



King County

Metropolitan King County Council Budget & Fiscal Management Committee

Staff Report

Agenda item No:	7	Date:	May 21, 2013
Ordinance No:	2013-0225	Prepared by:	Beth Mountsier

STAFF REPORT

SUBJECT:

AN ORDINANCE amending the sewage disposal rules and regulations to clarify the application, administration and billing for wastewater capacity charges.

SUMMARY:

Proposed Ordinance 2013-0225 clarifies and modifies the administration of the wastewater capacity charge to address emerging issues such as 1) “zero discharge structures”, that will be connecting to the wastewater treatment system but do not anticipate utilizing it because of on-site treatment of wastes as a part of sustainability strategy; and 2) variable discount rates for lump sum payments on the capacity charge that reflect current economic conditions, rather than a fixed rate. In addition, the proposed amendments update code definitions, make corrections for consistency in terminology, clarify the capacity charge is the responsibility of the current owner of a structure or property and provide additional detail on releasing a lien in the event of a delinquency.

BACKGROUND:

Capacity Charge History

A capacity charge on new connections to King County’s wastewater treatment system has been levied since 1990. During the 90’s the capacity charge was limited by state law to levels that made it a relatively ineffective tool for enabling growth to pay an equitable share of the costs of additional service. As a component of the Regional Wastewater Services Plan (RWSP), King County, cities and sewer districts adopted a financial policy pledging to pursue legislative changes to the capacity charge. In 2001, the Washington State Legislature amended state law to lift or remove the cap on the capacity charge. The Regional Water Quality Committee (RWQC) and King County approved the new capacity charge policy the same year. In the spring of 2002, new capacity charge fees were established starting January 1, 2003.

In its current form, King County’s capacity charge is a uniform charge assessed to newly connecting customers during the 2003-2030 planning and implementation period

of the Regional Wastewater Services Plan. The charge is based upon the costs, customer growth and related financial assumptions used for the plan. This allows for efficient and effective system development, and spreads the costs of the new facilities needed to serve new customers over the lifetime of the plan.

Specifically, King County Code (K.C.C.) 28.86.160, financial policy FP-15 provides a methodology for calculating the capacity charge in support of the RWSP. The methodology requires new connections to pay ninety-five percent of the incurred costs of the additional system capacity during the life of the 2003 to 2030 capital plan via the capacity charges and sewer rates paid by 'growth' (new connection) customers. The policy outlines the conceptual framework and several specific allocation rules by which costs are allocated between existing and newly connecting customers.

The specifics of the application, administration and billing for collection of the wastewater capacity charge are found in K.C.C. 28.84.050 and were established in 1993 (Ordinance 121034) and updated in 2009 (Ordinance 16414). Wastewater Treatment Division staff have developed practices consistent with current code for the implementation of the capacity charge. WTD recently reported that 2012 activities for the capacity charge collection section included:

- 5,500 new accounts established for a total of approximately 72,000 active accounts
- Approximately 14,000 invoices sent each month
- 49,000 escrow requests completed
- 11,500 change of ownerships completed
- 513 liens filed
- 14,000 phone calls fielded during the year

Separate from the administration of the capacity charge, the Regional Water Quality Committee is currently reviewing the underlying policy for the calculation of the capacity charge and specifically reviewing the allocation of costs to existing and growth customers. PO 2013-0225 has no direct bearing on this policy review. However, in 2011 the RWQC did discuss 'zero discharge structures' (see below) and issues related to the indexing of the capacity charge for 'low income housing'. Those issues were referred to the Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC) for further consideration. MWPAAC has been briefed by WTD staff on PO 2012-0225 but there has been no formal position or communication related to the legislation from MWPAAC at this time.

Emerging Issues

Zero Discharge Structures:

Recently building developers and owners (along with their architects) have sought to incorporate greater sustainable construction and operational practices into structures in King County. Notably, some of them are participating in what is called the "Living Building Challenge"¹ which promotes energy efficiency and utilizing / recycling waste

¹ Living Building Challenge is an international sustainable building certification program created in 2006 by the non-profit International Living Future Institute. It is described by the Institute as a philosophy, advocacy

products on-site, including wastewater. Current health codes in Washington State and King County require urban structures to be connected to the local wastewater collection system, however these new ultra-sustainable structures do not anticipate discharging waste to the wastewater collection system for treatment because they have incorporated on-site treatment systems.

There is currently no King County Code provision for such structures which are connected to the wastewater treatment system, but not expecting to use or discharge to it. However, should the building need to use the system – adequate capacity for the treatment of such waste must be planned for and compensated for under existing policy and code in King County. With this emerging technology of onsite treatment, the code is proposed to be amended to accommodate “Zero Discharge Structures” – that will be allowed to connect to the system without payment of a capacity charge at the time of connection (with provisions for monitoring, etc.). However, should the structure discharge to the system, whether one day or up to 90 days (as a ‘discharge event’) three months of what would have been the capacity charge will be paid to WTD. Should the structure discharge three times or more within any rolling 15 year period, full payment of the capacity charge will levied and collected by WTD.

Indexed interest rates for lump sum or pre-payment of the Capacity Charge:

When the state legislature approved a more flexible capacity charge in 1993, despite requests to have the default be a lump sum payment of the capacity charge at the time of connection to the system; instead the payment of the capacity charge is spread out over 15 years and calculated as a monthly charge. Each customer subject to the charge is billed by WTD semi-annually (although the frequency of billing may be altered by the WTD Director) for fifteen years. However, the total amount due (reflecting the sum of all remaining payments) may be paid as a lump sum at any time, and at a discounted rate. The discounted rate is currently calculated at 5.5% annually. However this discounted rate no longer reflects the benefit of upfront payment to the division (reflecting borrowing and investment rates of funds related to capital projects). Therefore, the Executive proposes the lump sum discount should be indexed to reflect fifteen-year mortgage and ten- and twenty-year investment rates. The discount rate would be updated in December of each year and then in effect as of the January 1 of the following year.

ANALYSIS:

The following is a summary of the proposed modifications to code regarding application, administration of the capacity charge in KCC 28.84.050:

Definitions and consistent use of terms: Code terminology is updated to provide greater clarity and consistency regarding capacity charges related to ‘structures’ (not properties) and customers.

tool and certification program that promotes the most advanced measurement of sustainability in the built environment.

Clarification of special purpose housing (which has an indexed/lowered capacity charge rate) allowed to serve up to two people of which at least one is physically or mentally disabled.

Zero discharge structures are defined along with 'discharge events' and determination of a capacity charge calculation at the time of connection (no charge levied at that time) or upon three discharge events during a fifteen year period (full collection of capacity charge in a single invoice)

Indexing of discount rate for lump sum payments: Rather than a fixed discount rate of 5.5% annually, the code would be amended to allow an annual discount rate to be determined each year (in December) reflecting fifteen-year mortgage and ten- and twenty-year investment rates. *If Council wants to have more oversight of this amount, the proposed indexed discount rate could be calculated and submitted annually with the budget proposal. However, this seems like an administrative issue that could be left to WTD and the Executive, but should be reported each year with the other supporting materials for the annual rate adoption.*

Clarification of calculations of capacity charge when pre-existing structures are demolished and replaced with new/additional structures: Terminology is updated to be more explicit regarding determination of reduced capacity charges for new connections when a pre-existing structure existed on a property.

Capacity Charge payments and delinquencies: The code terminology is updated to make it explicit who is responsible for payment of the capacity charge and notes that delinquencies shall include payment of the costs related to preparing and filing a lien (rather than a fixed \$150), should that be necessary. There is also an added line noting "The lien will be released when all past due capacity charges plus interest and late penalties have been paid."

AMENDMENTS:

For clarity purposes, the Council Clerk suggests that some of the newly defined terms for 'zero discharge structures' and 'discharge events' should be included with the other definitions pertaining to the capacity charge that already exist in the code (beginning on line 503 of the ordinance).

REASONABLENESS:

Proposed Ordinance 2013-0225 clarifies the code to address emerging issues relating to the capacity charge regarding zero discharge facilities and variable interest rates affecting a fair and equitable discount for lump sum payments. These changes, along with other terminology and text changes appear to provide more clarity, consistency and therefore transparency for new customers connecting to the system and should improve the efficiency of the capacity charge collection program.

INVITED:

- Pam Elardo, Director, Wastewater Treatment Division, DNRP
- Eunice Verstegen, Capacity Charge Administrator, Wastewater Treatment Division, DNRP

ATTACHMENTS:

1. Proposed Ordinance 2013-0225
2. Fiscal Note
3. Executive's Transmittal Letter

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KING COUNTY
Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

May 20, 2013

Ordinance

Proposed No. 2013-0225.1

Sponsors McDermott and Phillips

1 AN ORDINANCE amending sewage disposal rules and
2 regulations in order to clarify the application,
3 administration and billing for wastewater capacity charges;
4 and amending Ordinance 11034, Section 5, as amended,
5 and K.C.C. 28.84.050.

6 STATEMENT OF FACTS:

- 7 1. Following authorization from the Washington state legislature, the
8 Municipality of Metropolitan Seattle began collecting a wastewater
9 capacity charge from customers who connected, reconnected or
10 established service after February 1, 1990.
- 11 2. In 1993, Ordinance 11034 was enacted relating to the administration of
12 the capacity charge program.
- 13 3. The wastewater treatment division of the department of natural
14 resources and parks has developed practices consistent with current King
15 County Code for the implementation of the capacity charge.
- 16 4. Ordinance 16414, enacted in 2009, revised several code provisions to
17 provide greater clarity on the administration of the wastewater capacity
18 charge.

19 5. The wastewater treatment division is a green utility whose core mission
20 is protecting public health and the environment by creating resources from
21 wastewater. The division recognizes that some on-site sewage systems
22 may offer an alternative opportunity for resource recovery in
23 nonresidential structures that meet very strict sustainable building
24 requirements.

25 6. The emergence of new technologies for an on-site sewage treatment
26 system designed with a back-up system that does not rely on discharging
27 into the public sewer system and that does not pose a human or
28 environmental health risk should be eligible for a modified capacity
29 charge.

30 7. The proposed King County Code changes in this ordinance further
31 improve clarity as well as add a provision related to calculation of the
32 capacity charge for new structures designed to achieve zero discharge into
33 the public sewer system.

34 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

35 SECTION 1. Ordinance 11034, Section 5, as amended, and K.C.C. 28.84.050 are
36 each hereby amended to read as follows:

37 A. The director shall administer and implement the following rules and
38 regulations for the disposal of sewage into the metropolitan sewerage system. The rules
39 and regulations in this section shall be applicable to water pollution abatement activities,
40 including the disposal of sewage into the metropolitan sewer system, whether delivered
41 from within or from without the county.

42 B. The director is hereby authorized to develop and implement such procedures
43 and to take any other actions as may be necessary to insure that local public sewers and
44 private sewers discharging or proposing to discharge into the metropolitan sewer system
45 are constructed and developed in accordance with applicable laws, regulations and plans
46 and with the provisions of federal grant agreements that may be applicable thereto.

47 C. The procedures for certification for extensions and connections shall be as
48 follows:

49 1. A request by a local public agency, person or state or federal agency for an
50 extension to an existing department interceptor or trunk shall not be considered by the
51 department for funding of planning, design or construction, and agreements therefor shall
52 not be considered for approval by the council unless the director has received written
53 certification from the legislative bodies of all cities and counties that have zoning
54 jurisdiction over any portion of the area proposed by the requesting party to be served, or
55 determined by the director as being capable of being served by such extension; and any
56 other area in or through which the facility is proposed to be constructed. The certification
57 shall state that such service and construction are consistent with the adopted land use
58 plans and policies of such local governments. If a city or county cannot so certify, it shall
59 issue a written statement to the director that the service or construction is not consistent
60 with its adopted plans and policies, or that action on the application for certification must
61 be deferred pending receipt by the city or county of such additional, specified information
62 and data as may be reasonably required for the consideration of the application;

63 2. Requests by a local public agency, person or state or federal agency for
64 approval of a local public sewer facility connection to an existing interceptor or trunk

65 shall be considered by the department only if the director has received a written
66 certification as described in this section, but a connection involving service by a local
67 public sewer facility that is located wholly within the boundaries of a city and has a
68 potential service area contained wholly within those boundaries shall require only the
69 written certification of that city;

70 3. The certification may be made by either the legislative body of the city or
71 county or by such department or division thereof as the legislative body may designate.
72 The issuance of the certification may be preceded by a reasonable analysis and
73 consideration, by a city or county having zoning authority, of alternatives to the proposed
74 connection or extension.

75 a. If the director has not received a certification or other statement from a city
76 or county as described herein within ninety days of receipt by a city or county of a
77 written application for certification, the city or county shall be deemed, for purposes of
78 this section only, to have certified the proposal as consistent with adopted land use plans
79 and policies; provided, that if the certification has not been received by the director
80 within sixty days of receipt by a city or county of a written application for certification,
81 the director shall notify the chief executive and chair of the legislative body of the city or
82 county of the certification deadline.

83 b. The director is authorized to develop such additional rules, procedures and
84 forms as may be required to implement this section, to notify local public agencies, cities,
85 counties and interested persons of the certification process and to assist the local public
86 agencies, cities, counties and persons in compliance with this section.

87 c. Any questions concerning the applicability or scope of certification
88 requirements shall be referred to the director for final resolution. Nothing contained in
89 K.C.C. 28.84.050.C. precludes the department from providing staff assistance to a local
90 public agency, city, county or state or federal agency concerning waterborne pollutant
91 removal, water quality improvements or sewage disposal alternatives; and

92 C.4. The certification provisions of this section shall not apply where an
93 extension of or connection to an interceptor or trunk is required by formal order or
94 directive of a state or federal agency with regulatory powers over the extension,
95 connection or the metropolitan sewer system, or to the following interceptor extensions:
96 that portion of the Phase 1 May Creek Interceptor System, as defined in the
97 Environmental Protection Agency Project No. C-530749 Negative Declaration dated
98 November 29, 1977, which includes the Honeydew Interceptor and a section of the May
99 Creek Interceptor between existing Metro Manhole B and the confluence of May and
100 Honey creeks; SLW 14 in the Comprehensive Plan, also known as the Madsen Creek
101 Trunk; and GR 25 and GR 26 of the Comprehensive Plan, extending from 11th Avenue
102 in Algona to Main Street in the city of Auburn. Copies of any formal orders or directives
103 as referred to in this subsection C.4. shall be immediately forwarded to every city, county
104 and other local public agencies within the county.

105 D. The following local public agency regulations and standards shall apply:

106 1. Local public agency design and construction standards and standard
107 specifications and local public agency ordinances and resolutions directly relating to the
108 planning or construction of local public sewers or regulating the use of local public
109 sewers or side sewers shall be consistent with this section;

110 2. Two copies of any such documents that are in effect on the date of adoption
111 of this section and that have not previously been submitted to the department shall be
112 submitted to the director within six months following such date. Two copies of any of
113 such documents adopted or placed in use after the date of this section, including any
114 changes in or amendments of documents previously in effect, shall be submitted to the
115 director within sixty days of their adoption; and

116 3. The following provisions shall apply to review and approval of such
117 submittal documents:

118 a. The director shall review design and construction standards and standard
119 specifications submitted by a local public agency and, within thirty days following
120 receipt thereof, shall either approve them in writing or return one set of each disapproved
121 document with written reasons for disapproval;

122 b. The director shall review ordinances and resolutions submitted by a local
123 public agency and, within thirty days following receipt thereof, shall notify the local
124 public agency in writing of any inconsistencies with the department's rules and
125 regulations; and

126 c. Within sixty days following receipt from the director of a disapproval or a
127 statement of inconsistencies with the department's rules and regulations, the local public
128 agency shall take the action as may be necessary to correct such inconsistencies and shall
129 resubmit the corrected or amended documents as provided for their original submittal.

130 E. Local system plans shall be prepared and approved subject to the requirements
131 defined in K.C.C. chapter 13.24 and the departmental policies and procedures that
132 implement the code.

133 F. Detailed construction plans and specifications for proposed local public sewers
134 shall be subject to review and approval by the director only when the director deems such
135 review to be necessary. Each local public agency shall notify the director in writing of its
136 intention to prepare the construction plans and specifications delineating the boundaries
137 of the areas to be sewerred by map or sketch, and the estimated date for bid advertisement.
138 Within ten days following receipt of the notice, if determined necessary, the director shall
139 make written request for the submission of construction plans and specifications. If
140 required to do so, the local public agency shall submit two sets of plans and specifications
141 and shall obtain approval of the plans and specifications before advertising for bids.
142 Within fifteen days following receipt of such plans and specifications, the director shall
143 review the plans and specifications and return one set thereof to the local public agency
144 with approval, or with required changes indicated. If the plans and specifications are
145 disapproved, the required changes shall be made by the local public agency, and all
146 required revisions of plans and specifications resubmitted in the same manner as provided
147 for the initial submittal. If no communication is received from the director by the local
148 public agency within fifteen days of the date of receipt by the director of the plans and
149 specifications, it shall be deemed that the director has approved the plans and
150 specifications.

151 G. The following provisions shall govern sewerage standards:

152 1. New local public sewers or private sewers and extensions of existing sewers
153 shall be designed as separate sewers and storm drains, except where the local public
154 agency can demonstrate the necessity for a combined sewer extension; and

155 2. The design of sewers by local agencies and persons and the method of
156 construction and materials used and the operation and maintenance of sewers and side
157 sewers owned by local public agencies and persons shall be such that flow other than
158 sewage and industrial waste (wastewater) will not exceed three and six one-hundredths
159 cubic feet per acre in any thirty-minute period. Flow volumes of other than wastewater
160 for any thirty-minute period that exceeds this amount will be called excess flow.

161 H. The following provisions shall apply regarding inspection of new
162 construction:

163 1. Local public agencies shall be responsible for inspection of construction of
164 local public sewers as required to insure compliance with this section and with local
165 standards. The director, however, shall have the right to spot inspect local public sewer
166 and side sewer construction and to notify the local public agencies when, in the opinion
167 of the director, the construction work does not comply with this section. Each local
168 public agency shall notify the director by letter or send a copy of the "Contractor's Notice
169 to Proceed" letter to the director in advance of the start of any public sewer construction.

170 a. The letter shall include the name of the organization responsible for contract
171 administration and the name of the individual the director should contact during
172 construction.

173 b. Upon receipt of notification from the director that any local public sewer
174 construction work is not being performed in compliance with the plans and specifications
175 therefor, the local public agency shall immediately take such action as may be necessary
176 to insure compliance.

177 c. The construction of private sewers shall be subject to inspection by the
178 director;

179 2. A leakage test shall be made of every section of local public sewer after
180 completion of backfill by an internal hydrostatic pressure or air test method; provided,
181 that if the ground water table is so high as to preclude a proper exfiltration test, an
182 infiltration test may be used. Other methods of testing must be specifically authorized by
183 the director.

184 a. Allowable exfiltration leakage shall be no greater than five-tenths gallon per
185 hour per inch of diameter per one hundred feet of sewer pipe with a minimum test
186 pressure of six feet of water column above the crown at the upper end of the pipe. For
187 each increase in pressure of two feet above a basic six feet of water column measured
188 above the crown at the lower end of the test section, the allowable leakage shall be
189 increased ten percent. Allowable infiltration leakage shall be no greater than four-tenths
190 gallon per hour per inch of diameter per one hundred feet of sewer pipe, with no
191 allowance for external hydrostatic head.

192 b. Air testing shall be in conformance with the latest edition of "Standard
193 Specifications for Municipal Public Works Construction" prepared by the Washington
194 State Chapter, American Public Works Association.

195 c. A record of leakage tests containing the location of the local public sewer
196 tested, the date of test and the results thereof shall be submitted to the director prior to
197 acceptance of each contract by the local public agency.

198 d. Side sewers shall also be tested for their entire length from the public sewer
199 in the street to the connection with the building plumbing. The method of testing side

200 sewers shall be determined by the local public agency, but in no case shall it be less
201 thorough than filling the pipe with water before backfill and visually inspecting the
202 exterior for leakage; and

203 3. Ground water or other water related to local public agency sewer
204 construction, other than water used for leakage test, shall not be admitted into a public
205 sewer without the written permission of the director.

206 I. The following provisions shall govern connections to the metropolitan sewer
207 system:

208 1. No connection shall be made to the metropolitan sewer system without the
209 prior approval of the director;

210 2. Local public sewers shall be planned so as to require the minimum practical
211 number of points of connection to the metropolitan sewerage system. At each point of
212 connection to the metropolitan sewerage system, the department shall timely construct, at
213 its expense, such special manholes or chambers as are required, including the intervening
214 connection from the manhole or chamber to the department trunk.

215 With the written approval of the director, the special manhole or chamber and
216 intervening connection from the manhole or chamber to the department trunk may be
217 designed and constructed by the local public agency at the expense of the department but
218 subject to inspection and approval by the director. It shall be the responsibility of the
219 local public agency to connect local public sewers to the manhole or chamber at its
220 expense and in a manner approved by the director;

221 3. Each local public sewer connection to a department special manhole or
222 chamber shall be hydraulically designed so as not to interfere with the measuring and
223 sampling of flow;

224 Upon its completion, each such a structure and connection shall be owned,
225 operated and maintained by the department, provided that the local public agency may
226 use the chamber for measuring and sampling flows at reasonable times with the
227 concurrence of the director; and

228 4. The director may require a metering manhole or chamber on extensions
229 constructed after January 1, 1961, to local public sewers in existence on that date. The
230 manhole or chamber shall be located on the extension near its connection with the local
231 public sewer. The department shall construct and pay for any manhole or chamber
232 required for extensions constructed prior to April 17, 1969. The local public agency shall
233 construct any required manhole or chamber for any local public sewer extension
234 constructed after the adoption of this section. The construction shall be performed in
235 accordance with plans and specifications prepared or approved by the director and the
236 department shall pay the additional cost of the manhole or chamber as follows:

237 a. For pipe sizes eight inches in diameter through twenty-one inches in
238 diameter, and with the measuring device placed in a department standard, four-foot
239 diameter, manhole, the department shall pay one hundred fifty dollars per each such
240 measuring manhole.

241 b. For special chambers and pipe sizes larger than twenty-one inches in
242 diameter, the department shall pay as per agreement for each specific case. Upon its
243 completion, each such manhole or chamber shall be owned, operated and maintained by

244 the local public agency, provided that the department may use the chamber for measuring
245 and sampling flows at reasonable times with the concurrence of the local public agency.

246 J. The following provisions shall govern relating to private sewers:

247 1. The department shall not directly accept wastewater from the facilities of any
248 person that are located within the boundaries of, or discharge wastewater into the local
249 sewerage facilities of, any local public agency without the prior written consent of the
250 local public agency;

251 2. Connection of private sewers may be made at the discretion of the director,
252 either by the director or by others subject to inspection and approval by the director.

253 Whenever a local public sewer becomes available, the private sewer shall be
254 disconnected from the metropolitan sewerage system under the inspection of and in a
255 manner approved by the director, and shall be connected to the available local public
256 sewer in accordance with the requirements of the local public agency. All work of
257 making connections, disconnections and reconnections of private sewers to the
258 metropolitan sewerage system shall be at the expense of the owner or developer of the
259 private sewers;

260 3. Two sets of plans and specifications for proposed private sewers shall be
261 submitted to the department for review and approval. Written approval must be obtained
262 prior to advertising for bids or proceeding with the work if bids are not called; and

263 4. The provisions of this section applying to local public sewers of local public
264 agencies shall also apply to private sewers and to owners of private sewers.

265 K. The following regulations shall apply to the use of local public sewers:

266 1. The discharge into any sewer by direct or indirect means of any of the
267 following is hereby prohibited: subsoil foundation, footing, window-well, yard or
268 unroofed basement floor drains; overflows from clean water storage facilities; clear water
269 from refrigeration, reverse-cycle heat pumps and cooling or air-conditioning equipment
270 installed hereafter, except for the periodic draining and cleaning of the systems; roof
271 drains or downspouts from areas exposed to rainfall or other precipitation; and surface or
272 underground waters from any source;

273 2. Where manholes in sewers have open, perforated or grating covers resulting
274 in surface waters entering the manhole, the director may require the local public agency
275 to adjust or modify the manholes, at the expense of the local public agency so that the
276 entry of surface water is reduced to a minimum. Openings in manholes for new
277 construction shall be limited to not more than three one-inch diameter holes; and

278 3. An additional charge will be made for quantities of water other than sewage
279 and industrial waste hereafter entering those sewers constructed after January 1, 1961, in
280 excess of the volume established for design purposes in this section. Any charge made in
281 addition to the regular charge shall be based on metered records of flow taken and
282 compiled by the department. If the director, elects to meter and record flow from such
283 sewers, the local public agency will be given at least five days notice in advance of such
284 metering. Metering periods shall continue until excessive flow conditions are corrected.

285 a. The allowable volume of flow for any thirty-minute period shall be
286 determined by taking the sum of the following items, subsection K.3.a. (1) to (3) of this
287 section, inclusive:

- 288 (1) maximum dry-weather wastewater flow as measured in the preceding
289 August-September period. The flow shall be determined as follows:
- 290 (a) meter and record all flow for the period;
 - 291 (b) discard all flow records for each day containing measurable
292 rainfall and discard the flow records of the succeeding days;
 - 293 (c) determine the maximum flow volume occurring in a thirty minute period
294 for each day's metering; and
 - 295 (d) average all of the maximum flow volumes to arrive at a maximum dry-
296 weather wastewater flow;
- 297 (2) additional dry-weather flow resulting from new customers or equivalents
298 added after the measured August-September period. The flow shall be determined as
299 follows:
- 300 (a) determine the number of added residential customers and equivalents;
 - 301 (b) multiply each such customer and equivalent by the departmental
302 allowance of seven hundred fifty cubic feet per month; and
 - 303 (c) reduce (b) from a monthly to a thirty-minute allowance by the formula:
304 cubic feet per month divided by [30 days x 24 hrs. x 2] = additional dry weather flow;
305 and
 - 306 (3) flow allowance for ground water infiltration and storm water inflow on
307 which the metropolitan sewerage system was designed. The flow shall be determined as
308 follows:
 - 309 (a) determine the sewered area being metered in acres; and
 - 310 (b) flow allowance = 3.06 cubic feet per acre x sewered area in acres.

311 b. Flow volumes for any thirty-minute period that exceed the allowable
312 volume of flow, as determined in subsection K.3.a of this section, will be considered to
313 be excess flow.

314 c. Since excess flow is based upon a thirty-minute period, the volume so
315 measured will be small. In order that the surcharge for excess flow will more nearly
316 approach the cost of providing additional capacity in the metropolitan sewerage system,
317 excess flow will be adjusted as though it were occurring for a twenty-four hour period.
318 The flow will be called adjusted excess flow. Adjusted excess flow = Excess flow x 24 x
319 2.

320 d. Daily surcharges for adjusted excess flow will be the department current rate
321 for each seven hundred fifty cubic feet of the adjusted excess flow. The daily surcharges
322 shall remain in effect for ten days. If excess flow occurs again during the ten day period,
323 and the new excess flow exceeds the former, the more recent excess flow will be used in
324 lieu of the former and continue for ten days from date of its measurement.

325 e. If the new excess flow does not exceed the former excess flow, the former
326 will be used for ten days from time of its measurement, at which time the new excess
327 flow will be used for as many days as will complete ten days from the time of
328 measurement of the new excess flow.

329 f. Amounts due the department as monthly surcharges for excess flows shall be
330 shown as a separate item on the department's normal monthly billing to the local public
331 agency, accompanied by appropriate records and calculations, and shall include only the
332 surcharges for the previous month.

333 g. The surcharges for excess flows shall be paid to the department by local
334 public agencies in the same manner and at the same times as regular sewer service
335 charges; provided that a local public agency may offset against the surcharges amounts
336 actually expended on local sewerage facility improvements or modifications that have
337 been constructed by the local public agency for the purpose of reducing the excess flows
338 and the plans for which shall have been approved by the director. If the local public
339 agency elects to construct the improvements, it shall so signify in writing to the director
340 within thirty days of receipt of the department's first billing of each specific excess flow
341 surcharge. Upon receipt of the notice, the department will allow the local public agency
342 one year to prepare approved plans and specifications and let a contract for the corrective
343 work. Failure to meet the one-year deadline shall result in the original surcharge, as well
344 as any intervening surcharges, becoming immediately due and payable.

345 h. Metering and metered records may be checked at reasonable time intervals
346 by local public agency personnel accompanied by department personnel upon at least one
347 day's notice to the department.

348 i. In the event of excessive infiltration/inflow under applicable regulations of
349 the Environmental Protection Agency, such that the department will be denied federal
350 grants in the absence of correction, the director may elect to do the corrective work
351 utilizing therefor solely surcharges collected from the local public agency.

352 L. The following provisions shall apply to disposal of materials from septic tanks
353 and chemical toilets:

354 1. The discharge of materials from cesspools, septic tanks and privies into local
355 sewer systems is prohibited;

356 2. Chemical toilet waste may be discharged into the local public sewer or
357 private sewer system through a side sewer connection at the place of business.

358 a. The means of disposal shall be approved by the director, the local public
359 agency and the Seattle-King County health department.

360 b. If the conditions in subsection L.2.a. of this section cannot be met, chemical
361 toilet wastes may be discharged directly into the metropolitan sewer system in
362 accordance with the provisions of this section;

363 3. No person engaged in the collection and disposal of materials from cesspools,
364 septic tanks, chemical toilets, portable toilets and privies, as a business or commercial
365 enterprise, may discharge into the metropolitan sewer system any of the materials so
366 collected without having first obtained from the director a written permit to do so. This
367 permit shall be in addition to all other permits and licenses required by law and shall be
368 issued only to the holder of a proper registration and inspection certificate issued by the
369 Seattle-King County health department to carry on or engage in the business of cleaning
370 septic tanks and cesspools;

371 4. Any person required to obtain such a permit shall submit to the director an
372 application for the permit on forms approved by the director.

373 a. A separate permit shall be obtained for each vehicle so used, which permit
374 shall thereafter be carried in the vehicle at all times. No permit may be transferred from
375 one vehicle to another except in the event of loss, destruction or replacement of the
376 original vehicle, and then only with the approval of the director.

377 b. The name of the person and the permit number shall be prominently
378 displayed in numbers and letters at least three inches high, in contrasting color on both
379 sides of the vehicle;

380 5. The annual fee for a permit to discharge materials from cesspools, septic
381 tanks, chemical toilets and privies into the metropolitan sewerage system, unless
382 exempted in this section, is hereby fixed and determined to be the sum of two hundred
383 dollars for each vehicle employed or used by the permit holder for the hauling and
384 discharge of such materials. At the time of issuance of each discharge permit, there will
385 also be issued an entrance control identification card for each truck under permit. No
386 person may discharge into the metropolitan sewer system any materials collected from
387 cesspools, septic tanks, chemical toilets and privies without first paying the permit fee,
388 and registering with the proper entrance control identification card at the point of
389 discharge into the metropolitan sewer system for each load dumped.

390 Annual fees shall be payable in advance and permit holders shall renew their
391 permits on or before the annual expiration date of the permits. Fees for permits issued for
392 less than a full year shall be prorated to the nearest full month. No refund of any permit
393 fee shall be granted for cessation of operations prior to the expiration of the permit;

394 6. In addition to the permit fee, each permit holder shall pay to the department a
395 gallonage fee. The gallonage fee shall be determined by the director and shall be adjusted
396 at such times as the director may deem to be in the best interest of the department.

397 a. The director may waive the gallonage fee to permit holders dumping septic
398 tank sludge from residences and businesses paying the department sewerage charges to
399 local agencies. Claims for exemption of gallonage fees shall be made on forms provided

400 by the department and shall be accomplished in the manner described thereon. The
401 department shall bill each permit holder for the accumulated gallonage fee monthly.
402 This billing shall provide for the subtraction of all volumes declared on valid gallonage
403 fee exemption claims. Payment of gallonage fees shall be made within thirty days from
404 the date of invoice by the department.

405 b. A late charge of twelve percent per year shall be assessed upon and added to
406 any charge or portion thereof that remains unpaid after thirty days from the date of
407 invoice. Failure to pay all charges due within sixty days from the date of invoice shall be
408 considered a breach of the terms of the permit and shall result in revocation of the permit;

409 7. Wastes discharged into the metropolitan sewer system in accordance with this
410 section shall be discharged only at such points as are designated by the director and in a
411 clean, inoffensive manner satisfactory to the director. Equipment and methods used by
412 the permittee to discharge shall be subject to inspection by and approval of the director as
413 a condition of granting the permit;

414 8. The discharge of industrial waste, or any waste other than domestic septage
415 and chemical toilet waste, into a designated septage disposal site is prohibited unless
416 specifically approved by the director;

417 9. A permittee hereunder shall be liable for the costs of any damages to property
418 or personal injury caused by reason of his operations. In addition, failure to pay the costs
419 upon demand shall be cause for revocation of the permit;

420 10. A permit may be revoked or suspended by the department for failure to
421 discharge at designated points, for any discharge that is in violation of the provisions of
422 this section, or for the reasons set forth in this section;

423 11. Each permittee shall be required to obtain liability insurance in such amount
424 and in such form as shall be determined by the director. The insurance shall afford
425 bodily injury limits of liability of five hundred thousand dollars for each person and one
426 million dollars for each occurrence. Evidence of the insurance coverage shall be
427 provided to the director. Nothing in this subsection L.11. shall in any manner preclude
428 any applicant from obtaining such additional insurance coverage as the applicant may
429 deem necessary for his or her own protection; and

430 12. The director is hereby authorized to designate the points of disposal of
431 materials collected by the permittees, the places where permits may be obtained and the
432 persons authorized to sign the permits on behalf of the department.

433 The director is further authorized to revoke or suspend permits for failure to
434 comply with the provisions of this chapter, subject to the right of persons affected to
435 appeal from the revocation or suspension as provided in this chapter.

436 M. The following practices shall be prohibited:

437 1. No person shall discharge, directly or indirectly, into a sewer any material or
438 substance that is prohibited by any county ordinance, rule established by the director,
439 local agency rule or regulation or other applicable requirement.

440 2. No unauthorized person shall enter any department sewer, manhole, pumping
441 station, treatment plant or appurtenant facility. No person shall maliciously, willfully or
442 negligently break, damage, destroy, deface or tamper with any structure, appurtenance or
443 equipment that is part of the metropolitan sewerage system.

444 3. No person, other than an authorized employee or agent of the department,
445 shall operate or change the operation of any department sewer, pumping station,
446 treatment plant, outfall structure or appurtenant facility.

447 N. The following provisions shall apply to user charges:

448 1. As required by federal regulations, each local public agency shall adopt and
449 maintain a system of user charges to assure that each recipient of waste treatment services
450 within the department's service area will pay its proportionate share of the costs of
451 operation and maintenance, including replacement, of all waste treatment provided by the
452 department.

453 Notwithstanding the obligation of the local public agency to collect the charges,
454 the director shall have authority directly to assess, when in the opinion of the director it is
455 necessary in order to comply with federal regulations, a user surcharge directly against
456 industrial users within a local public agency in an amount determined by the director to
457 be necessary to assure that the industrial users pay their proportionate share of the costs
458 of operation and maintenance, including replacement, of waste treatment provided by the
459 department. Any such surcharge is distinct from and in addition to sums to be paid by
460 industries as industrial cost recovery, pursuant to provisions contained in this section or
461 under such provisions as may be adopted by the council, regarding the control and
462 disposal of industrial waste into the metropolitan sewage system;

463 2. Each local public agency shall charge each recipient of waste treatment
464 services within its jurisdiction, in addition to any surcharge to be assessed by the local
465 public agency against an industrial user in an amount to be determined by the director to
466 be necessary under federal regulations and separate from and in addition to any sums paid

467 by industry pursuant to this section, a sum to be paid to the department for its waste
468 treatment services to be determined as follows:

469 a. The local public agency shall determine, on a quarterly basis: the number of
470 residential customers billed by the local public agency for local sewage charges; the total
471 number of all customers so billed; and the total water consumption billed other than
472 residential customers. The quarterly water consumption report shall be taken from water
473 meter records and may be adjusted to exclude water not entering the sanitary facilities of
474 a customer.

475 (1) Where actual sewage flow from an individual customer is metered,
476 metered sewage flows shall be reported in lieu of adjusted water consumption. Total
477 quarterly water consumption in cubic feet shall be divided by two thousand two hundred
478 fifty to determine the number of residential customer equivalents for which each
479 nonresidential customer shall be billed.

480 (2) The director shall develop such additional instructions and rules for
481 preparation of the quarterly water consumption report as may be necessary to implement
482 the requirements of this section; and

483 b. The director will establish a monthly user charge for each component
484 agency based upon a rate for each residential customer or residential customer equivalent
485 that the local public agency shall collect from its residential customers and equivalents;

486 3. Each local public agency shall charge each industrial recipient of waste
487 treatment services within its jurisdiction as required by the department, in addition to the
488 user charge, a surcharge in an amount to be determined by the director based on the
489 average annual strength and volume of discharge by the industry. For the purpose of

490 computing average annual strength, all wastes shall be assumed to have a minimum
491 strength equivalent to that of domestic sewage.

492 Each local public agency shall provide the director each quarter with a listing of
493 the water consumption of each surcharged industry; and

494 4. Each local public agency shall maintain such records as are necessary to
495 document compliance with the user charge system established under this subsection N.

496 O. The following provisions shall apply regarding capacity charges:

497 1. All customers of a public or private sewage facility who connect, reconnect
498 or establish a new service that uses metropolitan sewage facilities after February 1, 1990
499 shall pay a capacity charge in an amount established annually by the council in
500 accordance with state law. Users of metropolitan sewage facilities shall be subject to the
501 capacity charge upon connection or reconnection to public or private sewage facilities
502 and/or establishment of a new sewer service.

503 a. "Connection," for purposes of this subsection, shall mean physical
504 connection of the side sewer serving either any structure, or an addition to a (~~non-single~~
505 ~~family residential~~) structure, to a sanitary sewer.

506 b. (~~"Reconnection," for purposes of this subsection, shall mean reconnection~~
507 ~~of an existing structure following physical disconnection and abandonment of prior sewer~~
508 ~~service.)) "Capacity charge," for purposes of this subsection, shall mean a charge levied
509 on a property to recover capital costs needed to serve new customers.~~

510 c. "Establishment of a new service," for purposes of this subsection, shall
511 mean:

512 (i) change of ~~((property))~~ structure use from single family residential to other
513 than single family residential;

514 (ii) change of ~~((property))~~ structure use following connection or reconnection
515 to a sanitary sewer;

516 (iii) addition of a new structure to an existing sewer connection;

517 ~~((iii))~~ (iv) reuse of an existing sewer connection by a new structure
518 following demolition of an existing structure or abandonment of sewer service; or

519 ~~((iv))~~ (v) expanded or increased industrial or commercial use of a sanitary
520 sewer connection;

521 2. The capacity charge shall be a fixed rate per residential customer or
522 residential customer equivalent determined annually by the council. The number of
523 residential customer equivalents (RCEs) for multifamily ~~((customers))~~ structures shall be
524 determined using the following scale:

525 ~~((€))~~ Two to four units per structure 0.8 RCEs per unit

526 ~~((€))~~ Five or more units per structure 0.64 RCEs per unit

527 Senior citizen, low income and special purpose housing 0.32 RCEs per unit

528 ~~((Mobile home~~ _____ 1.0

529 ~~RCE))~~

530 a. Senior citizen housing shall be multifamily structures of two or more
531 dwelling units within which each dwelling unit shall consist of a room or a suite of two or
532 more rooms, of which not more than one is a bedroom, for which occupancy has been
533 limited to two persons, at least one of whom is age fifty-five or older.

534 b. Low income housing shall be multifamily structures of two or more
535 dwelling units (~~((within which each dwelling unit shall consist of one room and a~~
536 ~~bathroom))~~), each totaling not more than four hundred square feet, for which occupancy
537 has been restricted, in at least fifty-one percent of the units, to persons with incomes not
538 more than eighty percent of the median income of the county within which the housing is
539 constructed, and for which rent is restricted.

540 c. Special purpose housing shall consist of dwelling units, that may be part of a
541 larger care facility, consisting of a room or a suite of rooms, of which not more than one
542 is a bedroom for which occupancy is limited to (~~((one person who))~~) two persons, at least
543 one of whom is physically or mentally disabled.

544 d. In the case of privately owned senior citizen, low income or special purpose
545 multifamily housing, the requirements of subsection O.2.a., b. and c. of this section shall
546 be contained in a permit, agreement, covenant or deed restriction in which the county, a
547 local government, an agency of state government or the United States government is
548 granted enforcement authority.

549 e. In the case of senior citizen, low income and special purpose housing owned
550 by a government or nonprofit corporation, the requirements shall be integral to the
551 establishment of the corporation as a legal entity or a legally enforceable condition of
552 construction and operation of the housing.

553 f. If use of a multifamily structure that initially qualifies as senior citizen, low
554 income or special purpose housing changes so that it no longer meets the criteria in
555 subsection O.2.a., b., c., d. and e. of this section, residential customer equivalents shall
556 then be calculated in the same manner as multifamily (~~((customers))~~) structures and the

557 department will collect the incremental difference ~~((then))~~ due for all payments from the
558 time of disqualification until paid off.

559 g. The number of residential customer equivalents for ~~((customers other than~~
560 ~~residential customers))~~ nonresidential structures shall be ((projected using estimated
561 hydraulic capacities or loading)) determined by the department based on values of
562 plumbing fixtures and/or estimates of wastewater flow from sources other than plumbing
563 fixtures and acceptable to the department. An appropriate schedule of hydraulic capacity
564 or loading values equating to residential customers shall be determined by the director;

565 3. Nonresidential structures with fixtures that are designed to have zero
566 discharge to the metropolitan sewage facilities may be eligible to have a reduced capacity
567 charge. Structures eligible for the reduced rate are those with a wastewater system that is
568 designed not to discharge to, and functions independently of, the metropolitan sewage
569 facilities. These systems shall be called zero discharge for the purposes of this subsection
570 O. and may be considered for a reduced capacity charge provided that the systems or
571 fixtures do not present a human or environmental health risk. The following shall guide
572 evaluation and award of a modified capacity charge for zero discharge structures:

573 a. For zero discharge structures, the number of residential customer
574 equivalents shall be projected in accordance with subsection O.2.g. of this section;
575 however, fixtures and sources that are engineered to function without discharging into to
576 the metropolitan sewage facilities shall be given the value of zero for purposes of
577 calculating the residential customer equivalents. These calculations will be determined
578 by review of applicant-submitted engineering plans and specifications, site inspections

579 and other materials deemed necessary by the department and such calculations shall be
580 subject to approval by the department;

581 b. Zero discharge structures and systems may be required by the department to
582 install monitor and alarm systems to confirm that the structure does not discharge to the
583 metropolitan sewage facilities. Reporting requirements shall be specified by the
584 department; and

585 c. If a zero discharge system discharges to the metropolitan sewage facilities,
586 this shall be considered a discharge event and the structure shall be subject to a capacity
587 charge in an amount equal to a single invoice, for one quarter or three months, calculated
588 using the monthly capacity charge for conventional systems in accordance with
589 subsection O.2.g. of this section at the rate applicable in the year of discharge.

590 "Discharge event" for the purposes of this subsection O. means that sewage from a zero
591 discharge structure or system flows into the metropolitan sewerage system. Any
592 discharge from a zero discharge structure or system lasting ninety calendar days or less
593 shall be considered a single discharge event. If a zero discharge building or system has
594 three discharge events during any fifteen-year period, the structure shall then be
595 immediately converted to a conventional capacity charge calculation calculated using
596 subsection O.2.g. of this section. The zero discharge structure shall then be assessed the
597 full fifteen-year capacity charge rate applicable during the year of the third discharge
598 event into the metropolitan sewage system;

599 4. The capacity charge ((~~shall be collected by the department directly from the~~
600 customer)) is the responsibility of the current owner. The department shall collect the

601 capacity charge directly from the current legal property owner. The charge shall be a
602 monthly charge for fifteen years.

603 Each customer subject to the charge shall be billed by the department semi-
604 annually or at such frequency as may be determined by the director. The total amount of
605 the charge, hereinafter the "total amount due," may be paid at any time. The total amount
606 due shall be the sum of all remaining payments discounted ~~((at the rate of five and one-~~
607 ~~half percent annually))~~ by an index reflecting fifteen-year mortgage and ten- and twenty-
608 year investment rates that will be updated in December of each year;

609 ~~((4.))~~ 5. When determining capacity charges applicable to a new connection, the
610 charges may be reduced or eliminated to reflect a prior sewer connection and prior sewer
611 service ~~((at the property to be served by the new connection))~~ to the preexisting structure.

612 a. This credit against charges otherwise due shall be applied as residential
613 customers or equivalent, which are also known as RCEs, under the following
614 circumstances:

615 (1) the ~~((property))~~ structure to be served by the new connection replaces a
616 structure on the same lot that was either connected to sewers prior to February 1, 1990,
617 and was paying full sewer charges, or, if not connected to sewers, was nevertheless
618 paying such full sewer charges before February 1, 1990; and

619 (2) ~~((structures on the property were))~~ the preexisting structure was
620 subsequently demolished and sewer service abandoned and the time between
621 abandonment of service and ~~((reconnection of the property))~~ connection of the new
622 structure to sewers was less than five years.

623 b. In the event the new connection replaces a connection made after February
624 1, 1990, the charges may be reduced to reflect past capacity charge payments. This credit
625 against charges otherwise due shall be applied under the following circumstances:

626 (1) the ~~((property to be served by the new connection))~~ preexisting structure
627 that was connected to sewers after February 1, 1990, and paying full sewer charges, was
628 reported to King County by the local sewer agency; and

629 (2) capacity charges were paid to King County on the property with no break
630 in payments of five years or more; and

631 (3) ~~((structures on the property were))~~ the preexisting structure was
632 subsequently demolished and sewer service abandoned and the time between
633 abandonment of service and ~~((reconnection of the property))~~ connection of the new
634 structure to sewers is less than five years.

635 c. Credits permitted in accordance with subsection ~~((O.4.b. (1), (2) and (3)))~~
636 O.5.b. (1), (2) and (3) of this section will be determined using the county's accounts
637 receivable record of capacity charge invoices paid on the ~~((subject property))~~ structure.
638 Credit may be applied only from the ~~((property of the demolished structures and will be~~
639 ~~applied only to a replacement structure proximate to the))~~ demolished structure to the
640 replacement structure. The amount of the credit will be expressed as whole or fractional
641 residential ~~((customers or))~~ customer equivalents and shall reflect the percentage of the
642 total amount due actually paid~~((-))~~;

643 ~~((5.))~~ 6. Credits authorized under subsection ~~((O.4.))~~ O.5. of this section shall be
644 applied only when appropriate documentation for the demolished structure is provided to

645 the department. ~~((Documentation))~~ Appropriate documentation shall ~~((be))~~ consist of one
646 of the following:

647 a. a demolition permit for a preexisting structure at the same ~~((property))~~
648 address as the new structure that contains a description of the structure demolished~~((:))~~;

649 b. in the case of a subdivision of a lot or parcel, a demolition permit for a
650 preexisting structure at the same lot as the new structures which contains a description of
651 the structure demolished;

652 c. sewer service invoices for full sewer charges, for the level of service for
653 which credit is sought, dated before demolition of the previously existing ~~((building))~~
654 structure or structures that includes the service address and number of units if the
655 ~~((building))~~ structure was a multifamily structure; or

656 ~~((e.))~~ d. A dated permit issued by the local sewer agency ~~((authorizing))~~
657 confirming capping of the side sewer that includes the same ~~((property))~~ address as the
658 new structure and a description of the prior structure;

659 ~~((6.))~~ 7. Credits permitted under subsection ~~((0.4.))~~ 0.5. of this section shall be
660 applied only from the ~~((property with the))~~ demolished structures. The credits shall be
661 applied in the following manner:

662 a. When a new single family home replaces a preexisting demolished single
663 family home for which no capacity charge is owed, no capacity charge shall be collected;

664 b. When a preexisting structure is demolished and the lot~~((:))~~ or parcel ~~((or~~
665 ~~property))~~ is subdivided, the credit ~~((will))~~ shall be applied in equal proportion to the new
666 structure or structures ~~((most proximate to the demolished structure))~~ within the new
667 subdivided parcel~~((— Alternatively, the property owner at the time of demolition may file~~

668 with the department a plan for allocation of credits within the subdivided lot, parcel or
669 property, and the plan as approved by the department will then guide the allocation of
670 credits. If the owner does not submit a plan, credits will be applied in the manner
671 described in subsection O.6.c. and d. of this section));

672 c. (~~When multifamily residential structures are demolished, credits will be~~
673 ~~allocated to new structures built at the location proximate to the building demolished on~~
674 ~~the same property; and~~

675 d. ~~When a nonresidential structure is demolished, credit will be applied to the~~
676 ~~new building or buildings constructed proximate to where the demolished building or~~
677 ~~buildings was located on the property)) When a preexisting structure or structures are
678 demolished and the lot or parcel subdivided and new blocks are created, the credit from
679 any qualifying preexisting structures within the footprint of the new block shall be
680 applied in equal proportion to the new structure or structures within that block;~~

681 ((7.)) 8. The following apply to capacity charge billing:

682 a. Capacity charge billing to a ((customer)) legal owner of a structure or the
683 owner's representative shall commence as soon as possible and practical after the date of
684 the sanitary sewer connection provided by a local public agency served by the department
685 in accordance with the filing frequency determined by the director; and

686 b. Late notice to the department of commencement of sewer service to a
687 ((customer)) property or failure of ((a customer)) the property owner or the owner's
688 representative to receive a capacity charge bill does not relieve a property owner of the
689 responsibility for payment of charges and interest;

690 ((8.)) 9. The following apply to delinquent capacity charge accounts:

691 a. If a customer fails to make a payment when due, an interest charge shall be
692 computed on the delinquent amount at an annual rate of not more than the prime lending
693 rate of the county's bank plus four percentage points. This interest charge and a ~~((one-~~
694 ~~time))~~ penalty of not more than ten percent of the past due amount shall be added to the
695 account balance; and

696 b. When capacity charges plus interest charges and penalties are delinquent for
697 more than thirty days, the department shall send a notice of intention to file lien to the
698 property owner or owner's representative. The notice shall direct the property owner or
699 representative to pay the total past due amount, plus interest and penalties, no later than
700 fifteen days from the date of the letter or to make suitable arrangements to bring the
701 account current. If the payment is not made within fifteen days, or suitable arrangements
702 have not been made, the total amount past due plus penalties and interest will be certified
703 as delinquent and a lien may be filed against the property with the recorder's office of the
704 county. A lien charge to cover the cost of preparing and filing the lien ~~((in the amount of~~
705 ~~one hundred fifty dollars))~~ will be added to the delinquent amount on the date of
706 certification of the lien to the recorder's office of the county. Action may be taken by the
707 department to enforce collection of the delinquent amount at any time after the charges
708 have been delinquent for sixty days. The lien will be released when all past due capacity
709 charges plus interest and late penalties have been paid.

710 The department is authorized to request the prosecuting attorney to bring suit for
711 foreclosure civil action in the superior court of the county in which the real property is
712 located and to request payment of its costs and disbursements as provided by statute, as
713 well as reasonable attorneys' fees. Each account that has been submitted to the

714 prosecuting attorney for foreclosure shall be charged for legal fees incurred in connection
715 with the foreclosure, even when court proceedings are unnecessary;

716 ~~((9.))~~ 10. Local public agencies shall, at the director's request, provide such
717 information regarding new residential customers and residential customer equivalents as
718 may be reasonable and appropriate for purposes of implementing the capacity charge;

719 ~~((10.))~~ 11. The director is authorized to develop and implement such additional
720 policies and requirements and to take such actions as may be necessary and appropriate
721 for collection of the capacity charge and administration of the capacity charge program as
722 described in this subsection O.; and

723 ~~((11.))~~ 12. As part of its rate-making authority, the council elects that capacity
724 charges shall accrue as monthly fees recorded as operating revenues in accordance with
725 Financial Accounting Standards Board Statement No. 71.

726 P. No person may connect a local public or private sewer to the metropolitan
727 sewerage system unless the local public agency or person shall then be in compliance
728 with this section.

729 1. If any local public agency or person shall construct a local public sewer,
730 private sewer or side sewer in violation of this section, the department may issue an order
731 to the local public agency or person to stop work in progress that is not then in
732 compliance with this section or the department may issue an order to correct work that
733 has been performed. The local public agency or person shall immediately take the action
734 as may be necessary to comply with the order and with this section, all at the expense of
735 the local public agency or person.

736 2. Other penalties.

737 a. Any person failing to comply with or violating this section or rules and
738 regulations developed by the director under this section shall, for each such a failure or
739 violation, be subject to a fine in an amount not exceeding two thousand dollars for each
740 separate failure or violation under this section.

741 b. The director may order the owner of any property from which prohibited
742 discharges are entering any sewer to correct the condition, provided that if the property of
743 the owner lies within a local public agency, the director shall first give written notice of
744 the prohibited discharge to the local public agency, and only if the local public agency
745 fails to correct the condition within ninety days after receipt of the notice, may the
746 director directly order the owner to correct the condition.

747 If any owner shall not cause the condition to be corrected within thirty days
748 following receipt of the department order, the department may proceed to enter upon the
749 property and correct the condition, and the cost thereof together with a penalty of fifty
750 dollars shall be a lien upon the property to be enforced in the manner provided by law for
751 liens for local sewage charges.

752 c. Any person who shall damage, destroy or deface any structure,
753 appurtenance, equipment or property of the metropolitan sewerage system shall be fined

754 in an amount not exceeding three hundred dollars, and shall be liable for double the
755 actual cost of restoration or repair or double the actual amount of any irreparable damage.
756

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

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FISCAL NOTE

Ordinance/Motion No. 2013-XXXX
 Title: Ordinance Amending Ordinance 11034, Section 5, as amended, relating to the administration of the capacity charge program
 Affected Agency and/or Agencies: Wastewater Treatment Division, Department of Natural Resources and Parks
 Note Prepared By: Eunice Versteegen, Capacity Charge Program Supervisor, WTD
 Note Reviewed By: Tim Aratani, Finance Manager, WTD

Impact of the above legislation on the fiscal affairs of King County is estimated to be:

Revenue:

Fund/Agency	Fund Code	Revenue Source	2013	2014	2015	2016
Water Quality/WTD	4610	Capacity Charge				
TOTAL			0	0	0	0

Expenditures:

Fund/Agency	Fund Code	Department Code	2013	2014	2015	2016
TOTAL			0	0	0	0

Expenditures by Category

	2013	2014	2015	2016
Salaries & Benefits				
Supplies and Services				
Capital Outlay				
Other				
TOTAL	0	0	0	0

Assumptions:

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April 30, 2013

The Honorable Larry Gossett
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Gossett:

This letter transmits an ordinance that clarifies the administration of the wastewater capacity charge. The proposed amendments to the King County Code will ensure continued efficient collection of the capacity charge that pays for the infrastructure needed to provide wastewater conveyance and treatment for new connections.

Since 1990, the Wastewater Treatment Division of the Department of Natural Resources and Parks has had a capacity charge program. In that time the program has evolved, and the utility has strived for increased clarity and transparency for new customers and a capacity charge collection program that operates efficiently. Specific modifications to the capacity charge proposed in this ordinance include:

- Updates to code definitions
- Corrections for consistency in terminology
- Consideration of “zero discharge” structures
- Modification of the discount rate for lump sum payments
- Clarification that the capacity charge is the responsibility of the current owner
- Details on the delinquency policy

These changes are proposed in response to, and as a result of, many inquiries and suggestions from new capacity charge customers. The provisions in the ordinance addressing “zero discharge” structures recognize that new wastewater technologies are emerging that are not designed to discharge to the public sewer but must have a connection in case of emergencies.

This legislation clarifies and improves the administration of the wastewater capacity charge and, therefore, supports the King County Strategic Plan goal of environmental sustainability by protecting water quality through wastewater treatment.

The Honorable Larry Gossett
April 30, 2013
Page 2

A sewer system capacity charge that allows growth to pay for growth in a manageable way and does not unduly burden current development supports sustainable development and sustainable infrastructure, consistent with King County's Strategic Climate Action Plan. A fiscally sound utility that distributes costs fairly is a utility that can plan and prepare for the future including the likely impacts of climate change on the utility facilities, infrastructure and natural resources.

Thank you for your consideration of this ordinance.

If you have any questions, please feel free to contact Pam Elardo, P.E., Division Director of the Wastewater Treatment Division in the Department of Natural Resources and Parks at 206-684-1236 or pam.elardo@kingcounty.gov.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
ATTN: Michael Woywod, Chief of Staff
Anne Noris, Clerk of the Council
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County
Executive Office
Dwight Dively, Director, Office of Performance, Strategy and Budget
Christie True, Director, Department of Natural Resources and Parks (DNRP)
Pam Elardo, P.E., Division Director, Wastewater Treatment Division, DNRP