-004, the district defined each of the seven classes of property based on the King County assessor's property classifications. Ordinance 17938 also authorized a five-year interlocal agreement between the district and the county.

I. In Resolution No. 14-004, the district described the information the board of supervisors considered, 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.

J. 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. The 2015-2019 interlocal agreement required annual

programs of work to be submitted to the council before September 1 of each year for the following year's activities and programs.

K. The classes of property in the 2015-2019 system of rates and charges proposed by the district and adopted by the council 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.

L. The system of rates and charges approved in Ordinance 17938 expires on December 31, 2019. On July 31, 2019, the district transmitted to the county council a proposed program of work and rates and charges appropriations budget for 2020, which is Resolution 19-007, a proposed system of rates and charges for 2020, which is Resolution 19-008, and a proposed appeal process for landowners subject to the proposed rates and charges, which is Resolution 19-009. The district engaged FCS Group to develop the rate structure that allocates costs of district services to classes of property. The rate structure is Attachment A to Resolution 19-008. The district's proposed system of rates and charges applies to the same classes of property as the 2015-2019 rates and charges and assigns weighting factors. The following rates are proposed by the board of supervisors for 2020: agricultural land, thirteen dollars and fifty-seven cents per parcel per year; residential land, thirteen dollars and four cents per parcel per year; institutional or public land, thirteen dollars and twenty-five cents per parcel per year; commercial land, twelve dollars and ninety cents per parcel per year; open space land, twelve dollars and sixty-nine cents per parcel per year; vacant or undeveloped land, twelve dollars and sixty-seven cents per parcel per year. Similar to the 2015-2019 rate structure, the proposed system does not include a charge for forested land because the cost to administer a rate program for such land is believed to be in excess of likely revenues under the formula set forth in RCW 89.08.405.

M. The district's proposed system of rates and charges and program of work and rates and charges appropriations budget for 2020 represent an expansion of current programs and activities.

N. An alternative to an expansion of the district's current programs and activities is to continue 2019

programs and activities. The rates set forth in section 2 of this ordinance provide for continuation of 2019 program and activities in a 2020-2024 program of work. These rates reflect an updated calculation of the services and/or benefits received by the different classes of property use based on the 2019 FCS Rate Study referenced in subsection L. of this section. Additionally, they reflect a 3.00 percent inflationary adjustment for 2020, and based on the August 2019 Outyear COLA Comparison Forecast, the following inflationary adjustments in subsequent years: 2.24 percent for 2021; 2.41 percent for 2022; 2.43 percent for 2023; and 2.61 percent for 2024.

O. 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 advisory committee.

P. 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.

Q. 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.

R. 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.

S. 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.

T. 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.

U. 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.

V. In accordance with RCW 89.08.405(5), the district board of supervisors has established by Resolution 19-009 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 persons as bases for reducing or eliminating the charge that would otherwise be imposed on parcels owned by such persons.

W. The programs and activities identified in the proposed 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 in the proposed interlocal agreement provided with rates and charges revenues satisfy RCW 89.08.405 for each of the five years of the collection of the rates and charges.

X. The imposition of the system of rates and charges 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.

Y. Section 2 of this ordinance establishes that the system of rates and charges imposed by this ordinance for any year may be modified or repealed by ordinance on or before December 31 of the preceding year.

SECTION 2. A natural resource conservation rate and charge is hereby approved for collection as follows:

A. Effective January 1, 2020, through December 31, 2020, and imposed on each parcel of real property within the King Conservation District for the district as follows: agricultural lands, twelve dollars per parcel; residential lands, eleven dollars and sixty-three cents per parcel; institutional or public lands, eleven dollars and seventy-two cents per parcel; commercial lands, eleven dollars and forty-seven cents per parcel; open space lands, eleven dollars and forty cents per parcel; vacant or undeveloped lands, eleven dollars and thirty-nine cents per parcel; and forested lands, zero dollars and zero cents per parcel.

B. Effective January 1, 2021, through December 31, 2021, and imposed on each parcel of real property within the King Conservation District for the district as follows: agricultural lands, twelve dollars and twenty-seven cents per parcel; residential lands, eleven dollars and eighty-nine cents per parcel; institutional or public lands, eleven dollars and ninety-eight cents per parcel; commercial lands, eleven dollars and seventy-three cents

per parcel; open space lands, eleven dollars and sixty-five cents per parcel; vacant or undeveloped lands, eleven dollars and sixty-four cents per parcel; and forested lands, zero dollars and zero cents per parcel.

C. Effective January 1, 2022, through December 31, 2022, and imposed on each parcel of real property within the King Conservation District for the district as follows: agricultural lands, twelve dollars and fifty-six cents per parcel; residential lands, twelve dollars and seventeen cents per parcel; institutional or public lands, twelve dollars and twenty-seven cents per parcel; commercial lands, twelve dollars and one cent per parcel; open space lands, eleven dollars and ninety-three cents per parcel; vacant or undeveloped lands, eleven dollars and ninety-two cents per parcel; and forested lands, zero dollars and zero cents per parcel.

D. Effective January 1, 2023, through December 31, 2023, and imposed on each parcel of real property within the King Conservation District for the district as follows: twelve dollars and eighty-seven per parcel; residential lands, twelve dollars and forty-seven per parcel; institutional or public lands, twelve dollars and fifty-seven cents per parcel; commercial lands, twelve dollars and thirty cents per parcel; open space lands, twelve dollars and twenty-two cents per parcel; vacant or undeveloped lands, twelve dollars and twenty-one cents per parcel; and forested lands, zero dollars and zero cents per parcel.

E. Effective January 1, 2024, through December 31, 2024, and imposed on each parcel of real property within the King Conservation District for the district as follows: agricultural lands, thirteen dollars and twenty cents per parcel; residential lands, twelve dollars and seventy-nine cents per parcel; institutional or public lands, twelve dollars and ninety cents per parcel; commercial lands, twelve dollars and sixty-two cents per parcel; open space lands, twelve dollars and fifty-four cents per parcel; vacant or undeveloped lands, twelve dollars and fifty-three cents per parcel; and forested lands, zero dollars and zero cents per parcel.

F. The following lands are exempted from the charges imposed by this section: 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 19-009 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, 2019, 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, 2020, through December 31, 2024, 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.