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Introduced By: Larry Phillips

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Proposed No.: 98-500

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ORDINANCE NO. **13625**

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AN ORDINANCE relating to comprehensive planning and sewer and water system utility planning; amending Ordinance 1710, Section 6, as amended, and K.C.C. 6.27.060, Ordinance 10095, Section 2, and K.C.C. 13.24.005, Ordinance 1709, Section 1, as amended, and K.C.C. 13.24.010, Ordinance 10095, Section 3, and K.C.C. 13.24.015, Ordinance 4307, Section 2, and K.C.C. 13.24.020, Ordinance 1709, Section 4, as amended, and K.C.C. 13.24.050, Ordinance 1709, Section 5, as amended, and K.C.C. 13.24.060, Ordinance 2638, Section 5, and K.C.C. 13.24.070, Ordinance 1709, Section 6, as amended, and K.C.C. 13.24.080, Ordinance 1709, Section 7, and K.C.C. 13.24.090 as amended, Ordinance 1709, Section 8, as amended, and K.C.C. 13.24.100, Ordinance 11616, Section 11, and K.C.C. 13.24.134, Ordinance 11616, Section 12, as amended, and K.C.C. 13.24.136, Ordinance 11616, Section 15, and K.C.C. 13.24.142, Ordinance 7025, Section 3, as amended, and K.C.C. 14.44.045, Ordinance 11575, Section 2, as amended, and K.C.C. 20.12.015, Ordinance 4461, Section 1, as amended, and K.C.C. 20.24.070, Ordinance 4461, Section 2, as amended, and K.C.C. 20.24.080, Ordinance 263, Article 5, Section 18, as amended, and K.C.C. 20.24.230, Ordinance 10870, Section 513, as amended, and K.C.C. 21A.28.030 and Ordinance 11034, Section 5, as amended, and K.C.C. 28.84.050, adding a new section to K.C.C. chapter 13.24 and repealing Ordinance 1709, Section 2, as amended, and K.C.C. 13.24.030, Ordinance 1709, Section 3, as amended, and K.C.C. 13.24.040, Ordinance 3579, Section 4, as amended, and K.C.C. 13.24.110, Ordinance 10095, Section 5, and K.C.C. 13.24.130 and Ordinance 2707, Section 1, as amended, and K.C.C. 20.12.160.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

1            SECTION 1. Ordinance 1710, Section 6, as amended, and K.C.C. 6.27.060 are  
2 hereby amended to read as follows:

3            **Criteria for approval.** A. All franchises granted for county rights-of-way shall be  
4 consistent with the following criteria:

5                    1. A previously approved comprehensive plan for the applicant, if required to  
6 have such a plan by K.C.C. 13.24.010;

7                    2. The county comprehensive plan;

8                    3. The standards of good practice regarding accommodation of utilities on  
9 county road right-of-way as stated in the King County Road Standards, pursuant to  
10 Washington Administrative Code, Chapter 136-40.

11            B. In addition, all franchises granted for water and sewer (~~districts and water~~  
12 ~~distributors~~) utilities shall be consistent with the following criteria:

13                    1. Health and sanitation regulations of the Seattle-King County health  
14 department and the state;

15                    2. County standards for water mains and fire hydrants,

16                    3. The grantee of the franchise shall, at no expense to the county, repair all  
17 existing facilities that it owns within county road rights-of-way, including all appurtenant  
18 facilities and service lines connecting its system to users, if such repair is required by the  
19 county for any reasonable purpose;

20                    4. The grantee of the franchise shall, at no expense to the county, adjust,  
21 remove or relocate existing facilities with county road rights-of-way, including all  
22 appurtenant facilities and service lines connecting its system to users, if the county  
23 determines such adjustment, removal or relocation is reasonably necessary to allow for an

1 improvement or alteration planned by the county in such road right-of-way. The county  
2 shall give the grantee written notice of such requirement as soon as practicable, at the  
3 beginning of the pre-design stage for projects that are part of the county's capital  
4 improvement program, including such available information as is reasonably necessary for  
5 the grantee to plan for such adjustment, removal or relocation;

6           5. For projects that are a part of the county's capital improvement program, in  
7 addition to any other notice given to the grantee of the franchise, the county shall provide a  
8 vertical and horizontal profile of the roadway and drainage facilities within it, both existing  
9 and as proposed by the county, and the proposed construction schedule; notwithstanding  
10 any permit conditions that may later be applied to the county project, this initial design  
11 information shall be given at least 180 days before construction is scheduled to begin,  
12 except in cases of urgent construction or emergencies. The grantee shall respond to this  
13 notice, and to any later notices of revised designs based on permit conditions, within no  
14 more than 30 days by providing to the county the best available information as to the  
15 location of all of the grantee's facilities, including all appurtenant facilities and service  
16 lines connecting its system to users and all facilities that it has abandoned, within the area  
17 proposed for the public works project. The county shall offer the grantee the opportunity to  
18 participate in the preparation of bid documents for the selection of a contractor to perform  
19 the public works project as well as all required adjustments, removals or relocations of the  
20 grantee's facilities. Such bid documents shall provide for an appropriate cost allocation  
21 between the parties. The county shall have sole authority to choose the contractor to  
22 perform such work. The grantee and the county may negotiate an agreement for the  
23 grantee to pay the county for its allocation of costs, but neither party shall be bound to enter

1 into such an agreement. Under such an agreement, in addition to the grantee's allocation of  
2 contractor costs, the grantee shall reimburse the county for costs, such as for inspections or  
3 soils testing, related to the grantee's work and reasonably incurred by the county in the  
4 administration of such joint construction contracts. Such costs shall be calculated as the  
5 direct salary cost of the time of county professional and technical personnel spent  
6 productively engaged in such work, plus overhead costs at the standard rate charged by the  
7 county on other similar projects, including joint projects with other county agencies.

8           6. The grantee of the franchise shall, at no expense to the county, assume the  
9 following obligations with respect to facilities connected to its system that are within  
10 county road rights-of-way and which it does not own, including appurtenant facilities and  
11 service lines connecting its system to users:

12           a. The grantee shall apply for, upon request and on behalf of the owner of the  
13 facilities, a county right-of-way construction permit for any repairs required for such  
14 facilities; provided such owner agrees to reimburse the grantee for all costs incurred by the  
15 grantee and any other reasonable conditions the grantee requires as a precondition to  
16 applying for the permit. All work to be performed in the county right-of-way shall comply  
17 with all conditions of the county permit and all applicable county requirements. The  
18 grantee may at its option perform any part of the repair with its own forces or require the  
19 owner to employ a contractor for that purpose, provided such contractor is approved by the  
20 county;

21           b. In the event that the county determines emergency repair of such facilities is  
22 necessary to halt or prevent significant damage to county road rights-of-way or significant  
23 threats to the health, safety or welfare of parties other than the owner or the occupants of

1 the building served by such facilities, the grantee shall take prompt remedial action to  
2 correct the emergency to the county's approval, which the county shall not unreasonably  
3 withhold;

4 c. When the county or its contractor provides notice to the grantee, pursuant to  
5 ((RCW)) chapter 19.122 RCW, of its intent to excavate with county road rights-of-way, the  
6 grantee shall provide to the county or its contractor the best information available from the  
7 grantee's records or, where reasonable, from the use of locating equipment as to the  
8 location of such facilities, including surface markings where these would reasonably be of  
9 use in the excavation. If the grantee fails to make good faith efforts to provide the above  
10 information within the deadlines provided by ((RCW)) chapter 19.122 RCW, the grantee  
11 shall hold the county harmless for all reasonable costs that result from damage to such  
12 facilities if such damage occurs as a result of the failure to provide such information.

13 Nothing in this subsection is intended or shall be construed to create any rights in any third  
14 party or to form the basis for any obligation or liability on the part of the county or the  
15 grantee toward any third party, nor is anything in this subsection intended or to be  
16 construed to alter the rights and responsibilities of the parties under ((RCW)) chapter  
17 19.122 RCW, as amended.

18 SECTION 2. Ordinance 10095, Section 2, and K.C.C. 13.24.005 are each hereby  
19 amended to read as follows:

20 **Purpose.** The purpose of this chapter is to accomplish the following:

21 A. Assure that sewer and water system comprehensive plans are consistent with  
22 adopted county plans, policies and land use controls;

1 B. Provide information to assist in the preparation of future county plans and  
2 policies;

3 C. Provide information to assist in the review of new development proposals and  
4 right-of-way construction permits; and

5 D. To fulfill the county's responsibilities set forth in ((RCW)) chapters 90.54 (Water  
6 Resources Act of 1971), ((RCW)) 36.70 (((State))(Planning Enabling Act of the state of  
7 Washington), 36.70A, ((RCW)) 36.94, ((RCW 56.02, RCW)) 57.02 and 70.116 RCW and  
8 chapters 173-240 and ((WAC 248.54.065)) 246-290 WAC.

9 SECTION 3. Ordinance 1709, Section 1, as amended, and K.C.C. 13.24.010 are  
10 each hereby amended to read as follows:

11 **Water and sewer system comprehensive plans.** A. Comprehensive plans for water  
12 and sewer districts or any other public or private entities ((which)) that distribute or obtain  
13 water or provide sewer collection or treatment in unincorporated areas of King County ((  
14 Washington,)) shall be adopted by each such entity and approved by the King County council  
15 as a prerequisite for the following:

- 16 1. Operating in unincorporated King County;
- 17 2. Approval of annexation proposals;
- 18 3. Granting of new right-of-way franchises and right-of-way franchise renewals;

19 and

20 4. Approval of right-of-way construction permits, except for emergency permits  
21 issued under K.C.C. 14.44.055.

1 B. Except as provided in K.C.C. 13.24.015, such plans shall be reviewed by a  
2 utilities technical review committee established by this chapter prior to submission to the  
3 King County council for approval.

4 C. Only plans consistent with the King County Comprehensive Plan adopted in  
5 K.C.C. Title 20 shall be approved. The infrastructure system for the existing service area,  
6 and for the area anticipated to be served in the future shall be based on the adopted ~~(L)~~land  
7 ~~(U)~~use ~~(M)~~map of the Comprehensive Plan.

8 D. A new, fully updated plan shall be submitted every six years, or in conformance  
9 with the cycle of updates required by the state Department of Health or Department of  
10 Ecology, whichever is sooner, except that water comprehensive plans shall not be required  
11 for Group A water systems that are not expanding public water systems as defined in WAC  
12 246-290-010.

13 E. King County may require an updated plan, plan amendment, or other  
14 documentation whenever conditions for water or sewer availability have changed  
15 significantly within a water or sewer utility service area. Water and sewer utilities required to  
16 plan under this chapter shall promptly notify King County of any significant changes  
17 affecting service provision.

18 F. Water and sewer comprehensive plans shall include information sufficient to  
19 demonstrate the ability to provide service consistent with the requirements of all applicable  
20 statutes, codes, rules and regulations.

21 G. Water comprehensive plans shall be consistent with the planning criteria  
22 identified by the state Department of Health in its "Water System Planning Handbook or its  
23 successor document.

1 H. Sewer comprehensive plans shall be consistent with WAC 173-240-050. In

2 addition, the plans shall discuss the following:

3 1. Existing and planned flows, both average and peak; and

4 2. Existing and planned flows for any basin discharging into King County's  
5 sewage conveyance and treatment system; and

6 3. Amounts of inflow and infiltration to the system, a comparison of those  
7 amounts with King County's one thousand one hundred gallons per acre per day standard,  
8 and steps being taken to reduce the inflow and infiltration; and

9 4. Areas of concern with respect to corrosion and odor control and steps being  
10 taken to reduce their occurrence.

11 I. The utilities technical review committee may require additional information to be  
12 included as part of a water or sewer comprehensive plan.

13 SECTION 4. Ordinance 10095, Section 3, and K.C.C. 13.24.015 are each hereby  
14 amended to read as follows:

15 **Exemption from council approval of Group B water systems.** As provided by  
16 ~~((RCW))~~ chapter 43.20 RCW ((and WAC 248.54)), chapter 246-291 WAC and ((K.C.C.))  
17 Title 12 of the Seattle-King County board of health regulations, plans for Group B water  
18 systems in unincorporated King County shall be reviewed and approved by the Seattle-King  
19 County health department. Plans for Group B water systems shall not require approval of the  
20 county council pursuant to this chapter unless a right-of-way construction permit is required.  
21 The health department shall prepare and regularly update a list of those Group B systems that  
22 have been approved. Included in the list shall be the important characteristics of the systems  
23 such as water quality, water quantity, reliability, the operator or manager((;)) and the capacity

1 of the system to serve existing and additional customers. The list shall be provided annually  
 2 to the utilities technical review committee and shall be consulted when preparing  
 3 recommendations for, but not limited to, franchises, other water plans(,) and new  
 4 developments.

5 SECTION 5. Ordinance 4307, Section 2, and K.C.C. 13.24.020 are each hereby  
 6 amended to read as follows:

7 **Approving ((engineer)) official.** The director of the department of ((public works))  
 8 natural resources, or ((his)) the director's authorized designee, shall be the ((engineer))  
 9 official designated by King County for the approvals required by RCW ((56.08.020 and))  
 10 57.16.010. Director approval shall be based on recommendations provided by department  
 11 engineers and the Utilities Technical Review Committee.

12 SECTION 6. Ordinance 1709, Section 4, as amended, and K.C.C. 13.24.050 are  
 13 each hereby amended to read as follows:

14 **Comprehensive plans - ((M))modification of requirements.** ((A. The utilities  
 15 technical review committee may require information and material additional to that required  
 16 in the sections above, as necessary.

17 ~~B.))~~For the purpose of satisfying ((the requirements of Section)) K.C.C. 13.24.010, a  
 18 sewer comprehensive plan covering a subarea of a sewer district or any other public or  
 19 private provider of sewage services shall be eligible for consideration provided that it:

20 1. Covers a system of sewer facilities, existing or proposed, having no  
 21 connection to any other portion of the ((purveyor's)) utility's system and discharging directly  
 22 into a ((department of metropolitan services)) King County wastewater treatment or  
 23 conveyance facility;

1                   2. Contains the required plan elements (~~required by Section 13.24.040~~) as  
2 applied to conditions within the subarea only(~~(s)~~); and

3                   3. Satisfies the consistency requirements of (~~Section~~) K.C.C. 13.24.060.

4                   SECTION 7. Ordinance 1709, Section 5, as amended, and K.C.C. 13.24.060 are  
5 each hereby amended to read as follows:

6                   **Comprehensive plans - ~~(A)~~approval requirements.** Comprehensive plans  
7 approved by the county (~~shall contain the elements listed in Sections 13.24.030 or 13.24.040~~  
8 ~~and~~) shall (~~not be inconsistent~~) be consistent with the following:

9                   A. (~~King County Code~~) K.C.C. (~~(C)~~)chapter 17.08 relating to the installation of fire  
10 hydrants and water mains;

11                   B. State and local health standards;

12                   C. The creation and maintenance of logical service areas consistent with the relevant  
13 coordinated water system plan (~~(RCW)~~) chapter 70.116(~~t~~) RCW;

14                   D. The elimination (~~and/~~)or prevention, or both, of duplicate facilities;

15                   E. The promotion of the most reliable and healthful service to the public;

16                   F. The provision of service at a reasonable cost and maximization of the use of  
17 existing public facilities;

18                   G. The reduction of the number of entities providing sewer and/or water service in  
19 King County;

20                   H. County (~~(e)~~)Comprehensive (~~(p)~~)Plan and other pertinent county adopted plans  
21 and policies;

22                   I. Coordinated water system plans (~~(RCW)~~), chapter 70.116 RCW;

1 J. The basinwide water ~~((and/or))~~ plan, sewerage plan or water and sewerage plan,  
 2 when approved by the ~~((S))~~state Department of Ecology and the ~~((S))~~state Department of  
 3 Health;

4 K. Applicable state water quality and waste management standards;

5 L. The ~~((S))~~state Water Resources Act, ~~((RCW 90.554))~~ chapter 90.54 RCW;

6 M. The ~~((S))~~state Growth Management Act;~~((and))~~

7 N. Adopted ground water management plans pursuant to RCW 90.44.400 and  
 8 ~~((WAC))~~ chapter 173-100 WAC; and

9 O. Adopted habitat conservation plans developed pursuant to the Endangered  
 10 Species Act.

11 SECTION 8. Ordinance 2638, Section 5, and K.C.C. 13.24.070 are each hereby  
 12 amended to read as follows:

13 **Comprehensive plans - ~~((E))~~environmental review.** Each plan submitted by a  
 14 public agency for utilities technical review committee review shall be accompanied by ~~((four~~  
 15 ~~copies each))~~ one copy of the documentation required by ~~((Washington Administrative Code~~  
 16 ~~E))~~chapter 197-10 WAC, as follows:

17 A. A statement explaining the basis of categorical exemption from ~~((S))~~state  
 18 Environmental Policy Act requirements; ~~((or))~~

19 B. An environmental assessment, together with the agency's threshold determination;  
 20 or

21 C. An environmental impact statement.

22 SECTION 9. Ordinance 1709, Section 6, as amended, and K.C.C. 13.24.080 are  
 23 each hereby amended to read as follows:

1           **Utilities technical review committee - ((C))creation and composition.** A utilities  
 2 technical review committee is created consisting of ~~((one representative each from the~~  
 3 ~~department of parks, planning and resources, the divisions of planning and community~~  
 4 ~~development and building and land development; department of executive administration, the~~  
 5 ~~real property division; the department of public works; the Seattle King County department~~  
 6 ~~of public health; the King County fire marshal and a King County council staff member.~~  
 7 ~~Such representatives shall be))~~ the following representatives as appointed by the director of  
 8 each department:

9           A. Two representatives from the department of natural resources, one from the water  
 10 and land resources division and one from the wastewater treatment division;

11           B. One representative from the department of transportation;

12           C. One representative from the department of development and environmental  
 13 services;

14           D. One representative from the Seattle-King County department of public health;

15           E. One representative from the office of regional policy and planning;

16           F. One representative from the department of construction and facility management,  
 17 property services division; and

18           G. One representative from the King County council staff.

19           SECTION 10. Ordinance 1709, Section 7, and K.C.C. 13.24.090, are each hereby  
 20 amended to read as follows:

21           **Authority.** The utilities technical review committee shall review and make  
 22 recommendations to the King County executive and the King County council on the  
 23 adequacy of all sewer and water system comprehensive plans and related matters, and

