Title 28

METROPOLITAN FUNCTIONS

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I. GENERAL PROVISIONS

Chapter 28.01
ESTABLISHMENT

Sections:

28.01.010 Title established.
28.01.030 Readoption, ratification and codification of Metro Council resolutions.

28.01.010 Title established. Title 28 in the King County Code which shall pertain to the performance by the county of metropolitan functions under chapter 35.58 RCW is hereby established. (Ord. 12074 § 3, 1995).

28.01.030 Readoption, ratification and codification of Metro Council resolutions. A. All resolutions duly enacted by the council of the Municipality of Metropolitan Seattle and not expressly repealed by such body effective no later than midnight, December 31, 1993, and which are not inconsistent with the King County Charter or ordinances duly enacted pursuant to the Charter are hereby readopted and ratified.

B. The clerk of the council is hereby authorized to codify such resolutions to the extent codification would assist the executive, the council and the public to be aware of actions taken by the council of the Municipality of Metropolitan Seattle. (Ord. 12074 § 4, 1995).

Chapter 28.02
DEFINITIONS

Sections:

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28.02.510 Women business enterprise or WBE.

28.02.001 Definitions. The following words and phrases, when used in K.C.C. 28.20, shall have the meanings hereinafter set forth in this chapter. These definitions shall not apply to provisions of the King County Code other than K.C.C. 28.20. (Ord. 12074 § 5, 1995).

28.02.015 Affirmative efforts. Affirmative efforts means making vigorous attempts in good faith to contact and contract with certified businesses. (Ord. 11032 § 11 (part), 1993).

28.02.050 Bidder or proposer. Bidder or proposer means "bidder," "proposer" or "offerer" as those terms are defined in K.C.C. 4.16. (Ord. 12074 § 6, 1995).

28.02.065 Certification. Certification means the process by which the state of Washington Office of Minority and Women's Business Enterprises (hereinafter "OMWBE") determines that a business meets the requirements and criteria as a minority, women, combination, or disadvantaged business under applicable state and federal laws and regulations. (Ord. 11032 § 11 (part), 1993).

28.02.070 Certified business. Certified business means a firm which has been notified by the OMWBE in writing that it has met the requirements and criteria as either a minority, women, combination, or disadvantaged business. (Ord. 11032 § 11 (part), 1993).

28.02.080 Combination minority and women business enterprise or CBE. Combination minority and women business enterprise or CBE means a business certified as such by OMWBE, in accordance with applicable state laws and regulations. (Ord. 11032 § 11 (part), 1993).

28.02.085 Commercially useful function. Commercially useful function means the performance of a distinct element of work for which a firm has the skill and expertise as well as the responsibility of actually performing, managing and supervising. (Ord. 11032 § 11 (part), 1993).

28.02.095 Construction contract. Construction contract means "public works contract" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 7, 1995).

28.02.105 Consultant contract. Consultant contract means "service contract" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 8, 1995).

28.02.110 Contract. Contract means "contract" as that term is defined in K.C.C. 4.16. (Ord. 12074 § 9, 1995).

28.02.115 Contractor. Contractor means "contractor" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 10, 1995).

28.02.125 Days. Days shall mean calendar days. If a final date falls on a weekend or a state or national holiday, the date shall be the next working day. (Ord. 11032 § 11 (part), 1993).

28.02.140 Department. Department means "department" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 11, 1995).

28.02.155 Director. Director means "administrator" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 12, 1995).

28.02.165 Division. Division means any organizational unit of a department so designated in K.C.C. 2.16. (Ord. 12074 § 13, 1995).

28.02.170 Disadvantaged business enterprise or DBE. Disadvantaged business enterprise or DBE means a business certified as such by OMWBE, in accordance with applicable federal laws and regulations. (Ord. 11032 § 11 (part), 1993).

28.02.185 Eligible certified business. Eligible certified business means a business which has been certified by the OMWBE as either a minority, women or combination business and has done or has attempted to do business in King County. (Ord. 11032 § 11 (part), 1993).

28.02.250 Joint venture. Joint venture means an association of two or more persons, partnerships, corporations or any combination of them, established to carry on a single business activity which is limited in scope or purpose. The association's members in the single business activity have combined their capital, efforts, skills, knowledge or property, and they exercise control and share in profits and losses in proportion to their contribution to the business activity. The joint venture must be established in accordance with rules issued by OMWBE. (Ord. 11032 § 11 (part), 1993).

28.02.300 Metropolitan functions. Metropolitan functions means "metropolitan functions" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 14, 1995).

28.02.305 Minority or minorities. Minority or minorities shall include Blacks or African Americans, Asians, Pacific Islanders, Native American Indians, Alaskan Natives, and Hispanics or Latinos or as otherwise described under applicable state and federal laws and regulations. (Ord. 12074 § 15, 1995).

28.02.310 Minority business enterprise and MBE. Minority business enterprise and MBE means a business certified as such by OMWBE, in accordance with applicable state laws and regulations. (Ord. 11032 § 11 (part), 1993).

28.02.375 Purchasing contracts. Purchasing contracts means "tangible personal property contracts" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 16, 1995).

28.02.405 Reserved contract. Reserved contract means a contract for which the consideration of bids or proposals is limited to or reserved for the bids or proposals submitted by certified businesses. (Ord. 11032 § 11 (part), 1993).

28.02.445 Small business concern. Small business concern means a small business as defined pursuant to Section 3 of the federal Small Business Act and relevant regulations promulgated pursuant thereto. (Ord. 11032 § 11 (part), 1993).

28.02.450 Solicitation. Solicitation means a request for the provision of goods, materials and services. Solicitation shall include requests for proposals, quotes, invitations to bid and similar efforts. (Ord. 11032 § 11 (part), 1993).

28.02.455 Subcontract. Subcontract means a contract or agreement to perform a specified part of the work, or to provide specified materials or services, under or subordinate to a contract between a contractor and the county. (Ord. 12074 § 17, 1995).

28.02.460 Subcontractor. Subcontractor means "contractor" as that term is defined in K.C.C. 4.18. (Ord. 12074 § 18, 1995).

28.02.465 Substitution or substitutes. Substitution or substitutes means replacing one certified minority, women, combination or disadvantaged business for another, or increasing the level of utilization of certified businesses in order to maintain the required level of utilization in accordance with the bid or proposal specifications and commitments. (Ord. 11032 § 11 (part), 1993).

28.02.490 Utilization goals. Utilization goals means those biennial and specific minimum contract goals for the participation of certified minority, women and disadvantaged businesses in contracting opportunities with the county, whether as prime contractors or subcontractors. The goal shall be expressed as a numerical percentage of the total dollar value of all contracts or a specific contract, as the case may be, to be awarded by or for the county in support of a metropolitan function. These goals shall be applicable to businesses organized for profit, along with governmental agencies and quasi-governmental agencies, unless otherwise provided in K.C.C. 28.20 or under applicable state and federal laws and regulations. (Ord. 12074 § 19, 1995).

28.02.495 Utilization requirements. Utilization Requirements means those efforts which bidders, contractors, subcontractors and the county shall make to meet the utilization goals. (Ord. 12074 § 20, 1995).

28.02.510 Women business enterprise or WBE. Women business enterprise or WBE means a business certified as such by OMWBE, in accordance with applicable state laws and regulations. (Ord. 11032 § 11 (part), 1993).

II. ADMINISTRATIVE PROCEDURES

Chapter 28.20
MINORITY/WOMEN BUSINESS ENTERPRISE AND CONTRACT COMPLIANCE

Sections:

28.20.040 Powers and duties of the director.
28.20.050 Certification of businesses.
28.20.060 Rules and procedures for complying with federal laws and regulations.

28.20.040 Powers and duties of the director. A. In addition to the powers and duties given the director elsewhere in this chapter, the director shall:

1. Take such actions as may be necessary to implement the policies of this chapter or such responsibilities as may be assigned hereunder by the county council;

2. Revise or substitute the definitions and requirements of this chapter as may be necessary to ensure that the policies and implementation of this chapter comply with all applicable federal and state laws and regulations;

3. Establish biennial utilization goals for the department, in accordance with the factors and considerations set forth in this chapter;

4. If delegated the authority by the county executive, enter into cooperative agreements with private businesses, nonprofit organizations and other government agencies for the purpose of increasing the participation of certified businesses in government contracting;

5. Establish rules, regulations and procedures for implementing and administering this chapter;

6. Monitor and enforce the goals and utilization requirements set forth in this chapter;

7. Maintain a list of certified businesses provided by the state of Washington Office of Minority and Women's Business Enterprises;

8. Ensure that eligible certified businesses are placed, where possible, on solicitation and bidding lists maintained by the department;

9. Implement alternatives for arranging or reserving contracts by size and type of work so as to enhance the possibility of participation by eligible certified businesses;

10. Designate employees of the department to assist in the administration and implementation of this chapter;

11. Develop and implement appropriate notice procedures to advise eligible certified businesses of contracting opportunities with the department;

12. Establish financial and technical assistance and other programs and strategies as may be necessary to assist eligible certified businesses in overcoming the effects of past and present discrimination, and to increase or maximize contracting opportunities for eligible certified businesses;

13. Monitor the implementation and accomplishment of the provisions and objectives of this chapter by the employees of the department; and

14. Designate a Minority/Women/Disadvantaged Business Liaison Officer (M/W/DBE Liaison Officer) who shall have direct and open access to the director for the purpose of implementing the requirements of this chapter, serve as a resource to eligible certified businesses for participating in contracts with the department and to staff of the department for maximizing participation by eligible certified businesses in such contracts, be responsible for the daily oversight and monitoring of the department's implementation of this chapter, prepare and provide reports related to the implementation of this chapter, and work with and provide staff support to the M/WBE Advisory Board.

B. The director shall appoint a Minority and Women Business Enterprise Advisory Board (M/WBE Advisory Board) which shall provide to the director information and recommendations related to the implementation of this chapter. The M/WBE Advisory Board shall collaborate with the M/W/DBE Liaison Officer in carrying out its work. The director may issue guidelines further defining the activities and operation of the M/WBE Advisory Board.

C. The director shall establish separate and reasonably achievable biennial goals for the utilization of minority, women and disadvantaged businesses in contracts to be awarded by the department pursuant to the following procedures. The goals shall be used to direct the efforts of the department in securing utilization of eligible certified businesses and to measure the success of those efforts. The goals shall be expressed in terms of the total dollar value of all contracts to be awarded by the department, and may be established for categories of contracting, such as architectural and engineering consultant, general consultant, construction and purchasing.

1. To the extent relevant information is available, the director shall consider the following factors in developing and establishing biennial goals:

a. The number and types of contracts likely to be awarded by the department;

b. The number and types of minority, women and disadvantaged businesses likely to be available to compete for such contracts or subcontracts under such contracts;

c. The past levels of participation by minority, women and disadvantaged businesses in contracts awarded by the department, other agencies of the county and other governmental agencies in King County;

d. The level of participation recommended by governmental and private agencies in King County whose purpose is to promote the use of minority, women and disadvantaged businesses;

e. Demographic and other business ownership data provided by the Bureau of the Census of the U.S. Department of Commerce, the state of Washington and other sources; and

f. Any other information relevant to achieving the purposes of this chapter.

2. The director shall cause a notice to be published announcing the proposed biennial utilization goals and requesting comments from the public, and private and public agencies. The period during which comments may be submitted shall not be less than thirty (30) days from the date of publication of the notice. In accordance with the requirements and factors set forth in this chapter and after due consideration of timely comments received from the public, and from private and public agencies, the director shall establish the biennial utilization goals for the department. The department's goals, whether biennial or otherwise, for federally and state-assisted projects shall be established by the director in accordance with applicable federal and state laws, regulations and grant conditions.

3. Each division within the department shall annually formulate a plan for achieving the biennial goals. The plan must be submitted to the director for review. Each division plan shall include:

a. The method(s) the division will use to encourage eligible certified business participation in the procurement and contracting process for goods, materials and services;

b. The method(s) the division will use to achieve the biennial goals;

c. A forecast of contracts to be administered by the division, including estimates of the number, probable monetary value, if known, type of contracts to be awarded, and the estimated solicitation dates; and

d. A statement indicating the method of recording and reporting the utilization of eligible certified businesses.

4. The sum of the dollar amounts of contracts or subcontracts awarded to eligible certified businesses shall be compared to the department's biennial goals to measure, in part, the success of the department's efforts to utilize eligible certified businesses.

D. In addition to biennial goals, the director shall establish separate contract goals for the utilization of eligible certified businesses pursuant to the following procedures. Such contract goals shall be based upon factors considered in establishing the biennial goals, the extent of the contracting opportunities for eligible certified businesses, the availability of eligible certified businesses to perform such work, and any other information or factors relevant to achieving the purposes of this section such as equitable utilization of firms to ensure balance among groups.

1. Contract goals may be set as follows:

a. As a reserved contract goal in which eligible certified businesses will be the only allowable bidders or proposers. Under such goal, the contract may further specify that:

(1)the entire contract must be performed by eligible certified businesses;

(2)the contract must be performed to a designated level by eligible certified businesses; or

(3)the contract must include additional eligible certified business participation for subcontracting opportunities.

b. As a goal in which eligible certified businesses may participate as contractors or subcontractors, and that such participation may be required by use of:

(1)separate goals for MBEs and WBEs;

(2)as a combined goal for MBEs or WBEs or both in those instances where contract sizes are small or the reasonable opportunity exists for only one subcontract;

(3)as a single goal for either MBEs or WBEs; or

(4)as a competitive factor in which required minimum participation is not specified but respondents to solicitations must demonstrate affirmative efforts to utilize eligible certified business and are evaluated on their effort and success.

c. Any other approach calculated to achieve the purposes of this section.

2. For all contracts, accomplishment of contract utilization goals established in accordance with this section shall be based on the dollar amount of the contract or subcontract awarded. Utilization of eligible certified businesses toward accomplishment of the goals shall be calculated in the following manner:

a. General. The dollar value of all contracts awarded to an eligible certified business shall be counted towards accomplishment of the applicable contract utilization goal, except as provided otherwise in this section.

(1)The total dollar value of each contract awarded to a combination business shall be apportioned on the basis of the percentage of ownership to the contract goals for minority and women businesses, respectively.

(2)The total dollar value of each contract awarded to a business owned and controlled by minority women shall be counted either toward the minority or women business contract goal, but not to both.

(3)For federally assisted contracts, utilization of certified businesses shall be counted in accordance with applicable federal rules and regulations. Such federally assisted contracts shall also be counted toward the accomplishment of the department's biennial utilization goals.

b. If a bidder or contractor utilizes eligible certified businesses, the amount of the subcontract awarded to the eligible certified business shall be counted toward meeting the applicable goals. The dollar value of any work that the eligible certified business will further subcontract to other than eligible certified firms shall not be counted toward the applicable contract goals.

c. In the case of a joint venture, a portion of the total dollar value of a contract awarded to the joint venture equal to the percentage and control of the eligible certified business joint venture partner shall be counted toward the applicable goal; provided, that the portion of the joint venture's work which is the responsibility of the eligible certified business partner must be set forth in detail and in a manner sufficiently demonstrating that the work to be performed by the certified business partner is of a commercially reasonable dollar value commensurate with the eligible certified business joint-venture partner's percentage and control of the joint venture. Further, the eligible certified business' participation in a joint venture shall be based on the sharing of real economic interest and risks in the venture, and shall include proportionate control over management, interest in capital acquired by the joint venture, and interest in earnings.

d. A contract for supplies and materials awarded to an eligible certified business which assumes the actual and contractual responsibility for the provision of the supplies and materials shall be counted as follows:

(1)The total dollar value of a contract for supplies and materials directly awarded by the department to an eligible certified business which is a manufacturer/supplier is counted toward the biennial utilization goal.

(2)The total dollar value of a subcontract for supplies and materials awarded by a contractor to an eligible certified business which is a manufacturer (i.e., a business that produces goods from raw materials or substantially alters them before resale) is counted toward the contract goal. The total dollar value of a subcontract for supplies and materials awarded by a contractor to an eligible certified business which is a regular dealer (i.e., a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business) shall be counted toward the contract goal. Only twenty percent (20%) of the total dollar value of a subcontract for supplies and materials awarded by a contractor to an eligible certified business which is not a manufacturer or regular dealer is counted toward the applicable contract goal.

3. Only eligible certified businesses which perform a commercially useful function shall be counted toward accomplishment of a utilization goal.

a. In order to evaluate whether a business is performing a commercially useful function, the director shall establish criteria including, but not limited to, the type and amount of work to be performed, industry practices and other relevant factors. The criteria shall be consistent with applicable state and federal laws and with the purposes and intent of this section.

b. Consistent with normal industry practices, an eligible certified business may enter into subcontracts. If the eligible certified business subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the eligible certified business will be presumed not to be performing a commercially useful function; provided, the eligible certified business may present evidence to rebut this presumption.

c. Participation by businesses acting as brokers (unless such is consistent with normal industry practice), fronts, conduits or similar pass-through arrangements shall not be acceptable and businesses determined to be acting under such arrangements may be disqualified from contracting with the department as provided elsewhere in this section.

4. The department may reserve contracts or portions thereof for competition solely among eligible certified businesses and in accordance with guidelines set by the director. Primarily, the reserved contract approach shall be used to counteract the effects of past and present discrimination that have prevented eligible certified businesses from participation as contractors with the department. The reserved contract approach may also be used to ensure increased participation by eligible certified businesses, including businesses owned by specific racial groups or owned by women. In order to ensure competitive procurement, contracts shall not be reserved unless there are a sufficient number of eligible certified businesses available with capabilities consistent with the requirements of the contract to be reserved.

5. The director may authorize other strategies that are calculated to accomplish the department's biennial goals. Those strategies may include, but are not limited to, setting goals for prime contracting and developing other approaches to address issues regarding the equitable utilization of eligible certified businesses (including specific racial groups).

E. The director shall ensure compliance with the following solicitation and contracting requirements for construction, consultant service and purchasing contracts.

1. In addition to other solicitation requirements, bids, quotations or proposals shall be solicited from eligible certified businesses for all contracts not subject to formally advertised competitive bidding or competitive negotiations requirements. If available eligible certified businesses have not been included in such solicitation, no contract shall be awarded based on such solicitation, unless otherwise approved by the director. Bid conditions and requests for proposals for such contracts shall require bidders and proposers to make affirmative efforts to utilize eligible certified businesses as subcontractors and suppliers.

2. Bid conditions and requests for proposals for construction, consultant service and purchasing contracts subject to formally advertised competitive bidding or competitive negotiations requirements shall require, in addition to other requirements set forth in this chapter, that bids, quotations and proposals include participation by eligible certified businesses as established in this section.

3. In order to implement the provisions of this section, efforts including, but not limited to, the following, shall be made:

a. Every reasonable effort shall be made to solicit bids and proposals from eligible certified businesses. Such efforts may include advertising contracting opportunities in media which focus on minority and women business communities, arranging contracts by size and type of work so as to enhance the possibility of participation by eligible certified businesses, and, when advisable, reducing or waiving bid bonding and other public bidding requirements except those as may be specifically established by the council or imposed by state law.

b. For all contracts for which utilization goals have been established, bidders or proposers shall be informed in the solicitation that each bidder or proposer shall submit MBE or WBE and DBE participation information to the department and that award of the contract will be subject to compliance with the utilization requirements established by the department. The solicitation shall provide when such information shall be submitted. Such information shall include at least the following:

(1)The names and addresses of the eligible certified businesses the bidder or proposer will utilize under the contract;

(2)A description of the work each named eligible certified business will perform; and

(3)The dollar amount or percentage of participation, as may be required, for each named eligible certified business.

c. No contract shall be awarded to any person or business which is disqualified from doing business with the department or other agencies of King County, nor shall any contract be awarded to any person or business which is currently disqualified from doing business with any agency of the federal government or any other government agency in King County or the state of Washington based on failure to comply with minority, women or disadvantaged business utilization, or contract compliance requirements which are substantially the same as those of this section, subject to appeal to the director pursuant to rules adopted by the department under the provisions of K.C.C. Chapter 2.98.

4. All contract documents for which utilization goals have been established shall include the following:

a. A provision stating that this section is incorporated by reference into each contract and that failure to comply with any of the requirements of this section by a contractor will be considered a breach of contract.

b. A requirement that during the term of the contract the contractor shall comply, as to tasks and dollar amounts throughout the term of the contract, with all commitments made in the contractor's bid submittal or proposal for the participation by eligible certified businesses unless otherwise approved by the director and that, unless otherwise approved by the director, the eligible certified businesses which for any reason no longer remain associated with the contract, or with the contractor, shall be substituted with other eligible certified businesses;

c. A requirement that, prior to entering into subcontracts with eligible certified businesses, the contractor shall provide to all eligible certified businesses participating on the contract a copy of all commitments made in the contractor's bid submittal or proposal for the participation by certified businesses, along with copies of contract provisions regarding Minority, Women, or Disadvantaged Business Enterprise utilization and compliance entered into by the contractor with the department;

d. A provision stating that failure to comply with contract requirements related to utilization of eligible, certified businesses will be considered a material breach;

e. A provision requiring the contractor to ensure that its subcontractors make affirmative efforts to utilize eligible certified businesses;

f. A provision requiring the contractor to maintain sufficient records to enable the department to monitor compliance with these utilization requirements;

g. A provision requiring the contractor to submit with each progress payment request and final payment request a statement of amounts actually paid to each eligible certified business under the contract;

h. A provision setting forth sanctions or other actions that may be taken in the event the contractor fails to comply with the utilization requirements as provided in this section; and,

i. A provision requiring that participation by eligible certified businesses be taken into account in contract supplements, amendments or change orders such that, insofar as practicable, overall utilization will remain at levels not less than those committed to at contract award.

5. All contracts or other agreements between the department, on behalf of the county, and other governmental or quasi-governmental agencies or public corporations, whereby such agencies or corporations receive funds from or through the department for the purpose of contracting with businesses to perform public improvements, shall require such agencies or corporations to award and administer such contracts consistent with the provisions of this chapter or with such agencies' or corporations' minority/women business enterprise programs if such programs will achieve substantially the same participation as would have been achieved under this section.

F. The director shall be responsible for monitoring compliance with the provisions of this section by the department and by all contractors to the department pursuant to the following requirements.

1. The director shall require contractors to provide any records information and documents deemed relevant for such monitoring activities.

2. The director and contractors shall maintain complete and detailed records regarding compliance with this section. Such records shall include the dollar value and the subject matter of each contract along with the name of the contractor, the participation levels (in dollars, number of contracts awarded and type of work) of eligible certified businesses where the contract award provides for such participation, and other information appropriate to demonstrating compliance with this section. Records meeting the requirements of any financial assistance agreement shall also be maintained. ,

3. Upon receipt of a written and signed allegation that any contractor or subcontractor has violated any provision of this section, or if an apparent violation is discovered from information gained through compliance monitoring, an investigation shall be ordered by the director. If, based on such investigation, it is determined that a violation may have occurred, then the contractor or subcontractor shall be notified of the circumstances and provided an opportunity to rebut the determination that a violation has occurred, according to procedures established by the director. Contract payments may be suspended or withheld pending the final determination that a violation has occurred. If it is determined that a violation has occurred, one or more of the sanctions set forth in this section may be imposed.

4. Any person, firm, corporation, business, union or organization which prevents or interferes with a contractor's or a subcontractor's efforts to comply with the requirements of this section or which submits false or fraudulent information to the department concerning compliance with this section shall be subject to such fines, penalties and sanctions as may be provided under this section and local, state and federal law.

5. Any person, firm, corporation, business, union or organization which retaliates against or otherwise seeks retribution from an eligible certified business or other interested party who has brought a complaint or concern to the attention of the department regarding policies, practices, actions or efforts to circumvent the implementation of this section shall be subject to such fines, penalties and sanctions as may be provided under this section and local, state and federal law.

6. In order to ensure compliance with the provisions of this section, the director may issue rules and procedures for the monitoring, reporting and enforcement of the requirements of this section and contracts awarded by the department or in which funds from the department are involved. (Ord. 11032 § 19 (part), 1993).

28.20.050 Certification of businesses. The following requirements shall apply to the certification of businesses for purposes of this chapter.

A. Pursuant to Chapter 39.19 RCW, the state of Washington Office of Minority and Women's Business Enterprises (OMWBE) shall be the sole authority for certifying and decertifying MBEs, WBEs, DBEs, combination businesses and minority women-owned businesses. Unless expressly provided otherwise in a solicitation request, all businesses identified in bid submittals or proposals in response to solicitations requesting or requiring certified business participation must be certified by OMWBE at the time of bid or proposal submittal in order to comply with such participation goals or requirements.

B. Certification notwithstanding, the department may not count or otherwise recognize the participation of an eligible certified business on a particular contract, may require a contractor to substitute, and/or may resort to sanctions for any of the following reasons:

1. Failure to demonstrate that the business is acting in a manner consistent with the requisite ownership and control by the minority or women owners;

2. Failure to perform a commercially useful function;

3. Participation as a business or in cooperation with a business acting as a front, conduit or similar pass-through arrangements;

4. Failure to provide information requested by the department in its effort to evaluate the legitimacy of the work to be performed on the contract, including issues of ownership, control and performing a commercially useful function;

5. Providing false or misleading statements to the department in order to circumvent compliance with M/WBE participation requirements or to frustrate the department's effort to evaluate the legitimacy of the work to be performed on the contract; and

6. Failure to meet the requirements and eligibility criteria under this section and/or the rules and procedures established hereunder.

C. When the department determines that it will not count or otherwise recognize the participation of an eligible certified business for reasons enumerated in this section, the department shall provide to the OMWBE information relevant to that determination for OMWBE review regarding certification or recertification of the business in question, as appropriate.

D. In instances where businesses become certified or are decertified or become ineligible to participate on contracts after a selection or bid opening but prior to award, or subsequent to the award of a contract, the participation of such businesses may be counted as provided in the bidding or solicitation documents and/or rules and procedures to be issued by the director. (Ord. 11032 § 19 (part), 1993).

28.20.060 Rules and procedures for complying with federal laws and regulations.

A. In order to secure financial assistance from the Federal Department of Transportation, the director shall provide for the participation of disadvantaged businesses in certain federally assisted projects. The director may issue rules and procedures and take steps necessary to implement and comply with applicable federal laws and regulations, including the establishment of annual goals and contract goals for disadvantaged business utilization under 49 Code of Federal Regulations, Part 23.

B. The director may grant exceptions, revisions and waivers to the utilization requirements set forth therein and goals established pursuant hereto according to the following provisions:

1. A waiver or revision may be granted for reasons such as, but not limited to:

a. The reasonable and necessary requirements of the contract render subcontracting or other participation of businesses other than the bidder or proposer infeasible or improbable; or

b. Sufficient certified businesses capable of providing the goods or services required by the contract are not readily available in the market area of the project despite affirmative efforts to locate such businesses.

2. Each contract for which the director grants such a waiver or revision shall include a provision requiring the contractor to make affirmative efforts to utilize eligible certified businesses should subcontracting or participation of businesses other than the contractor become necessary to accomplish the work.

3. In determining whether participation by eligible certified businesses is infeasible or improbable, or whether sufficient eligible certified businesses are not readily available, the following factors shall be considered:

a. Whether all forms of participation have been thoroughly examined by the administering division;

b. Whether the technical requirements of the contract which tend to prohibit or reduce the opportunity for participation of businesses other than the bidder or proposer are reasonable and necessary to achieve the purpose of the contract;

c. The cost to the department of requiring participation of businesses other than the bidder or proposer, or of altering the contract requirements to increase opportunities for such participation;

d. Whether the administering division has made affirmative efforts to locate eligible certified businesses capable of providing the goods, materials or services required by the contract, including seeking assistance of the M/W/DBE Liaison Officer;

e. Whether participation by eligible certified businesses has been achieved on similar contracts by the department, other agencies of King County or another local government in King County; and

f. Whether other methods of achieving participation by eligible certified businesses as described in this section have been considered.

4. No waiver of subcontracting goals may be granted without first attempting to use the competitive factor approach referenced in this section.

5. Revisions or waivers of goals established for a particular contract may be granted during the period of solicitation for bids or proposals based on consideration of the factors set forth in this section. Increases of such goals may be effected at any time prior to submittal of bids or proposals.

6. The requirements of this section may be waived for a particular contract under any of the following circumstances:

a. If it is determined that an emergency exists which requires goods or services to be provided with such immediacy that a contractor would not be able to comply with the requirements of this section and the contractor is an eligible certified business, or, if not, that the contractor will make affirmative efforts to subcontract to certified businesses should subcontracting be utilized; or

b. If it is determined that compliance with the requirements of this section would impose an unwarranted economic burden on, or risk to, the department as compared with the degree to which the purposes and policies of this section would be furthered by requiring compliance; or

c. If it is determined that the needed goods or services are readily available from only one source and such source is not currently disqualified from doing business with the department, another agency of King County or any other governmental agency based on a failure to comply with minority, women or disadvantaged business utilization requirements; provided, that the contractor shall make affirmative efforts to utilize eligible certified businesses should subcontracting be necessary.

7. The requirements of this section shall not apply to contracts for which the department receives financial assistance from a state or federal agency which has established minority, women or disadvantaged business enterprise utilization requirements with which the department must comply in order to receive such funds, and such requirements conflict with provisions in this section. (Ord. 11032 § 19 (part), 1993).

(King County 3-96)

Chapter 28.48
TRANSITIONAL PROCEDURES

Sections:

28.48.040 Effective date.

28.48.040 Effective date. The effective date of this title shall be January 1, 1994. (Ord. 11032 § 32, 1993).

III. WATER POLLUTION ABATEMENT

Chapter 28.81
ESTABLISHMENT AND POLICY

Sections:

28.81.010 Chapter established.
28.81.020 Statement of policy.

28.81.010 Chapter established. There is hereby established a new chapter in the King County Code which shall pertain to the provision of water pollution abatement in King County and which shall contain the provisions of this chapter. (Ord. 11963 § 2, 1995: Ord. 11034 § 1, 1993).

28.81.020 Statement of policy. It is the policy the county to provide water pollution abatement service for King County and to provide water pollution abatement service for such areas adjacent to the county as may, in the judgment of the council, be feasibly served upon such terms, conditions and rates as the council shall determine.

A. In order to carry out its authorized function of metropolitan water pollution abatement as provided in RCW 35.58, and to comply with federal and state laws and regulations, it is necessary and in the best interests of the residents of the county and users of the metropolitan sewerage system that the council adopt policies and procedures for the disposal of sewage and disposal of industrial waste into the metropolitan sewerage system as set forth in this chapter.

B. It is the policy of King County to provide sewerage facilities adequate for the transportation, treatment and disposal of industrial and other wastes and to operate the metropolitan sewerage system in such a manner that protects public health and the environment. This chapter sets forth uniform requirements for users of the metropolitan sewerage system and enables the county to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). In carrying out this policy, the objectives of this chapter are:

1. To prevent pollutants from entering the sewerage system that will interfere with its normal operation, damage the collection or treatment systems, or contaminate the resulting biosolids;
2. To prevent the introduction of pollutants into the sewerage system that will not be adequately treated and will pass through into the environment;
3. To improve opportunities for recycling and reclamation of wastewater and biosolids;
4. To ensure protection of worker safety and health;
5. To reduce the introduction of clean water into the sewerage system;
6. To implement waste reduction and recycling to prolong the useful life of existing and planned wastewater facilities and to protect the environment;
7. To focus sampling and inspection efforts on those industries discharging the greatest volume and concentration of pollutants while still recognizing the cumulative impact of small discharges;
8. To implement, administer, and enforce a fee program in compliance with federal and state law and ensure that industrial users pay a fair cost for monitoring and treatment;
9. To implement an enforcement response plan aimed at achieving compliance in the shortest time frame possible and promoting responsibility of the industrial user to be in compliance with this chapter; and
10. To make information and data on industrial users available to the public in accordance with state law. (Ord. 11963 § 3, 1995: Ord. 11034 § 2, 1993).

Chapter 28.82
DEFINITIONS

Sections:

28.82.010 Definitions.
28.82.020 Act or the Act.
28.82.030 Annual.
28.82.040 Applicable Pretreatment Standards.
28.82.050 Authorized Representative of Industrial User.
28.82.060 Best Management Practices (BMPs).
28.82.070 Biochemical Oxygen Demand or BOD.
28.82.080 Biosolids.
28.82.090 Branch.
28.82.100 Categorical Pretreatment Standard or Categorical Standard.
28.82.110 Clean Water or Unpolluted Water.
28.82.120 Combined Sewer or Combined Sewer System.
28.82.130 Compatible Pollutants.
28.82.140 Composite Sample.
28.82.150 Comprehensive Plan.
28.82.160 Construction Dewatering.
28.82.170 Contaminated Nonprocess Wastewater.
28.82.180 Control Authority.
28.82.190 Cooling Water.
28.82.200 Decant Water.
28.82.210 Department.
28.82.220 Director.
28.82.230 Discharge Authorization.
28.82.240 Dilution.
28.82.250 Discharge to Metropolitan System.
28.82.260 Domestic User (Residential User).
28.82.270 Engineer.
28.82.280 Excessive Infiltration/Inflow.
28.82.290 Flow Proportional Composite Sample.
28.82.300 General Permit.
28.82.310 Grab Sample.
28.82.320 Ground Water.
28.82.330 Hazardous Waste.
28.82.340 Incompatible Pollutants.
28.82.350 Indirect Discharge, Waste Discharge or Discharge.
28.82.360 Industrial Activity.
28.82.370 Industrial User or User.
28.82.380 Industrial Waste.
28.82.390 Infiltration.
28.82.400 Infiltration/Inflow.
28.82.410 Inflow.
28.82.420 Interceptor.
28.82.430 Interference.

28.82.440 King County or County.
28.82.450 Local Public Agency.
28.82.460 Local Public Sewer.
28.82.470 Lateral.
28.82.480 Metro Datum or Metro Datum Plane.
28.82.490 County.
28.82.500 Metropolitan Sewer System.
28.82.510 Metropolitan Water Pollution Abatement Advisory Committee.
28.82.520 National Pretreatment Standard, Pretreatment Standard, or Standard.
28.82.530 Natural Outlet.
28.82.540 New Source.
28.82.550 New User.
28.82.560 Noncontact Cooling Water.
28.82.570 Participant Local Agency.
28.82.580 Pass Through.
28.82.590 Permittee.
28.82.600 Person.
28.82.610 pH.
28.82.620 Point of Compliance.
28.82.630 Pretreatment or Treatment.
28.82.640 Pretreatment Requirements.
28.82.650 Private Sewer.
28.82.660 Process Wastewater.
28.82.670 Process Wastewater Pollutants.
28.82.680 Prohibited Discharge Standards or Prohibited Discharges..
28.82.690 Public Sewer.
28.82.700 Publicly Owned Treatment Works or POTW.
28.82.710 POTW Treatment Plant.
28.82.720 Relief Drain.
28.82.730 Relief Sewer.
28.82.740 Replacement.
28.82.750 Sampling Point.
28.82.760 Sewage.
28.82.770 Sewer or Sewerage.
28.82.780 Sewage Disposal Agreement.
28.82.790 Side Sewer
28.82.800 Significant Industrial User.
28.82.810 Significant Noncompliance.
28.82.820 Sludge.
28.82.830 Slug Discharge.
28.82.840 Standards.
28.82.850 Storm Drain.
28.82.860 Storm Water.
28.82.870 Suspended Solids.
28.82.880 Toxic.
28.82.890 Toxic Pollutants.
28.82.900 Treatment Plant.
28.82.910 Treatment Works.
28.82.920 Trunk.
28.82.930 User charge.
28.82.940 Waste Discharge Permit or Permit.
28.82.950 Wastewater.

28.82.960 Watercourse.
28.82.970 Water Pollution Abatement.
28.82.990 Year.
28.82.1000 Definition of Additional Terms.

28.82.010 Definitions. The following terms, words and phrases when used in this chapter shall have the meanings hereinafter set forth in this section, whether appearing in capital or lower case form. If not defined below, the words and phrases used in this chapter shall have their common and ordinary meanings to the degree consistent with the technical subjects herein. (Ord. 11034 § 3 (part), 1993).

28.82.020 Act or the Act. Act or "the Act" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq. (Ord. 11034 § 3 (part), 1993).

28.82.030 Annual. Annual shall refer to that twelve-month period commencing January 1 and terminating December 31. (Ord. 11034 § 3 (part), 1993).

28.82.040 Applicable Pretreatment Standards. Applicable pretreatment standards means for any specified prohibitive standards, specific pretreatment standards (local limits), State of Washington pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent. (Ord. 11034 § 3 (part), 1993).

28.82.050 Authorized Representative of Industrial User. Authorized representative of industrial user may be:

A. A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

B. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

C. A director or highest official appointed or designated to oversee the operation and performance of the industry if the industrial user is a government agency; or

D. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates. (Ord. 11034 § 3 (part), 1993).

28.82.060 Best Management Practices (BMPs). Best management practices (BMPs) shall refer to operating and housekeeping pollution control practices that keep pollutants out of the waste stream. (Ord. 11034 § 3 (part), 1993).

28.82.070 Biochemical Oxygen Demand or BOD. Biochemical oxygen demand or BOD shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter (as described in American Public Health Association publication Standard Methods For The Examination Of Water And Wastewaters, current edition, or Guidelines Establishing Test Procedures For The Analysis Of Pollutants, contained in 40 CFR Part 136) in five days at temperature of 20 degrees centigrade, expressed in milligrams per liter. (Ord. 11034 § 3 (part), 1993).

28.82.080 Biosolids. Biosolids means primarily organic solid products produced by wastewater treatment processes that can be beneficially recycled. (Ord. 11034 § 3 (part), 1993).

28.82.090 Branch. Branch shall mean a sewer or combined sewer which will receive the flow from more than one lateral and which will discharge into a trunk or interceptor. (Ord. 11034 § 3 (part), 1993).

28.82.100 Categorical Pretreatment Standard or Categorical Standard. Categorical pretreatment standard or categorical standard refers to any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317), which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. (Ord. 11034 § 3 (part), 1993).

28.82.110 Clean Water or Unpolluted Water. Clean water or unpolluted water shall mean water in its natural state, or water which, after use for any purpose, is not substantially changed or contaminated as to chemical or biochemical qualities. Water from roof drains, building foundation drains, storm water, clear water from cooling or condensing systems, air conditioning systems, wells and cisterns shall normally be considered to be "clean water" or "unpolluted water." (Ord. 11034 § 3 (part), 1993).

28.82.120 Combined Sewer or Combined Sewer System. Combined sewer or combined sewer system shall mean a conduit or system of conduits in which both wastewater and storm water are transported. (Ord. 11034 § 3 (part), 1993).

28.82.130 Compatible Pollutants. Compatible pollutants shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in an NPDES permit if the publicly-owned treatment works is designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term "substantial degree" is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Examples of the additional pollutants that may be considered compatible include: chemical oxygen demand; total organic carbon; phosphorus and phosphorus compounds; nitrogen and nitrogen compounds; and, fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the publicly owned treatment works). (Ord. 11963 § 4, 1995: Ord. 11034 § 3 (part), 1993).

28.82.140 Composite Sample. Composite sample shall mean a sample composed of no less than two (2) grab samples, collected by either hand or machine, over the compositing period. (Ord. 11034 § 3 (part), 1993).

28.82.150 Comprehensive Plan. Comprehensive plan shall mean the Comprehensive Sewage Disposal Plan adopted by Resolution No. 23 of the Metropolitan Council and all amendments thereto. (Ord. 11034 § 3 (part), 1993).

28.82.160 Construction Dewatering. Construction dewatering shall mean the act of pumping ground water or storm water away from an active construction site. (Ord. 11034 § 3 (part), 1993).

28.82.170 Contaminated Nonprocess Wastewater. Contaminated nonprocess wastewater shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of a. rainfall runoff, b. accidental spills, c. accidental leaks caused by the failure of process equipment, and d. discharges from safety showers and related personal safety equipment; provided, that all reasonable measures have been taken (1) to prevent, reduce and control such contact to the maximum extent feasible, and (2) to mitigate the effects of such contact once it has occurred. (Ord. 11034 § 3 (part), 1993).

28.82.180 Control Authority. Control authority shall mean a publicly-owned treatment works with an approved pretreatment program. The county is the control authority for dischargers to the metropolitan sewerage system. (Ord. 11034 § 3 (part), 1993).

28.82.190 Cooling Water. Cooling water shall mean the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat. (Ord. 11034 § 3 (part), 1993).

28.82.200 Decant Water. Decant water shall mean water typically generated from the mechanical education and subsequent solids settling of wastewater from the cleaning and maintenance of storm and sanitary conveyance systems. (Ord. 11034 § 3 (part), 1993).

28.82.210 Department. Department shall mean the department of natural resources and parks. (Ord. 11963 § 5, 1995: Ord. 11034 § 3 (part), 1993).

28.82.220 Director. Director shall mean the director of the department of natural resources and parks of King County or a duly authorized designee. (Ord. 14199 § 252, 2001: Ord. 11963 § 6, 1995: Ord. 11034 § 3 (part), 1993).

28.82.230 Discharge Authorization. Discharge authorization shall mean an authorization issued for the discharge of wastewater into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system. Such authorizations may include, but shall not be limited to, waste discharge permits, minor discharge authorizations, letters of authorization, and general permits. (Ord. 11034 § 3 (part), 1993).

28.82.240 Dilution. Dilution shall be defined as the prohibited practice of adding process water, or in any other way, attempting to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with pretreatment standard or requirements. (Ord. 11034 § 3 (part), 1993).

28.82.250 Discharge to Metropolitan System. Discharge to metropolitan system shall mean any discharge that enters a private side sewer and/or public sewer that is a tributary to the metropolitan sewerage system, and said discharge shall be considered a discharge to said system whether or not specifically identifiable in effluent reaching the county's treatment works. (Ord. 11034 § 3 (part), 1993).

28.82.260 Domestic User (Residential User). Domestic user (residential user) means any person who contributes wastewater into the metropolitan sewerage system from a residential dwelling unit. (Ord. 11034 § 3 (part), 1993).

28.82.270 Engineer. Engineer shall mean the engineer duly appointed by a local public agency or the owner of private sewers to supervise and direct the design and construction of local sewerage facilities, acting personally or through agents or assistants duly authorized by him/her, such agents or assistants acting within the scope of the particular duties assigned to them. (Ord. 11034 § 3 (part), 1993).

28.82.280 Excessive Infiltration/Inflow. Excessive infiltration/inflow refers to the quantities of infiltration/inflow which can be economically eliminated from a sewer system by rehabilitation, as determined by a cost-effectiveness analysis that compares the cost for correcting the infiltration/inflow conditions with the total costs for transportation and treatment of the infiltration/inflow. (Ord. 11034 § 3 (part), 1993).

28.82.290 Flow Proportional Composite Sample. Flow proportional composite sample shall mean a sample composed of grab samples collected continuously or discretely, by hand or machine, in proportion to the flow at the time of collection or to the total flow since collection of the previous grab sample. The grab sample volume or frequency of grab collection may be varied in proportion to flow. (Ord. 11034 § 3 (part), 1993).

28.82.300 General Permit. General Permit shall mean a written authorization issued for the discharge of wastewater from a category of business into a public sewer or side sewer tributary to the metropolitan sewerage system granted for a specific period of time up to five years. (Ord. 11034 § 3 (part), 1993).

28.82.310 Grab Sample. Grab sample shall mean a single sample collected without consideration to the flow in the waste stream and without consideration of time. (Ord. 11034 § 3 (part), 1993).

28.82.320 Ground Water. Ground water shall mean water in a saturated zone or stratum beneath the surface of land or below a surface water body. (Ord. 11034 § 3 (part), 1993).

28.82.330 Hazardous Waste. Hazardous waste shall be as defined in accordance with 40 CFR 261.3 or amended. (Ord. 11034 § 3 (part), 1993).

28.82.340 Incompatible Pollutants. Incompatible pollutants shall mean any pollutant that is not a compatible pollutant as defined in this chapter. (Ord. 11034 § 3 (part), 1993).

28.82.350 Indirect Discharge, Waste Discharge or Discharge. Indirect discharge or waste discharge or discharge shall mean the act of introducing or depositing wastes from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system. (Ord. 11034 § 3 (part), 1993).

28.82.360 Industrial Activity. Industrial activity shall refer to areas where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts, or industrial machinery are located. Such areas include but are not limited to: material handling sites; refuse sites; sites used for the application or disposal of process wastewater; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment; storage or disposal sites; shipping and receiving areas; manufacturing buildings; material storage areas for raw materials and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain. (Ord. 11034 § 3 (part), 1993).

28.82.370 Industrial User or User. Industrial user or user means a source or potential source of indirect discharge. The source shall not include "Domestic User" as defined in this chapter. (Ord. 11034 § 3 (part), 1993).

28.82.380 Industrial Waste. Industrial waste shall mean any liquid, solid or gaseous substance, or combination thereof, resulting from any process of industry, government agency, manufacturing, commercial food processing, business, agriculture, trade or research, including, but not limited to, the development, recovery or processing of natural resources, leachate from landfills or other disposal sites, decant water, contaminated nonprocess water, and contaminated stormwater and ground water. (Ord. 11034 § 3 (part), 1993).

28.82.390 Infiltration. Infiltration shall mean the water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow. (Ord. 11034 § 3 (part), 1993).

28.82.400 Infiltration/Inflow. Infiltration/inflow refers to the total quantity of water from both infiltration and inflow without distinguishing the source. (Ord. 11034 § 3 (part), 1993).

28.82.410 Inflow. Inflow shall mean the water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, cooling water discharges, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm water, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished, from infiltration. (Ord. 11034 § 3 (part), 1993).

28.82.420 Interceptor. Interceptor shall mean a sewer or combined sewer which receives the flow from a number of transverse sewers or combined sewers and transports it to a treatment plant or other point of disposal. Generally, an interceptor collects the flow from a number of trunks or laterals which would otherwise discharge to a natural outlet. (Ord. 11034 § 3 (part), 1993).

28.82.430 Interference. Interference means a discharge that, alone or in conjunction with a discharge or discharges from other sources, either: inhibits or disrupts the POTW, its treatment processes or operations; inhibits or disrupts its sludge processes, use or disposal; causes King County to violate its NPDES permit, or prevents King County from using or disposing of its biosolids in compliance with federal, state and local regulations. (Ord. 11034 § 3 (part), 1993).

28.82.440 King County or County. King County or county shall mean the county of King, Washington, a home rule charter county of the State of Washington, acting through the council; executive, when applicable; or any board, committee, body, official or person which shall have been lawfully delegated the power to act for or on behalf of the county. Unless a particular board, committee, body, official or person is specifically designated in this chapter, wherever action by the county is explicitly required or implied herein, it shall be understood to mean action by the executive or director, if designated by the executive. (Ord. 11034 § 3 (part), 1993).

28.82.450 Local Public Agency. Local public agency shall mean any legally constituted city, town, county, special district or other public agency under whose jurisdiction local sewerage facilities may be constructed or operated. (Ord. 11034 § 3 (part), 1993).

28.82.460 Local Public Sewer. Local public sewer shall mean a sewer, combined sewer or appurtenant facility other than a side sewer, either owned or operated by or within the jurisdiction of a local public agency. (Ord. 11034 § 3 (part), 1993).

28.82.470 Lateral. Lateral shall mean a sewer or combined sewer which will receive the flow from more than one side sewer and discharge into a Branch, trunk or interceptor. (Ord. 11034 § 3 (part), 1993).

28.82.480 Metro Datum or Metro Datum Plane. Metro datum or metro datum plane refers to mean sea level as a reference plane for elevation measured above and below such plane. Mean sea level is the normal level of the ocean at mean tide as determined by the United States Coast and Geodetic Survey - 1929 (1947 adjustments). (Ord. 11034 § 3 (part), 1993).

28.82.490 County. County shall mean the area contained within the boundaries of King County as now or hereafter constituted. (Ord. 11034 § 3 (part), 1993).

28.82.500 Metropolitan Sewer System, Metropolitan Sewerage System or Metropolitan System. Metropolitan sewer system, metropolitan sewerage system or metropolitan system shall mean all or any part of the sewerage facilities acquired, constructed, or used by King County. (Ord. 11963 § 7, 1995: Ord. 11034 § 3 (part), 1993).

28.82.510 Metropolitan Water Pollution Abatement Advisory Committee. Metropolitan Water Pollution Abatement Advisory Committee shall mean the advisory committee to the metropolitan King County council as now or hereafter constituted pursuant to RCW 35.58.210. (Ord. 11963 § 8, 1995: Ord. 11034 § 3 (part), 1993).

28.82.520 National Pretreatment Standard, Pretreatment Standard, or Standard. National pretreatment standard, pretreatment standard, or standard shall refer to any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibited discharge limits established pursuant to 40 CFR 403.5. (Ord. 11034 § 3 (part), 1993).

28.82.530 Natural Outlet. Natural outlet shall mean an outlet into a pond, lake, sound, stream, river, ditch, watercourse or other body of surface water. (Ord. 11034 § 3 (part), 1993).

28.82.540 New Source. New source shall apply to facilities subject to Categorical Pretreatment Standards and shall be as defined in 40 CFR 403.3(k) or amended. (Ord. 11034 § 3 (part), 1993).

28.82.550 New User. New user shall be defined as an industrial user that applies to a participant local agency for a new building permit or any person who occupies an existing building and proposes to discharge wastewater to the metropolitan sewerage system after the effective date of this chapter. Any person who buys an existing facility that is discharging nondomestic wastewater will be considered an "existing user" if no significant changes are made in the operation that will affect the discharge. A "new user" is not a "new source." (Ord. 11034 § 3 (part), 1993).

28.82.560 Noncontact Cooling Water. Noncontact cooling water shall mean the same as the words "cooling water" as defined in this chapter. (Ord. 11034 § 3 (part), 1993).

28.82.570 Participant Local Agency. Participant local agency shall mean each city, town, county, sewer district, municipal corporation, person, firm or private corporation that shall dispose of any portion of its sanitary sewage into the metropolitan sewerage system and shall have entered into a contract with the county providing for such disposal. (Ord. 11034 § 3 (part), 1993).

28.82.580 Pass Through. Pass through refers to a discharge that exits the POTW into waters of the state in quantities or concentrations that alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the county's NPDES permit (including an increase in the magnitude or duration of a violation). (Ord. 11034 § 3 (part), 1993).

28.82.590 Permittee. Permittee hall mean any person to whom the county shall have issued a waste discharge permit. (Ord. 11034 § 3 (part), 1993).

28.82.600 Person. Person shall mean any individual, company, partnership, association, corporation, society, joint stock company, trust, estate, governmental entity or any other legal entity or group, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context and the singular term shall include the plural. (Ord. 11034 § 3 (part), 1993).

28.82.610 pH. pH shall mean the negative logarithm (base 10) of the concentration of hydrogen ions expressed in grams per liter of solution. Neutral water, for example, has a pH of 7 and a hydrogen ion concentration of 10(-7). (Ord. 11963 § 9, 1995: Ord. 11034 § 3 (part), 1993).

28.82.620 Point of Compliance. Point of compliance shall be the location immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process, if no such pretreatment exists and upstream from the point where the discharge enters any sewer after which the industrial user is no longer able to alter the concentration or characteristics of the wastes. (Ord. 11034 § 3 (part), 1993).

28.82.630 Pretreatment or Treatment. Pretreatment or treatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological process changes or other means, except as prohibited by 40 CFR Section 403.6(d). (Ord. 11034 § 3 (part), 1993).

28.82.640 Pretreatment Requirements. Pretreatment requirements refers to any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an industrial user. (Ord. 11034 § 3 (part), 1993).

28.82.650 Private Sewer. Private sewer shall mean a sewer, or combined sewer, exclusive of side sewers, which is not owned or operated by the county or a local public agency. (Ord. 11034 § 3 (part), 1993).

28.82.660 Process Wastewater. Process wastewater shall mean any water which, during manufacturing or processing, comes into direct contact with, or results from production or use of any raw material, intermediate product, finished product, byproduct, or waste product. The "process wastewater" does not include "contaminated nonprocess wastewater." (Ord. 11034 § 3 (part), 1993).

28.82.670 Process Wastewater Pollutants. Process wastewater pollutants shall mean pollutants present in process wastewater. (Ord. 11034 § 3 (part), 1993).

28.82.680 Prohibited Discharge Standards or Prohibited Discharges. Prohibited discharge standards or prohibited discharges shall mean prohibitions against the discharge of certain substances. (Ord. 11034 § 3 (part), 1993).

28.82.690 Public Sewer. Public sewer shall mean a sewer or combined sewer, exclusive of side sewers, owned or operated, or to be owned or operated, by the county or a local public agency. (Ord. 11034 § 3 (part), 1993).

28.82.700 Publicly Owned Treatment Works or POTW. Publicly owned treatment works or POTW means a treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), which is owned in this instance by the county. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include any pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside of the county who are, by contract or agreement with the county, users of the county's POTW. (Ord. 11034 § 3 (part), 1993).

28.82.710 POTW Treatment Plant. POTW treatment plant refers to that portion of the POTW designed to provide treatment to wastewater. (Ord. 11034 § 3 (part), 1993).

28.82.720 Relief Drain. Relief drain shall mean a storm drain constructed to carry Storm Water flows in excess of the capacity of an existing combined sewer or storm drain. (Ord. 11034 § 3 (part), 1993).

28.82.730 Relief Sewer. Relief sewer shall mean a sewer constructed to carry wastewater flows in excess of the capacity of an existing sewer or combined sewer. (Ord. 11034 § 3 (part), 1993).

28.82.740 Replacement. Replacement refers to expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement. (Ord. 11034 § 3 (part), 1993).

28.82.750 Sampling Point. Sampling point shall mean that point, as identified in the waste discharge permit or discharge authorization, that specifies the location samples should be collected to verify compliance with applicable pretreatment standards. (Ord. 11034 § 3 (part), 1993).

28.82.760 Sewage. Sewage shall mean water-carrying waste discharged from the sanitary facilities of buildings occupied or used by people. (Ord. 11034 § 3 (part), 1993).

28.82.770 Sewer or Sewerage. Sewer or sewerage shall mean a conduit designed or used to transport wastewater and to which storm water, surface and ground water are not intentionally admitted. (Ord. 11034 § 3 (part), 1993).

28.82.780 Sewage Disposal Agreement. Sewage disposal agreement shall mean the agreement between the county and any local public agency or person providing for the delivery of sewage and industrial waste to the metropolitan sewerage system and the acceptance by the department of such wastewater for disposal. (Ord. 11034 § 3 (part), 1993).

28.82.790 Side Sewer. Side sewer shall mean a conduit extending from the plumbing system of a building or buildings to and connecting with a public or a private sewer. (Ord. 11034 § 3 (part), 1993).

28.82.800 Significant Industrial User. Significant industrial user shall mean any industrial users as defined in 40 CFR 403.3(t) including, but not limited to, all industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I. Subchapter N, and any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blow down wastewater) to the metropolitan sewerage system or contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of a particular treatment plant; or is designated as such by the county on the basis that the industrial user has a reasonable potential for adversely affecting the treatment plant's operation or violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)]. (Ord. 11034 § 3 (part), 1993).

28.82.810 Significant Noncompliance. Significant noncompliance shall apply to an industrial user if its violation(s) meets one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum limit or average limit for the same pollutant parameter;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH).

C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

D. Any discharge of a pollutant that has caused imminent danger to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under this chapter to halt or prevent such a discharge;

E. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within 30 days after due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; and

H. Any other violation or group of violations that the control authority determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 11963 § 10, 1995: Ord. 11034 § 3 (part), 1993).

28.82.820 Sludge. Sludge shall mean the wet solids that have settled by physical, chemical, or biological means from the liquid phase in a waste treatment or pretreatment process. (Ord. 11034 § 3 (part), 1993).

28.82.830 Slug Discharge. Slug discharge shall be defined as any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge under 40 CFR 403.8(f)(2)(v). (Ord. 11034 § 3 (part), 1993).

28.82.840 Standards. Standards shall mean limitations and requirements established by federal and state laws and regulations for discharges to the metropolitan sewerage system. (Ord. 11034 § 3 (part), 1993).

28.82.850 Storm Drain. Storm drain shall mean a conduit designed or used to transport storm water. (Ord. 11034 § 3 (part), 1993).

28.82.860 Storm Water. Storm water shall mean waters on the surface of the ground or underground or any flow occurring during, following any form of, or resulting from, rainfall and/or other natural precipitation. (Ord. 11034 § 3 (part), 1993).

28.82.870 Suspended Solids. Suspended solids shall mean total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater and is removable by laboratory filtering as described in Standard Methods For The Examination of Water and Wastewaters, current edition, or Guidelines Establishing Test Procedures For The Analysis of Pollutants, contained in 40 CFR Part 136, as published in the Federal Register, and referred to as nonfilterable residue. (Ord. 11034 § 3 (part), 1993).

28.82.880 Toxic. Toxic shall mean having the properties to cause or significantly contribute to death, injury, or illness of persons or wildlife. (Ord. 11034 § 3 (part), 1993).

28.82.890 Toxic Pollutants. Toxic pollutants shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of Section 307(a) of the Act or other federal acts. (Ord. 11034 § 3 (part), 1993).

28.82.900 Treatment Plant. Treatment plant shall mean an arrangement of devices, structures and equipment for treating wastewater. (Ord. 11034 § 3 (part), 1993).

28.82.910 Treatment Works. Treatment works shall mean any facility, method or system acquired, constructed or used by the county for the storage, treatment, recycling, or reclamation of sewage or industrial wastes of a liquid nature, including waste from combined sewers. (Ord. 11034 § 3 (part), 1993).

28.82.920 Trunk. Trunk shall mean either a. a major sewer or combined sewer into which two or more branches discharge and which transports the flow collected from laterals to an interceptor, pumping station or treatment plant, or b. a major sewer or combined sewer which transports the flow from a pumping station to a treatment plant or other pumping station, with or without collecting flows from laterals or branches enroute. (Ord. 11034 § 3 (part), 1993).

28.82.930 User Charge. User charge refers to a charge levied on users of a treatment works for the cost of operation and maintenance of such works. (Ord. 11034 § 3 (part), 1993).

28.82.940 Waste Discharge Permit or Permit. Waste discharge permit or permit shall mean a permit issued pursuant to this chapter for the discharge of waste into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system. Such permits may be granted for a specified period of time up to five (5) years. (Ord. 11034 § 3 (part), 1993).

28.82.950 Wastewater. Wastewater refers to the liquid and water-carried industrial or domestic waste from dwellings, commercial, industrial and governmental activities, industrial facilities, and institutions, together that may be present, whether treated or untreated, that is contributed into or permitted to enter the POTW. (Ord. 11034 § 3 (part), 1993).

28.82.960 Watercourse. Watercourse shall mean an open channel, natural or man-made, used to transport Storm Water. (Ord. 11034 § 3 (part), 1993).

28.82.970 Water Pollution Abatement. Water pollution abatement shall mean the removal of waterborne pollutants, improvement of water quality, sewage disposal and storm water drainage. (Ord. 11034 § 3 (part), 1993).

28.82.990 Year. Year shall refer to a 365-day period. (Ord. 11034 § 3 (part), 1993).

28.82.1000 Definition of Additional Terms: The words and terms, or expressions peculiar to the art or science of sewerage not defined in this chapter shall have the respective meanings given in "GLOSSARY: WATER AND WASTEWATER CONTROL ENGINEERING," 1981, 3rd Edition prepared by a Joint Committee representing The American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation, or the specialized definitions in applicable state or federal regulations. In the event of any conflict, the definitions prescribed by applicable federal regulations shall be controlling. (Ord. 11034 § 3 (part), 1993).

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Chapter 28.84
WATER POLLUTION ABATEMENT

Sections:

28.84.050 Sewage disposal rules and regulations.
28.84.055 Metropolitan sewage facility charge.
28.84.060 Industrial waste rules and regulations.
28.84.080 Financial feasibility guideline for extension to the metropolitan sewage system.
28.84.090 Biosolids management.
28.84.100 Appeal procedure.
28.84.110 Effective date.
28.84.300 Severability.

28.84.050 Sewage disposal rules and regulations.

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

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

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

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

2. Requests by a local public agency, person or state or federal agency for approval of a local public sewer facility connection to an existing interceptor or trunk shall be considered by the department only if the director has received a written certification as described in this section, but a connection involving service by a local public sewer facility that is located wholly within the boundaries of a city and has a potential service area contained wholly within those boundaries shall require only the written certification of that city;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

G. The following provisions shall govern sewerage standards:

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

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

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

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

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

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

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

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

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

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

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

d. Side sewers shall also be tested for their entire length from the public sewer in the street to the connection with the building plumbing. The method of testing side sewers shall be determined by the local public agency, but in no case shall it be less thorough than filling the pipe with water before backfill and visually inspecting the exterior for leakage; and

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

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

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

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

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

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

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

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

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

b. For special chambers and pipe sizes larger than twenty-one inches in diameter, the department shall pay as per agreement for each specific case. Upon its completion, each such manhole or chamber shall be owned, operated and maintained by the local public agency, provided that the department may use the chamber for measuring and sampling flows at reasonable times with the concurrence of the local public agency.

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

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

2. Connection of private sewers may be made at the discretion of the director, either by the director or by others subject to inspection and approval by the director. Whenever a local public sewer becomes available, the private sewer shall be disconnected from the metropolitan sewerage system under the inspection of and in a manner approved by the director, and shall be connected to the available local public sewer in accordance with the requirements of the local public agency. All work of making connections, disconnections and reconnections of private sewers to the metropolitan sewerage system shall be at the expense of the owner or developer of the private sewers;

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

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

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

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

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

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

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

(1) maximum dry-weather wastewater flow as measured in the preceding August-September period. The flow shall be determined as follows:

(a) meter and record all flow for the period;

(b) discard all flow records for each day containing measurable rainfall and discard the flow records of the succeeding days;

(c) determine the maximum flow volume occurring in a thirty minute period for each day's metering; and

(d) average all of the maximum flow volumes to arrive at a maximum dry-weather wastewater flow;

(2) additional dry-weather flow resulting from new customers or equivalents added after the measured August-September period. The flow shall be determined as follows:

(a) determine the number of added residential customers and equivalents;

(b) multiply each such customer and equivalent by the departmental allowance of seven hundred fifty cubic feet per month; and

(c) reduce (b) from a monthly to a thirty-minute allowance by the formula:

cubic feet per month divided by [30 days x 24 hrs. x 2] = additional dry weather flow; and

(3) flow allowance for ground water infiltration and storm water inflow on which the metropolitan sewerage system was designed. The flow shall be determined as follows:

(a) determine the sewered area being metered in acres; and

(b) flow allowance = 3.06 cubic feet per acre x sewered area in acres.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Annual fees shall be payable in advance and permit holders shall renew their permits on or before the annual expiration date of the permits. Fees for permits issued for less than a full year shall be prorated

to the nearest full month. No refund of any permit fee shall be granted for cessation of operations prior to the expiration of the permit;

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

a. The director may waive the gallonage fee to permit holders dumping septic tank sludge from residences and businesses paying the department sewerage charges to local agencies. Claims for exemption of gallonage fees shall be made on forms provided by the department and shall be accomplished in the manner described thereon. The department shall bill each permit holder for the accumulated gallonage fee monthly. This billing shall provide for the subtraction of all volumes declared on valid gallonage fee exemption claims. Payment of gallonage fees shall be made within thirty days from the date of invoice by the department.

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

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

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

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

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

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

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

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

M. The following practices shall be prohibited:

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

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

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

N. The following provisions shall apply to user charges:

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

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

2. Each local public agency shall charge each recipient of waste treatment services within its jurisdiction, in addition to any surcharge to be assessed by the local public agency against an industrial user in an amount to be determined by the director to be necessary under federal regulations and separate from and in addition to any sums paid by industry pursuant to this section, a sum to be paid to the department for its waste treatment services to be determined as follows:

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

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

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

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

3. Each local public agency shall charge each industrial recipient of waste treatment services within its jurisdiction as required by the department, in addition to the user charge, a surcharge in an amount to be determined by the director based on the average annual strength and volume of discharge by the industry. For the purpose of computing average annual strength, all wastes shall be assumed to have a minimum strength equivalent to that of domestic sewage.

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

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

O. The following provisions shall apply regarding capacity charges:

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

a. "Reconnection," for purposes of this subsection, shall mean reconnection of an existing structure following physical disconnection and abandonment of prior sewer service.

b. "Establishment of a new service" shall mean change of property use from single family residential to other than single family residential, or reuse of an existing sewer connection by a new structure following demolition of an existing structure and abandonment of sewer service;

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

two to four units	0.8 RCEs per unit
five or more units	0.64 RCEs per unit
Senior citizen, low income and special purpose housing	0.32 RCEs per unit
Mobile home space	1.0 RCE per space

a. Senior citizen housing shall be multifamily structures of two or more dwelling units within which each dwelling unit shall consist of a room or a suite of two or more rooms, of which not more than one is a bedroom, for which occupancy has been limited to two persons, at least one of whom is age fifty-five or older. For privately owned senior citizen multifamily housing, the requirements shall be contained in a permit, covenant or deed restriction in which the county or a local government is granted enforcement authority.

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

c. Special purpose housing shall consist of dwelling units, that may be part of a larger care facility, consisting of a room or a suite of rooms, of which not more than one is a bedroom for which occupancy is limited to one person who is physically or mentally disabled.

(1) In the case of privately owned senior citizen, low income or special purpose multi-family housing, the requirements shall be contained in a permit, agreement, covenant or deed restriction in which the county, a local government, an agency of state government or the United States government is granted enforcement authority.

(2) In the case of such senior citizen, low income and special purpose housing owned by a government or nonprofit corporation, the requirements shall be integral to the establishment of the corporation as a legal entity or a legally enforceable condition of construction and operation of the housing.

(3) If use of a multifamily structure that initially qualifies as senior citizen, low income or special purpose housing changes so that it no longer meets the criteria in subsection O.2.a., b. and c. (1) and (2) of this section, residential customer equivalents shall then be calculated in the same manner as multi-family customers and the department will collect the incremental difference then due.

d. The number of residential customer equivalents for customers other than residential customers shall be projected using estimated hydraulic capacities or loading values of plumbing fixtures and/or estimates of wastewater flow acceptable to the department from other than plumbing fixtures. An appropriate schedule of hydraulic capacity or loading values equating to residential customers shall be determined by the director;

3. The capacity charge shall be collected by the department directly from the customer. The charge may be established as a monthly charge for fifteen years. The total amount of the charge shall be due and payable at the time of the initial billing. The customer may, however, elect to pay the charge over the fifteen-year period.

Each customer subject to the charge shall be billed by the department semi-annually or at such frequency as may be determined by the director. The total amount of the charge, hereinafter the "total amount due," may be paid at any time. The total amount due shall be the sum of all remaining payments discounted at the rate of five and one-half percent annually;

4. The following shall apply to capacity charge billing:

a. The executive shall file a report with the clerk of the council on or before October 1, 2004, for distribution to the council, including members of regional water quality committee, regarding options to reduce or eliminate administrative barriers to notifying new ratepayers regarding their option to made a single payment of the capacity charge:

(1) at the time of connection or before purchase and closing on a home or business; and

(2) at the time of connection or before purchase and closing on a home or business on those occasions when the developer of the real estate has already paid an initial capacity charge within six months of the connection, but the remainder of the charge is still due and payable to King County;

b. Capacity charge billing to a customer shall commence as soon as possible and practical after the effective date of the sewer service provided by a local public agency served by the department in accordance with the billing frequency determined by the director; and

c. Late notice to the department of commencement of sewer service to a customer or failure of a customer to receive a capacity charge bill does not relieve a property owner of the responsibility for payment of charges and interest;

5. Delinquent capacity charge accounts.

a. If a customer elects to pay over time and fails to make a payment when due, all remaining payments shall become due and owing. An interest charge computed at an annual rate of twelve percent of the delinquent amount and a one-time penalty not more than ten percent of the remainder due shall be added to the account balance; and

b. Whenever the capacity charge for an account plus interest charges are delinquent for more than thirty days, the department shall send a notice of intention to file lien to the property owner, or representative and the mortgagee, directing the property owner or representative to pay the total amount due, as described in this section, no later than fifteen days from the date of the letter or to make suitable arrangements to bring the account current. If the payment is not made within fifteen days or suitable arrangements have not been made, the total amount due will be certified as delinquent and a lien will be filed against the property with the treasurer of the county. A lien charge to cover the cost of preparing and filing the lien in the amount of one hundred fifty dollars will be added to the delinquent amount on the date of certification of the lien to the treasurer of the county. Action may be taken by the department to enforce collection of the delinquent amount at any time after the charges have been delinquent for a period of sixty days.

The department is authorized to request the prosecuting attorney to bring suit for foreclosure by civil action in the superior court of the county in which the real property is located and to request payment of its costs and disbursements as provided by statute, as well as reasonable attorneys' fees. Each account that has been submitted to the prosecuting attorney for foreclosure shall be charged for legal fees incurred in connection with the foreclosure, even when court proceedings are unnecessary;

6. Local public agencies shall, at the director's request, provide such information regarding new residential customers and residential customer equivalents as may be reasonable and appropriate for purposes of implementing the capacity charge; and

7. The director is authorized to develop and implement such additional policies and requirements and to take such actions as may be necessary and appropriate for collection of the capacity charge and administration of the capacity charge program as described in this section.

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

1. If any local public agency or person shall construct a local public sewer, private sewer or side sewer in violation of this section, the department may issue an order to the local public agency or person to stop work in progress that is not then in compliance with this section or the department may issue an order to correct work that has been performed. The local public agency or person shall immediately take the

action as may be necessary to comply with the order and with this section, all at the expense of the local public agency or person.

2. Other penalties.

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

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

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

c. Any person who shall damage, destroy or deface any structure, appurtenance, equipment or property of the metropolitan sewerage system shall be fined in an amount not exceeding three hundred dollars, and shall be liable for double the actual cost of restoration or repair or double the actual amount of any irreparable damage. (Ord. 14942 § 5, 2004: Ord. 13625 § 21, 1999: Ord. 11780 § 1, 1995: Ord. 11034 § 5, 1993).

28.84.055 Metropolitan sewage facility charge.

A. The amount of the 1994 metropolitan sewage facility capacity charge adopted by K.C.C. 28.84.050.O. shall be seven dollars per month per residential customer or residential customer equivalent for fifteen years.

B. The amount of the 1995 metropolitan sewage facility capacity charge adopted by K.C.C. 28.84.050.O. shall be seven dollars per month per residential customer or residential customer equivalent for fifteen years.

C. The sewage treatment capacity charge shall be seven dollars per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 1996, and December 31, 1996.

D. The amount of the sewage treatment capacity charge adopted by K.C.C. 28.84.050.O. shall be seven dollars per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 1997, and December 31, 1997.

E. The amount of the sewage treatment capacity charge adopted by K.C.C. 28.84.050.O. shall be ten dollars fifty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 1998, and December 31, 1998.

F. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be ten dollars fifty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 1999, and December 31, 1999.

G. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be ten dollars fifty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2000, and December 31, 2000.

H. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be ten dollars fifty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2001, and December 31, 2001.

I. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be seventeen dollars and twenty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2002, and December 31, 2002.

J. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be seventeen dollars and sixty cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2003, and December 31, 2003.

K. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be eighteen dollars per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2004, and December 31, 2004.

L. The amount of the sewage treatment capacity charge adopted by K.C.C.28.84.050.O. shall be thirty-four dollars and five cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2005, and December 31,2005.

M. The amount of the sewage treatment capacity charge adopted by K.C.C. 28.84.050.O shall be thirty-four dollars and five cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2006, and December 31, 2006.

N. The amount of the sewage treatment capacity charge adopted by K.C.C. 28.84.050.O. shall be forty-two dollars per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2007 and December 31, 2007.

O. The amount of the sewage treatment capacity charge adopted by K.C.C. 28.840.050.O. shall be forty-six dollars and twenty-five cents per month per residential customer or equivalent for fifteen years for sewer connections occurring between and including January 1, 2008, and December 31, 2008.

In accordance with adopted policy FP-15.3.d. in the Regional Wastewater Services Plan, K.C.C. 28.86.160.C., it is the council's intent to base the capacity charge upon the costs, customer growth and related financial assumptions used the Regional Wastewater Services Plan.

In accordance with adopted policy FP-6 in the Regional Wastewater Services Plan, K.C.C. 28.86.160.C, the council hereby approves the cash balance and reserves as contained in the attached financial plan for 2008.

In accordance with adopted policy FP-15.3.c., King County shall pursue changes in state legislation to enable the county to require payment of the capacity charge in a single payment, while preserving the option for new ratepayers to finance the capacity charge. (Ord. 15805 § 3, 2007: Ord. 15522 § 3, 2006: Ord. 15384 § 5, 2006: Ord. 15194 § 3, 2005: Ord. 14942 § 4, 2004: Ord. 14676 § 3, 2003: Ord. 14395 § 3, 2002: Ord. 14123 § 4, 2001: Ord. 13971 § 1, 2000: Ord. 13570 § 4, 1999: Ord. 13227 § 3, 1998: Ord. 12966 § 1, 1998: Ord. 12817 § 4, 1997: Ord. 12409 § 1, 1996: Ord. 11398 § 1, 1994).

28.84.060 Industrial waste rules and regulations.

A. The director shall administer and implement the following fees, rules, and regulations for the disposal of industrial waste into the metropolitan sewerage system.

B. The following provisions shall govern the applicability of this section.

1. This section shall apply to all nondomestic users of the metropolitan sewerage system including, but not limited to, commercial and industrial companies and government agencies. Indirect discharges from nondomestic users regulated by this section include, but are not limited to, liquid, solid or gaseous substances, or any combination thereof resulting from any process of industry, government, manufacturing, commercial food processing, business, agriculture, trade, research, the development, recovery, or processing of natural resources, leachate from landfills or other disposal sites, contaminated nonprocess water, contaminated storm water, and ground water.

2. This section shall not apply to the discharge of storm water into an existing combined sanitary and storm system unless such discharge results from industrial activity and the director has determined that such discharge may affect the county's water quality and biosolids objectives.

3. This section shall not apply to participant local agencies when collecting domestic and industrial waste and conveying such waste to the metropolitan sewerage system.

4. This section authorizes the issuance of wastewater discharge permits, authorizes monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

5. Industrial waste shall be accepted into the metropolitan sewerage system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the county for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. At a minimum, all industrial users of metropolitan sewerage system facilities shall comply with the applicable pretreatment standards and requirements developed pursuant to Sections 307(b) and 307(c) of the Act. This includes the pretreatment standards for existing and new discharges, which are defined in regulations promulgated pursuant to such sections of the Act.

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C. The director shall administer, implement, and enforce the provisions of this section. Any powers granted to or duties imposed upon the director may be delegated by the director to other department personnel. The director shall establish and publish administrative procedures for implementation of this section which shall include but not be limited to issuing permits and discharge authorizations, collecting samples, identifying and inspecting industrial users, monitoring, revenue/cost recovery, appeals, discharge approval processes, issuing waste discharge permits and discharge authorizations, conducting investigations of noncompliance, preparing enforcement actions according to the department's enforcement response plan, and setting local limits.

D. The following discharge standards and limitations shall be applicable under this section:

1. Discharge standards and limitations shall be established to the extent necessary to enable the county to comply with current NPDES requirements, as promulgated by the EPA or the Washington State Department of Ecology, and to protect sewerage facilities and treatment processes, public health and safety and the receiving waters, air quality, and biosolids quality.

2. Dischargers shall comply with all applicable pretreatment standards and requirements. Discharges subject to federal categorical discharge limits shall be subject to those limits, or to county local discharge limits, whichever is most restrictive. In addition to concentration limits, permit limits may also include mass limits stated as total pounds of a pollutant allowed per day.

3. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations or flow restrictions on users he or she believes may be using dilution to meet applicable pretreatment standards or requirements.

4. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

5. No industrial user shall discharge any of the following pollutants, substances, or wastewater directly or indirectly into any public sewer, private sewer or side sewer tributary to the metropolitan sewerage system:

a. Flammable liquids, solids or gases capable of causing or contributing to explosion or supporting combustion in any sewerage facilities.

b. Any solid or viscous substances or particulates in quantities, either by itself or in combination with other wastes, that are capable of obstruction of flow or of interfering with the operation or performance of sewer works or treatment facilities.

c. Any gas or substance that, either by itself or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry by authorized personnel to pump stations and other sewerage facilities.

d. Any gas or substance that, either by itself or by interaction with other waste, may cause corrosive structural damage to sewer works or treatment facilities.

e. Wastes at a flow rate and/or pollutant discharge rate that are excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

f. Heat in amounts that will inhibit biological activity in treatment plant facilities resulting in either interference in the treatment process or preventing entry by authorized personnel to pump stations and other sewerage facilities. This prohibition includes but is not limited to heat in such quantities that the temperature

of the treatment works influent exceeds 40 degrees C (104 degrees F) or the temperature exceeds 65 degrees C (150 degrees F) at the point of discharge from the industrial source to public sewers and/or the metropolitan sewerage system.

g. Food waste unless it will pass a 1/4-inch sieve. The director shall establish rules on the use of food grinders to meet the 1/4-inch criterion. Such rules shall be based upon department biosolids criteria, impact on solid waste utilities, concerns of local health agencies and imposition of high strength surcharge fees.

h. Any radioactive wastes or isotopes that exceed such concentration limitations as established by applicable Washington State Department of Social
and Health Services regulations.

i. Trucked and hauled wastes shall not be discharged into a sewer except at points in the metropolitan sewerage system designated for such discharge by the director.

j. Any waters or wastes containing higher than ordinary concentrations or quantities of compatible pollutants, including but not limited to, biochemical oxygen demanding pollutants, suspended solids, pH and fecal material, may be required to discharge at a specific release rate or at a specified strength if, in the opinion of the director, the release of such waste in an uncontrolled manner could adversely affect proper handling and treatment in the metropolitan sewerage system.

k. Storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, and unpolluted wastewater unless specifically authorized elsewhere in this section or by rules published by the director regarding the acceptance of clean water into the metropolitan sewerage system. Such rules shall be based upon existing sewer capacity, cost and availability of alternate disposal options, cost of implementing control measures to prevent contamination of storm water, surface water, and ground water, cost of recycling or reclaiming clean water, benefits to regional water conservation using reclaimed effluent and adverse impacts to water quality and public health.

l. Any waters or wastes generated during construction activities which may include, but not be limited to, contaminated storm water, surface water or ground water and wells constructed for the purpose of lowering the groundwater table unless specifically authorized by the director.

m. Wastewater that imparts color that cannot be removed by the treatment process, such as dye wastes and vegetable tanning solutions that consequently impart color to the treatment plant's effluent, thereby violating the county's NPDES permit.

n. Detergents, surface-active agents, or other substances that may cause excessive foaming in the metropolitan sewerage system.

E. The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated in this section. These categorical pretreatment standards shall be met by all industrial users of the regulated industrial categories.

F. Local discharge limits shall be developed and complied with as follows:

1. The director shall publish and revise from time to time local discharge limits developed according to guidelines promulgated by the EPA and/or Washington State Department of Ecology using data specific to the metropolitan sewerage system and its industrial users. At a minimum, local discharge limits shall restrict the following parameters: metals; organics; pH; temperature; fats, oils and greases of animal or vegetable origin; fats, oils and greases of mineral origin; and other toxic substances as required, including those defined in applicable state and federal regulations. These published local discharge limits shall, by this reference, be made a part of this section.

2. No industrial user shall discharge wastewater containing concentrations (and/or mass limitations) in excess of the published local discharge limits, except as provided for in this section.

3. Individual limits for specific companies or general permit limits for groups of companies may be established on a case-by-case basis for compounds not specifically listed in published local discharge limits or at levels higher or lower than published local discharge limits. Such individual limits may be higher than published local discharge limits only for companies or groups of companies that have demonstrated that no reasonable treatment method is available to meet published limits, and the volume and mass of pollutants discharged does not endanger sewerage facilities or put the POTW at risk of violating NPDES

limits, water quality standards, air quality standards, biosolids standards or worker safety standards. Individual limits may be lower than published local discharge standards when the volume of discharge and/or mass of pollutants is such that lower limits are necessary to protect sewerage facilities and treatment processes, public health and safety, the receiving waters, air quality, or biosolids quality.

G. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic wastewaters from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the users compliance with the requirements of this section.

H. In areas served by combined sewers, storm water connections made prior to January 26, 1961 and storm water connections made after January 26, 1961 that have no storm sewer (public or private) available within a reasonable distance may continue to discharge without authorization from the director unless the discharge has the potential to affect the county's ability to comply with all federal, state, and local regulations and meet the county's water quality objectives as stated in this chapter. In such cases, the storm water shall be regulated as an industrial waste and be subject to all the provisions of this section. In some cases, the county may require the industrial user to eliminate or mitigate storm water discharges by implementing control measures that shall include but not be limited to installation of a separate storm sewer, detention, pretreatment, roofing, reuse, relocation of processing or treatment areas, and discharging to receiving waters.

I. The following provisions shall govern compliance with applicable pretreatment requirements:

1. Compliance by existing users covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standards.

2. The director shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards. In establishing such a compliance deadline, the director shall consider the potential for violations of NPDES limits, biosolids quality, air quality, and worker safety standards and the difficulty and cost to industrial users of changes in industrial processes and installation of new pretreatment equipment.

3. New source industrial users and all other new users including significant industrial users shall comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and new users shall install and have in operating condition all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

J. The following provisions shall govern waste discharge permits and authorizations:

1. Each person discharging or proposing to discharge industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall secure written discharge authorization, which may include, but shall not be limited to, a waste discharge permit, minor discharge authorization, or general permit from the department unless otherwise provided in this section. The conditions and discharge standards in all written discharge authorizations shall be predicated on federal, state, county, and other applicable local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. These conditions and discharge standards shall be re-evaluated upon expiration of the written discharge authorization and may be revised from time to time as required by county, state or federal regulations and requirements or to meet any emergency. Obtaining a written discharge authorization, however, shall not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements, or with any other requirements of federal, state and local law.

a. Any person proposing to discharge industrial waste, but not holding a valid waste discharge permit or other written discharge authorization, shall apply to secure a waste discharge permit or discharge authorization unless the director has determined that written authorization is not required. Application to the department shall be made for permits at least sixty days prior to beginning discharge unless the industrial user is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, in which case application to the department shall be made for such permit ninety days prior to beginning of discharge. Application to the department shall be made for all other written discharge authorizations thirty days prior to beginning of discharge. Any new source or new user meeting the definition of significant industrial user shall not discharge without a waste discharge permit.

b. Any person with an existing permit or written discharge authorization proposing to make a change in an existing industrial waste discharge which will substantially change the volume of flow or the characteristics of the waste or establish a new point of discharge, shall apply for a new waste discharge permit thirty days prior to making the change. Substantial changes may include, but are not limited to, a twenty percent increase in the authorized daily maximum flow, addition of a new process, product, or manufacturing line that will increase or decrease the concentration of pollutants in the waste stream or require modification in the operation of the pretreatment system, addition of new pretreatment equipment, or altering a sample site.

c. The director may grant permission to discharge without written authorization when the discharge is limited in concentration of pollutants, volume or duration, or when the user has applied for and is in the process of obtaining written discharge authorization.

2. All significant industrial users shall secure a waste discharge permit. Existing significant industrial users without permits and industrial users that the director has determined present a substantial risk with existing discharges shall, upon receipt of written notice, apply for a waste discharge permit within thirty days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of sixty days. The director on his or her own initiative or in response to a petition from an industrial user may determine that an industrial user is not a significant industrial user when there is no reasonable potential for the discharge to adversely affect the POTW's operation or to violate any pretreatment standard or requirement.

3. Persons who are not subject to federal categorical standards or who discharge less than 25,000 gallons per day or who in the opinion of the director have no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement are not required to obtain a waste discharge permit. Instead, the director may require and issue some other form of written authorization, which may include but is not limited to a minor discharge authorization, a letter of discharge approval, or a general permit. The director may require industrial users to obtain a waste discharge permit when noncompliance with this section exists. Upon written notice from the department that a permit is required the person so notified shall apply for a waste discharge permit within thirty days. Extensions of time for submittal of an application may be granted by the director, not to exceed a total of sixty days.

4. Application for waste discharge permits and authorizations shall be made to the director in writing on forms provided by the department and shall include such data, information and drawings as to enable the department to determine which federal, state and local regulations apply to the discharge and to set conditions for the industrial user to comply with such regulations. Such information shall include but not be limited to identifying information such as name, address, owner and contact person, other environmental permits held by the operation, operation and site descriptions including manufacturing processes, flow measurements, measurements of pollutants, pretreatment system designs and operation and maintenance

manuals, spill control plans, and certification statements. The department will act only on complete applications. Significant industrial users shall comply with all requirements of 40 CFR 403.12 (b) by the time of permit issuance or upon commencement of discharge, whichever comes first, unless the specific conditions of a waste discharge permit establish an alternate deadline.

5. Upon receipt of a completed application, the director shall determine if a permit, minor discharge authorization or other document is required and notify the applicant. Waste discharge permits and authorizations shall be processed in accordance with Chapter 90.48 RCW, as amended, Public Law 92-500, and this section, which includes: public notice for discharges requiring permits; determination of applicable discharge limits and special conditions; review and approval of any pretreatment facilities; facility inspections; issuance of a draft permit; review of the application and any draft permits by appropriate federal, state, and local agencies; and issuance of the final permit or written authorization.

a. If a permit is required, the director shall complete the public notice requirements and bill the applicant for the cost or the director shall instruct the applicant at its expense to publish notices twice in a newspaper of general circulation within King County and in a local newspaper serving the area where the industry industrial user is located and in such other appropriate information media as the director may direct. Said notice shall include a statement that any person desiring to present their views with regard to said application may do so in writing to the director, provided said person submits their views or notifies the director of their interest within thirty days of the last date of publication of the notice. Such notification or submission of views to the director shall entitle said person to review and comment on the draft permit and to a copy of the action taken on the application.

b. Waste discharge permits and written discharge authorizations shall be issued with conditions to demonstrate compliance, meet applicable federal, state and local regulations and prevent violations of this section and the waste discharge permit or authorization. Such conditions may include, but shall not be limited to, discharge limitations and standards, spill control measures, accidental spill prevention plans, slug control plans, monitoring requirements, maintenance requirements, installation of monitoring equipment, record-keeping requirements, reporting requirements, federal and state requirements, installation of sampling sites, flow restrictions, engineering reports, solvent management plans, implementation of best management practices, and special studies to evaluate discharge limits or compliance status.

c. As a condition of the granting of a waste discharge permit or other authorization, the director may require the industrial user to install pretreatment facilities or make plant or process modifications as deemed necessary by the director to meet the requirements of this section and applicable federal and state standards. Such facilities or modifications shall be designed, installed, constructed, operated and maintained at the industrial user's expense in accordance with the provisions of this section, and in accordance with the rules and regulations of all local and governmental agencies.

d. No industrial user may discharge industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system until inspection has been made by the department for compliance with conditions of the permit or authorization and with this section unless the director has determined that an inspection is not required.

e. A draft permit shall be issued for review and comment by the applicant, federal, state and local agencies, and members of the public who wish to comment on the application or draft permit. All comments will be reviewed and addressed by the director prior to issuance of a final permit.

f. During the application processing, the department will consult with and provide copies of applications and draft permits to participant local agencies, the Washington State Department of Ecology, and the EPA, when appropriate, to ensure that the limitations and conditions of waste discharge permits or other written discharge authorizations will meet requirements of applicable federal, state, and local regulations.

g. The director may deny a permit or discharge authorization when the applicant's discharge will not comply with this section or will create a public nuisance. The director may also deny a permit or authorization to protect public health and welfare.

h. Waste discharge permits and authorizations shall be issued by the director for a specified time period, not to exceed five years. A waste discharge permit or authorization may be issued for a period less than five years at the discretion of the director. Each waste discharge permit or authorization will indicate a specific date upon which it will expire.

i. If the characteristics of the proposed discharge or discharges meet the requirements of appropriate participant local agencies, the Washington State Department of Ecology, the EPA, and any other applicable state and federal laws and regulations, and this section, the director shall issue a waste discharge permit or authorization to the applicant therefor with appropriate conditions. A copy of the draft permit, final permit, or authorization and the completed application on which the permit or authorization is based will be submitted to the Department of Ecology. The appropriate local agencies will be notified in writing of the issuance of such a permit and will be furnished with one copy of each draft and final permit or other written discharge authorization issued within its jurisdiction at no charge.

6. Discharge conditions published in a waste discharge permit or authorization shall remain in effect until the permit or authorization expires, except that the director may modify the permit or authorization for good cause including the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

b. To address alterations or additions to the user's operation, processes, or wastewater volume or character since the time of permit or authorization issuance (such modifications may be requested by the industrial user);

c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

d. Information indicating that the permitted discharge poses a threat to the metropolitan sewerage system, the department's, county's and/or participant local agency's personnel, or the receiving waters;

e. Violation of any terms or conditions of the waste discharge permit or authorization;

f. To correct typographical or other errors in the waste discharge permit or authorization; or

g. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

7. If the industrial user wishes to continue discharging after the expiration date, an application shall be filed for renewal of the permit or authorization at least 180 days prior to the expiration date. Applications for renewal permits or authorizations shall be processed in accordance with the requirements of this section, with the exception of the public notice requirement. An industrial user whose existing waste discharge permit or authorization has expired and has submitted its application for permit renewal in the time specified herein shall be deemed to have an effective waste discharge permit or authorization until the director issues or denies the new waste discharge permit. An industrial user whose existing waste discharge permit or authorization has expired and who failed to submit its reapplication in the time period specified herein will be deemed to be discharging without a waste discharge permit or authorization.

8. A permit or authorization shall be subject to revocation upon thirty days' notice in writing if the director finds:

a. It was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

b. A material change in the volume of flow or characteristics of waste was effected without notice to the department and application to the department for a new permit or authorization was not made and a permit or authorization issued as required in this section;

c. There has been a violation of the limitations or conditions of the permit or authorization, and the industrial user refuses to take corrective action, or that a violation has continued after notice thereof;

d. The industrial user has refused reasonable access to its premises for the purpose of inspecting or monitoring the discharge;

e. The industrial user has falsified self-monitoring reports or tampered with monitoring equipment;

f. The industrial user has failed to pay sewer charges or fines; or

g. The industrial user has failed to provide advance notice of the transfer of a waste discharge permit.

At the time that a permit or authorization is revoked, the director may thereafter require disposal of the waste in some manner other than into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system at the expense of the person whose permit is revoked. The appropriate local agency and the Department of Ecology will be notified in writing of the revocation of such permit.

9. A permit or authorization may be suspended temporarily and further discharges halted by the director if the director determines that waste discharges are in violation of waste discharge permit or authorization limitations or conditions or county, state, or federal standards and pose an immediate risk to public health and safety, receiving water quality, biosolids quality, or an immediate risk of damage, obstruction, or interference with treatment facilities. Such suspension shall be effective immediately upon written notice delivered to the industrial user's business premises or posting at the point of discharge.

10. A waste discharge permit or authorization shall not be transferred without prior notification and approval by the director. Such notification shall be submitted at least thirty days prior to the date of facility transfer and shall:

a. include a statement that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

b. identify the specific date on which the transfer is to occur; and

c. acknowledge full responsibility for complying with the existing waste discharge permit.

Failure to provide advance notice of a transfer renders the waste discharge permit or authorization voidable on the date of facility transfer.

K. Industrial users shall have the following responsibilities in discharging industrial waste into the metropolitan sewerage system:

1. It shall be the responsibility of every industrial user to control the discharge of industrial waste into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system in compliance with this section and the requirements of a waste discharge permit or written discharge authorization issued under the provisions of this section.

2. Whenever pretreatment facilities are required pursuant to this section, they shall be designed, constructed, installed, operated and maintained at the expense of the industrial user and in a manner prescribed by the director. The director may require dischargers to submit plans in the form of engineering reports and drawings for approval. Such reports and plans shall be prepared according to federal and state requirements. The industrial user shall maintain records indicating routine maintenance check dates, cleaning and waste removal dates, and means of disposal of accumulated wastes. Such records shall be retained for a minimum of three years and be subject to review in accordance with this section. Approval of proposed facilities or equipment by the director will not in any way guarantee that these facilities or equipment will function in the manner described by their constructor or manufacturer, nor shall it relieve a person of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of a waste discharge permit.

3. Industrial users will be required to submit samples of industrial waste discharges to the director or to perform tests and report the test results to the director on a routine and continuing basis when:

a. required by the terms and provisions of 40 CFR 403.12, as amended;

b. requested by state or participant local agencies; or

c. deemed necessary by the director for the proper treatment, analysis or control of waste discharges.

All such tests and reports shall be at the cost of the industrial user.

4. All sampling data collected by significant industrial users and analyzed using procedures approved by 40 CFR 136 or approved alternatives shall be submitted to the director whether required as part of a written authorization or done voluntarily by the significant industrial user.

5. To the degree practicable, the director will provide each permittee or applicant with information on applicable county, state and federal waste analysis and reporting requirements, provided, however, that any failure or inadvertence to do so shall not excuse the permittee from compliance with said requirements. Specific requirements will be established by written permit or authorization.

6. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

> *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

7. When required by the director, the industrial user shall install and maintain at its expense a suitable sample site or control manhole in its side sewer to facilitate observation, sampling and measurement of wastes therein. Such sample sites or manholes shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans approved by the director and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the director. The industrial user shall make access to such manhole available to the director at all times. Any tampering with flow or sampling equipment by the discharger or employees is prohibited. When deemed necessary by the director, an industrial user may be required to obtain, install, operate, and maintain, at its expense, an automatic sampler and/or analyzer or flow measurement device in order to monitor its industrial waste discharges in the manner directed by the director.

8. Any person becoming aware of the discharge of regulated substances, spills or slug discharges directly or indirectly into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system shall report such discharge immediately to the department and one of the treatment plants of the county. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and any corrective actions. Failure by any person aware of such discharge of prohibited or restricted substances, spills, or slug discharges to report such discharge in the manner provided above shall constitute a violation (as that term is defined in this section), and subject said person to the penalties set forth in this section. Each failure to report a discharge shall be considered a separate violation. Notification shall not relieve the person responsible from penalties or recovery of the cost of damages resulting from the discharge. Discharges of prohibited or restricted substances directly or indirectly into navigable waters, or into streams, ditches or sewers tributary to navigable waters, shall be reported to the U.S. Coast Guard or to the regional office of the Washington State Department of Ecology, in accordance with Section 311 of the Act, 42 U.S.C. 1321, as amended.

9. In order that employees of industrial users involved in discharge to sewers will be informed of the county's requirements, said industrial users shall make available to their employees copies of this section together with such other wastewater information and notices directed toward more effective water pollution control that may be furnished by the director from time to time. A notice advising employees whom to call in case of a discharge violation of this section shall be furnished and permanently posted in highly visible places such as bulletin boards and lunchrooms. Where lack of proper employee training is

determined to have caused noncompliance with the provisions of this section or with the requirements of a waste discharge permit or written discharge authorization, the director shall require industrial users to provide employee training.

10. Any direct or indirect connection or entry point that could allow prohibited or regulated substances to enter the industrial user's plumbing or drainage system shall be eliminated. Where such action is impractical or unreasonable, the industrial user shall label such entry points appropriately to warn against discharge of such wastes in violation of this section.

11. All industrial users shall notify the director, the EPA Region 10 Waste Management Division Director, and the Washington State Department of Ecology in writing of any discharge to the sewer of a substance, which, if otherwise disposed of would be a hazardous waste as set forth in 40 CFR Part 261.

a. Notification shall include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste generator number, where required, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms (220 pounds) of such waste per calendar month to the POTW, the notification shall also contain the following information:

(1) An identification of the hazardous constituents contained in the wastes;

(2) An estimation of the mass and concentrations of such constituents in the waste stream discharged during that calendar month; and

(3) An estimation of the constituents in the waste stream expected to be discharged during the following 12 months.

Discharges of more than 15 kilograms (33 pounds) of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. All notifications shall be submitted by January 24, 1991 for existing industrial users. Industrial users who commence discharge after January 24, 1991 shall submit notification no later than 180 days after the discharge of the hazardous wastes. Any industrial user required to submit notification under this subsection shall be required to submit only once for each hazardous waste discharged unless the discharge is changed according to 40 CFR 403.12(j). Notification requirements under this subsection do not apply to pollutants already reported under the self monitoring requirements of 40 CFR 403.12(b), (d), and (e) prior to January 24, 1991.

b. Industrial users are exempt from the notification requirements during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33(e).

c. In the case of new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921, identifying additional characteristics of hazardous wastes or listing any additional substance as a hazardous waste, the industrial user shall submit notification as required under this section within 90 days of the effective date of the new regulations.

d. Any industrial user subject to the notification requirements under this section shall certify in writing at the time of notification that the industrial user has a program in place to reduce the volume or toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

12. Industrial users shall maintain records relating to discharges to the metropolitan sewerage system. Such records, which include, but are not limited to, routine maintenance, waste disposal dates, manifests and disposal records for accumulated wastes, self-monitoring reports, analytical lab results, dates and times of sample collection and batch discharges, pH and equipment calibration log books, pH monitoring records, and flow records, shall be retained for a minimum of three years and shall be subject to review in accordance with the provisions of this section.

L. The following provisions shall apply to the inspection and sampling of industrial users:

1. To carry out the provisions of this section and ensure compliance with federal and state laws and regulations relating to water pollution, authorized and properly identified representatives of the county shall have the right to enter that portion of the premises of any person discharging industrial waste into a public sewer, private sewer or side sewer tributary to the metropolitan sewerage system, whether or not the

discharge is officially permitted or authorized. The purpose of entry shall be for inspection, observation, measurement, review of operating and waste management records, sampling and testing in accordance with the provisions of this section, at reasonable times or for the purpose of handling an emergency, as determined by the director, at any time if the director determines that an emergency exists. Inspections shall be limited to that portion of the premises that contains a side sewer, measuring manhole, pretreatment facilities, or facilities for the transportation, collection, concentration, or treatment of wastes. All regular sanitary and safety requirements of such person shall be complied with by such representative during such inspection. Prior to entering the premises, representatives of the county shall state their purpose, and present credentials and an administrative inspection warrant, if one is required.

2. A warrant shall not be required for entry and administrative inspections (including observation, measurement, sampling or testing) under this section in the following situations:

a. With the consent of the owner, operator or agent in charge of the premises;

b. If the discharge is permitted under an industrial waste discharge permit or other written discharge authorization;

c. In situations where the director has determined that an emergency exists presenting imminent danger to the public or worker health, safety and welfare, the environment or water quality of a receiving water or interference or risk of interference or obstruction with the functioning of the metropolitan sewerage system, or violating the county's NPDES permit limits;

d. In any emergency circumstance where there is neither time nor opportunity to apply for a warrant; and

e. In any other situation where a warrant is not required by law.

3. In the event an administrative inspection warrant must be obtained to enter upon the premises of any person disposing of industrial waste into a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system, the director shall apply to the Superior Court of the state of Washington for issuance of warrants for the purpose of conducting administrative inspections authorized by this section. For purposes of an administrative inspection, probable cause justifying the issuance of a warrant may be based either on:

a. specific evidence of an existing violation of the terms and conditions of a waste discharge permit, this section or any state or federal law or regulation relating to water pollution; or

b. evidence that reasonable administrative standards for conducting an inspection (including observation, measurement or testing of industrial waste) are satisfied with respect to a particular premises and that a specific premises has been selected for county inspection on the basis of a general administrative plan for the enforcement of this section or any county, state, or federal laws or regulations relating to water pollution.

4. Consistent with federal pretreatment standards, pollutant levels for all regulated processes will be monitored at the point of compliance. The point of compliance shall be at the end of the regulated process following pretreatment or as specified in the waste discharge permit or written discharge authorization. Such monitoring shall be prior to the addition of any dilution water.

5. The purpose of the inspection and sampling programs shall be to verify independent of information supplied by industrial users pursuant to this section, the compliance or noncompliance with applicable pretreatment standards and requirements, or special requirements as prescribed by the director.

6. The sampling programs shall be designed to provide sampling emphasis on those industrial users discharging the greatest volume and concentration of pollutants. Comprehensive sampling by automatic samplers will be augmented with grab samples taken on a random basis. Flow proportioned samples are preferred. A significant industrial user will be sampled at least twice (2 times) per year. Those users with large industrial discharges can expect to be sampled quarterly or more often, while users with small discharges may be sampled once annually or as required by federal regulations or an NPDES permit issued to the county. Industrial users also discharging high strength waste will be sampled or classified as part of the industrial surcharge program.

7. The inspection programs shall be designed to provide emphasis on those industrial users discharging the greatest volume and concentration of pollutants. A significant industrial user will be inspected at least once per year.

8. The post-violation inspection and sampling program shall provide for additional inspection and sampling of any industry failing to comply with or violating any of the provisions of this section and/or applicable state and federal requirements.

9. Except as otherwise stipulated below, information and data on industrial users obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agencies in conformance with county ordinances and state laws and regulations. Industrial user information such as trade secrets may be withheld provided confidentiality is specifically requested by the industrial user at the time the information is provided or submitted to the director. Wastewater constituents and characteristics shall not be recognized as confidential information and will be available to the public without restriction.

10. A portion (or co-collected sample in the instance of fats, oils, and greases) of any samples collected by department personnel shall be made available to the industrial user being sampled. If the industrial user has samples analyzed for comparison with the department's results, such a comparison will be considered valid only if methods and procedures are the same as those utilized or approved by the department and those methods and procedures conform to and are consistent with the analytical methods established by the latest edition of the following references:

a. Standard Methods for the Examination of Water and Wastewater;

b. American Society for Testing and Materials, A.S.T.M. Standards, part 23, Water, Atmospheric Analysis;

c. Environmental Protection Agency, Water Quality Office Analytical Control Laboratory, Methods for Chemical Analysis of Water and Wastes; or

d. any other analytical method determined by the department to be required to identify and quantify a particular pollutant not adequately sampled by the above referenced methods.

11. If, as the result of a valid sample comparison, a discrepancy arises between the analytical results obtained by an industrial user and the county's results, and if a statistical summary indicates that the precision of the county's and the industrial user's results are within acceptable quality assurance/quality control standards, the two results will be averaged to determine the user's compliance.

12. The director may require any user to develop and implement an accidental discharge (spill)/slug control plan. An accidental discharge or accidental spill prevention plan (ASPP)/slug control plan describing facilities to prevent accidental discharge or slug discharges of pollutants and/or operating procedures to provide this protection, shall be submitted to the director for review and approval before implementation. The director shall determine which user is required to develop a plan and require said plan be submitted within 90 days following notification by the director. Each user shall implement its ASPP as submitted or as modified after such plans have been reviewed and approved by the director. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify its facility as necessary to meet spill control requirements.

a. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan that addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

b. Users shall notify the director immediately upon the occurrence of a slug or accidental discharge of substances regulated by this section. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.

c. Within fourteen days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures taken by the user to prevent similar future occurrences.

d. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge.

M. The following provisions shall govern permit fees, compliance monitoring and administrative fees, and post-violation inspection and sampling program charges.

1. To cover the cost of drafting waste discharge permits as provided in this section, the director shall establish a permit fee. Such fee shall be applicable to each new or revised permit issued after the adoption of this section. Such permits shall normally be issued for a period of five years and said fee shall entitle the permittee to the review of two draft permits and the review and issuance of one final permit and one permit revision during the stated term of each permit. No additional charges shall be made for revisions or draft permit revisions initiated by the department. The cost for routine permit administration, including annual permit inspections, are covered under other provisions in this section. The director is hereby authorized to establish the permit drafting fee as part of the county's annual budget process.

2. Those permittees authorized to discharge heavy metals and/or those permittees authorized to discharge oil and grease shall pay a compliance monitoring and administrative fee. Such fee shall be a unit charge calculated in accordance with the procedures hereafter set forth herein and in accordance with the following:

HEAVY METAL AND OIL & GREASE
MONTHLY COMPLIANCE MONITORING AND ADMINISTRATIVE FEES

The heavy metal and oil & grease monthly compliance monitoring and administrative charges for each company shall be computed using the following formulas:

$$\text{Heavy metals monthly charge} = \frac{[Q_t - Q_s]\,[{}_pCost_{HM}]}{12}$$

$$\text{Oil \& Grease monthly charge} = \frac{[Q_t - Q_s]\,[Cost_{OG}]}{12}$$

Where:

Q_t = measured sewage flow; 100 cubic feet/year;
Q_s = computed sanitary flow; 100 cubic feet/year;
$Cost_{HM}$ = unit cost for administering and monitoring for heavy metals of permitted companies;
$Cost_{OG}$ = unit cost for administering and monitoring for oil & grease of permitted companies;

Further:

$Q_t - Q_s$ = industrial wastewater discharged; 100 cubic feet/yr

Where: $\frac{Q_{ve}\ E\ O}{748}$

Q_{ve} = sanitary volume exclusion per employee per day; gallons/day;
E = average daily number of employees;
O = average number of annual operating days;
748 = factor for converting gallons to 100 cubic feet;

Further:

$$Cost_x = \frac{AM_x}{{}^{T}IF_x}$$

Where:

$Cost_x$ = unit cost for administering and monitoring heavy metals or oil and grease program;
AM_x = budget allocated to administering heavy metals or oil and grease program;
${}^{T}IF_x$ = total industrial flow discharged by heavy metal permittees or oil and grease permittees; 100 cubic feet/year.

a. The compliance monitoring and administrative fees shall be based upon the county's estimated costs for the total compliance monitoring program for the heavy metals and oil and grease programs. A review of such costs and their allocation will be conducted annually by the director, and unit charges may be adjusted to reflect the actual monitoring costs. Compliance monitoring and administrative fees shall include, but not be limited to, routine permit administration, program development, laboratory analysis, and recovery of fifty percent of the costs of the key manhole monitoring program and industrial monitoring costs not recovered directly via fees for the post-violation inspection and sampling program.

b. Compliance monitoring and administrative charges shall be based upon the average monthly volume of discharge by each industrial/commercial permittee served directly or indirectly by the metropolitan sewerage system. The average monthly discharge volume will be based on water consumption figures of each industrial/commercial permittee for the previous four quarters of the year. Each participant local agency shall provide the department each quarter with a listing of the water consumption of each industrial/commercial permittee served by said participant local agency and the department. Where actual sewage flow is metered, the metered flow shall be reported in lieu of water consumption.

c. The director shall not impose the compliance monitoring and administrative fee where the compliance monitoring payments do not exceed the department's estimated costs for monitoring and processing an individual account. The department reserves the right to thereafter reimpose the compliance monitoring and administrative fee for heavy metals and/or oil and grease whenever the director determines that said payments will exceed administrative costs.

d. The department will assign the responsibility for billing and collecting the compliance monitoring and administrative fees to each of its participant local agencies for those companies within the agencies' jurisdiction. The permit fee will be billed directly to the permittee.

3. The department shall have the right to impose an administrative fee to recover the cost of drafting minor discharge authorizations and general permits as provided under other provisions of this section.

4. Users discharging waste with a strength greater than domestic waste shall pay a high strength surcharge in addition to the basic fee. The surcharge for high strength industrial wastes shall be based on treatment or removal costs of those constituents whose concentration exceeds that contained in domestic wastes and which contribute to the costs of operation and maintenance of the metropolitan sewerage system. The constituents presently in this category are biochemical oxygen demand (BOD) and suspended solids.

a. The surcharge shall be the unit cost of treating BOD5 or suspended solids times the strength in excess of domestic strength. The unit costs for BOD5 and suspended solids are computed from the

actual costs of operating and maintaining the metropolitan sewerage system by allocating costs to flow, BOD5 and suspended solids and dividing the allocated costs by the total amounts of flow, BOD5 and suspended solids treated in the metropolitan sewerage system.

b. The fees shall be determined according to the following surcharge formula:
The computation of the high-strength surcharge is described by the following formula:

$$Surcharge = Q_t \; [(BOD_M - BOD_d)UC_{BOD} + (SS_M - SS_d)UC_{SS}]$$

Where:

Surcharge	=	Monthly surcharge payment; $/month
Q_t	=	Average month sewage flow; 100 cubic feet/month
BOD_M	=	Measured BOD waste strength for industry; mg/l
BOD_d	=	Defined BOD strength for domestic waste; mg/l
SS_M	=	Measured SS waste strength for industry; mg/l
SS_d	=	Defined SS strength for domestic waste; mg/l
UC_{BOD}	=	Unit cost of treating BOD; $/mg/l/100 cubic feet
UC_{SS}	=	Unit cost of treating SS; $/mg/l/100 cubic feet

And;

$$UC_x = \left[\frac{OM_x}{TW_x} + \frac{PC}{SW_x} \right] (8.34\ lb/gal)(7.48/ft^3)(100ft^3)(10^{-6})$$

UC_x = Unit cost for BOD or suspended solids
OM_x = Allocated operation and maintenance costs to BOD or suspended solids;
PC = Costs of administering and sampling for the surcharge program;
TW_x = Total BOD or suspended solids handled by the county sewerage system; lb/year
SW_x = Surchargeable BOD or suspended solids handled by the county sewerage system; lb/year

Surchargeable BOD and suspended solids is the amount that exceeds the established domestic waste strength.

c. The concentration of domestic wastes shall be defined as 300 milligrams per liter of BOD and 400 milligrams per liter of suspended solids.

d. Treatment costs will be based on system-wide maintenance and operation costs allocated to the appropriate waste parameters. The director shall conduct an annual review of treatment costs and adjust charges to reflect actual operation and maintenance costs.

e. The surcharge shall be based upon the average annual strength and volume of discharge by the industrial user. Industrial users shall have the right to challenge the values the director develops by submitting a series of analyses from a state certified laboratory documenting the substitute values proposed by the industrial user. Satisfactory sampling techniques in such instances shall be subject to approval by the director.

f. The director shall establish the average annual waste strength for each industrial user either by direct measurement or by classification. Those users discharging in excess of 600 pounds per day of BOD and suspended solids will be monitored directly at a frequency of not less than twice per year. Those users discharging less than said quantities will be classified by user group and assigned a waste strength based upon measured values for representative industrial users within each group. Industrial users who can demonstrate a significant difference in waste generating operations from that of their assigned class leader shall have the right to challenge their assigned classification by submitting a series of analyses from a competent laboratory documenting the substitute values proposed by the industrial user. Satisfactory sampling techniques in such instances shall be subject to approval by the director.

g. There shall be a domestic type classification established originating from domestic type activities. All industrial users in the domestic type classification shall be assigned a waste strength equal to the domestic equivalent.

h. The average annual discharge volume will be based upon water consumption figures utilized by the industrial user for the previous four quarters. Each participant local agency shall provide the county each quarter with a listing of the water consumption of each surcharged user. Where actual sewage flow is metered, the metered flow shall be reported in lieu of water consumption.

i. Those industrial users whose high strength waste surcharge payments fall below the administrative costs for an individual account will be excluded from the program.

j. The county will assign the responsibility for billing and collecting the high strength waste surcharge to each of its participant local agencies for those industrial users within the agencies' jurisdiction.

The county will review the local agencies' billing procedures annually to ensure that the agencies' user charge is being applied equitably and in accordance with federal regulations.

5. Any industrial user that believes the compliance monitoring and administrative fee or permit fee imposed on it by the director may be in error may appeal the action by following the appeal process outlined in this section.

6. Any industrial user for whom the director implements a post-violation inspection and sampling program under this section shall be responsible for costs therefor incurred by the county, including without limitation expert, legal, and administrative costs. Such costs shall be in addition to the other fees, penalties and costs for damages set forth in this section. Any industrial user subject to post-violation inspection and sampling shall be billed directly for the county's costs. The costs recovered by the county shall include all labor, supplies, and special costs incurred for the inspection and monitoring effort. A review of such costs and their allocation will be conducted annually by the director, and unit charges may be adjusted by the director to reflect the actual sampling and inspection costs.

N. The following provisions shall govern violations of discharge requirements:

1. The criteria constituting violations shall be as follows:

a. A discharge violation will be considered to have occurred if the limitations established in or pursuant to this section, federal or state pretreatment standards, specific requirements of an industrial waste discharge permit, written discharge authorization or any other pretreatment standards are exceeded, regardless of intent or accident.

b. A mass violation will be considered to have occurred if mass related limitations for specific pollutants have been exceeded. Mass related limitations will be based on daily average limits. A violation will be determined utilizing the formula: (8.34) x (millions of gallons discharged per day) x (concentration of pollutant in mg/L). The concentration used for the pollutant will be the arithmetic mean of those concentrations for samples collected during the period monitored over the operating day or the concentration of a flow proportioned composite during that period. The volume will be determined by either a water meter or sewer meter serving the monitored process and read immediately prior to and after sampling.

c. A violation will be considered to have occurred if special reporting requirements established by permit, provided for in this section, included in written documents from the director, or specified by general federal pretreatment standards (40 CFR 403.12 as amended), are not complied with.

d. A violation will be considered to have occurred if special conditions or requirements established by this section, waste discharge permit, general permit, minor discharge authorization or letter of special discharge authorization are not complied with.

e. Each discrete discharge that constitutes a violation under this section shall constitute a separate violation, or if such discharge is continuous, then each hour of said discharge shall constitute a separate violation, provided the director shall have the discretion to combine such discrete or continuous discharges and limit the number of violations for purposes of assessing penalties, if the violations are minor and do not pose significant risks to public health and safety or treatment processes and facilities, and the industrial user demonstrates to the reasonable satisfaction of the director that it is using its best efforts and the most current technology to avoid such discrete or continuous discharges.

2. Pursuant to the requirements of 40 CFR 403.8, the director will cause to be published in the daily newspaper with the largest daily circulation in the county, at a minimum once every twelve months, a list of those industrial users which since the last previous publication were determined to be in significant noncompliance of the limitations established by this section and applicable pretreatment standards or other requirements pursuant to this section. This notification will summarize enforcement actions taken by county during the same period covered by the publication.

3. The following criteria shall be used to determine a discharge violation for companies with permits issued prior to November 26, 1990, for the duration of the permit:

a. The arithmetic mean of concentrations for eight consecutive samples collected over intervals of 15 minutes or greater is in excess of the limitation for maximum daily allowable concentration;

b. The concentration of any single sample (whether grab or a sample within a series) - exclusive of any fats, oils, and grease - exceeds the limitation for maximum daily allowable concentration by a factor of four; and

c. The arithmetic mean of the antilog of the negative pH values of at least eight consecutive samples taken at intervals of 15 minutes or greater is less than an equivalent pH value of 5.5, or the pH of any single sample is less than 5.0.

O. The following provisions shall govern penalties and enforcement of the requirements of this section:

1. Any person failing to comply with or violating any of the provisions of this section shall, for each such failure or violation or for each day that such failure or violation occurred or continues to occur, be required to correct such violation and shall be subject to enforcement action(s) to be determined by the director. Depending upon the severity of the situation, the director may require the immediate cease of discharge and disposal of the industrial waste in some manner other than into the public sewer, private sewer or side sewer tributary to the metropolitan sewerage system, at the expense of the person responsible for the failure or violation.

2. The director shall develop and implement an enforcement response plan that contains guidelines indicating how the county will investigate and respond to instances of industrial user noncompliance. At a minimum the plan shall: describe how the county will investigate violations; describe escalating enforcement remedies and the time periods in which they will take place, including Notice of Violation, Compliance Order, Final Notice, Monetary Penalties, Post-Violation Inspections and Sampling, Cease Discharge Notice, Emergency Suspension, Termination of Discharge and Supplemental Environmental Projects; identify by title the official(s) responsible for implementing each enforcement response; and reflect the county's responsibility to enforce all applicable pretreatment requirements and standards. In determining the type of enforcement action and the amount of penalties to be levied, the enforcement response plan shall consider the type and concentration of the pollutant causing the violation, the analytical variability for that pollutant, the volumes discharged, the damages caused by or related to the discharges, the history of past violation by the same person, the assessment of any prior penalties for similar violations and the number of violations as determined pursuant to other provisions of this section.

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a. Upon determination that a violation has taken or is taking place, a representative of the county shall make a reasonable effort to notify the violating party immediately. The first notification may be verbal if followed by written notification. Such written notification shall be entitled "Notice of Violation" and shall specify the nature and source of the violation. Such written notice may be delivered to the business premises of an industrial user or submitted by regular mail to the permit holders' address, as given to the county. Following these notification procedures, applicable follow-up correspondence will be used to establish penalties and/or corrective action to be taken by the violator. Within fourteen calendar days of receiving a Notice of Violation, the violator shall submit a report to the director describing the circumstances surrounding the violating condition. In the case of a discharge violation, the violator shall also collect an effluent sample and submit resultant data to the director in addition to the report. Submission of this report shall in no way relieve the user of liability for any violations occurring before or after receipt of the Notice of Violation.

b. Upon determination that a violation has taken or is taking place, the director may issue a compliance order to the violating party responsible for the discharge, directing that the user come into compliance within a time specified in a schedule. Compliance orders may also contain other requirements to address the noncompliance, including but not limited to additional self-monitoring and management practices, evaluations of control measures or pretreatment equipment, and installation of pretreatment equipment designed to minimize the amount of pollutants discharged to the sewer. A compliance order may

not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

c. Upon determination that a violation has taken or is taking place, the director may issue a final notice to the violating party. Final notice places the user on notice that further violations, or failing to complete a requirement within a designated period of time, shall result in assessment of monetary penalties. Issuance of final notice shall not be a prerequisite to taking any other action, including assessment of monetary penalties, against the user.

d. For each failure or violation hereunder, the person responsible shall be liable for a maximum civil penalty of Ten Thousand Dollars per violation per day, but not less than One Hundred Dollars per violation, per day. Issuance of a monetary penalty shall not be a prerequisite for taking any other action against the user. In addition to monetary penalties, the director may recover expenses incurred by the county associated with enforcement activities, including, but not limited to: (1) any additional treatment costs; (2) additional operational costs; (3) costs incurred by the county from tracking down violators; (4) any penalties, fines, or other costs levied against the county for violation of state and federal permits resulting from said non-compliant discharges; and (5) any other costs, including expert, legal, or administrative costs or the withholding of any grant money, incurred by the county or the local public agency, to the extent permitted by law, where such public agency has entered into an agreement with the county for reimbursement of the county's costs. In addition to any monetary penalty which reflects the gravity of the violation, a calculated amount based on the industrial user's economic benefit of noncompliance may be recovered by the director.

e. Upon determination that a violation has taken place, the director may require post-violation inspections and sampling of an industrial user as defined in K.C.C. 28.82.370. Costs for post-violation inspection and monitoring, as set forth in this section, shall be in addition to other fees, penalties and costs for damages set forth in this section.

f. Upon determination that a violation has taken or is taking place, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) immediately comply with all requirements; and

(2) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease discharge notice shall not be a prerequisite for taking any other action against the user.

g. The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the metropolitan sewerage system, including, but not limited to, maintaining compliance with the county's NPDES permit and biosolids quality requirements, or which presents or may present a danger to the environment.

h. In addition to other provisions of this section, any user that violates the following conditions is subject to discharge termination: violation of waste discharge permit or written discharge authorization conditions; failure to accurately report wastewater constituents and characteristics of discharge; failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge; refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling, as provided in this section; and violation of the limitations established in this section.

i. The penalties and enforcement provisions in this section are not exclusive remedies. The director is authorized to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the enforcement response plan.

However, the director may take other action against any user when the circumstances warrant. Further, the director is authorized to take more than one enforcement action against any noncompliant user. Enforcement actions may be taken concurrently.

j. Where criminal enforcement action is considered in a particular case, that case may be referred to state or federal authorities.

3. Any person causing structural damage to a public sewer or treatment facility or causing resource damage to receiving water quality or biosolids by discharges not in compliance with this section and the requirements of any permit or written discharge authorization, shall be liable for any such damage in addition to monetary penalties.

4. In accordance with the provisions of this section, where the enforcement remedy is the assessment of a substantial monetary penalty, where in certain instances projects or activities remediating adverse public health conditions or environmental consequences of the violations may be included in the enforcement action, and where the size of the final assessed penalty may reflect the commitment of the user to undertake environmentally beneficial expenditures, the director may approve a supplemental environmental project other than those required to correct the underlying violation to be undertaken by the user in exchange for a reduction in the amount of the assessed monetary penalty. All supplemental projects must improve the injured environment or reduce the total risk burden posed to public health or the environment by the identified violation. Any supplemental environmental project must be shown to be of equal monetary value to the amount of reduction in the assessed monetary penalty. The director shall establish rules by which consideration and acceptance of a supplemental environmental project are determined. Such rules shall be based upon categories of potential supplemental environmental projects including but not limited to: pollution prevention projects; pollution reduction projects; environmental restoration projects; environmental auditing projects; and environmental public awareness projects. The rules shall also provide for public involvement in the acceptance of any project and in establishing the benefit of any project to the performance of the metropolitan water pollution abatement function by the county. Categories of potential supplemental environmental projects (except for public awareness projects) may be considered if there is an appropriate relationship or "nexus" between the nature of the violation and the environmental benefits to be derived from the type of supplemental project. A supplemental environmental project cannot be used to resolve violations at a facility other than the facility or facilities that are the subject of the enforcement action. Under no circumstances will a user be given additional time to correct the violation and return to compliance in exchange for the conduct of a supplemental environmental project.

5. The county does not allow for the affirmative defense of an enforcement action brought for noncompliance with applicable pretreatment standards based on conditions of "upset" or "bypass." For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with discharge standards because of factors beyond the reasonable control of the user. For the purpose of this section, "bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility. The diversion or bypass of any discharge from any pretreatment facility utilized to maintain compliance with applicable pretreatment standards is prohibited except where unavoidable to prevent loss of life or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

P. The director is authorized and directed to promulgate such rules, regulations and guidelines as the director deems necessary to carry out the purposes or provisions of this section, to ensure the department's compliance with the requirements of any federal or state law or administrative regulation relating to water pollution and any changes or amendments thereto, and to ensure the department performs the metropolitan water pollution abatement function under chapter 35.58 RCW. Nothing herein shall prevent

the director from seeking judicial or governmental agency assistance to implement the policies and requirements of this section. The rule-making process followed by the director shall provide for public participation. Prior to the adoption of any rule, the director shall notify users and the general public of the proposed rule. Notification will include but need not be limited to: news letters; public hearings; or legal notices published in area newspapers.

Q. The director is authorized to delegate responsibility to participant local agencies where the participant agency has requested such delegation and where the director has approved its plans and procedures for implementation of the delegated responsibility. (Ord. 11963 § 12, 1995: Ord. 11034 § 6, 1993).

28.84.080 Financial feasibility guideline for extension to the metropolitan sewage system. Financial feasibility guideline for extension to the metropolitan sewage system. The allowable county expenditure for extensions to the metropolitan system shall be based on the capital cost that can be amortized by the customer charges paid to the county for sewer service by the residential customers and residential customer equivalents in the drainage basin to be served by the proposed extension. Only the portion of said charges attributable to the debt service and capital costs of the metropolitan system shall be used in the calculation of the capital cost that can be amortized. (Ord. 12963, 1998).

28.84.090 Interlocal agreements for biosolids management and pursuit of formation of a Regional Biosolids Authority.

A. The executive is hereby authorized to execute and the director to administer interlocal agreements with local, county, state, and federal agencies to allow access to sites for biosolids beneficial-use coordinated by the department; provided, that such agreements shall be approved by the council as required by the King County Charter, King County Code and/or applicable state law.

B. The director is hereby authorized to consult with other jurisdictions on the feasibility and desirability of a regional biosolids authority. (Ord. 11034 § 8, 1993).

28.84.100 Appeal procedure. The following provisions shall govern appeals from decisions of the director related to permits, discharge authorizations, violations and penalties under K.C.C. 28.84.050 and 28.84.060.

A. Any person allegedly aggrieved by any such decision of the director shall, prior to filing any appeal with the King County hearing examiner, request that the director reconsider such decision. Such request must be made within fifteen calendar days of the date of such decision. The director shall promptly issue a final decision which shall be appealable only as provided herein.

B. Within fifteen calendar days of the date of issuance of the director's final decision, the person allegedly aggrieved may file a written appeal statement with the King County hearing examiner. The appeal shall state the decision being appealed and the grounds for appeal.

C. The examiner shall hear such appeal, determine whether the decision of the director was consistent with the provisions of K.C.C. 28.84.050 or 28.84.060, as applicable, of this chapter and rules and regulations promulgated by the director, and promptly issue a final decision under the provisions of K.C.C. 20.24.080.

D. Appeals of the examiner's final decision shall be to the Superior Court of King County or the State Pollution Control Hearings Board, as provided by law. (Ord. 11963 § 13, 1995: Ord. 11416, 1994: Ord. 11034 § 9, 1993).

28.84.110 Effective date. The effective date of this chapter shall be January 1, 1994. (Ord. 11034 § 10, 1993).

28.84.300 Severability. If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances. (Ord. 11034 § 11, 1993).

IV. WASTEWATER TREATMENT

Chapter 28.86
WASTEWATER TREATMENT

Sections:

28.86.010 Definitions.
28.86.020 Comprehensive water pollution abatement plan – readoption and ratification.
28.86.030 Regional wastewater services plan as supplement to comprehensive water pollution abatement plan.
28.86.040 Regional wastewater services plan policies and explanatory material, financial policies for comprehensive water pollution abatement plan—application.
28.86.050 Treatment plant policies (TPP).
28.86.060 Conveyance policies (CP).
28.86.070 I/I policies (I/IP).
28.86.080 Combined sewer overflow control policies (CSOCP).

28.86.090 Biosolids policies (BP).
28.86.100 Water reuse policies (WRP).
28.86.110 Wastewater services policies (WWSP).
28.86.120 Water quality protection policies (WQPP).
28.86.130 Wastewater planning policies (WWPP).
28.86.140 Environmental mitigation policies (EMP).
28.86.150 Public involvement policies (PIP).
28.86.160 Financial policies (FP).
28.86.165 Reporting policies.
28.86.170 Capital improvement program.
28.86.180 Implementation.
28.86.200 Productivity initiative for the wastewater program.

(King County 3-2006)

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28.86.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Biosolids" means a primarily organic product produced by wastewater treatment processes that can be beneficially recycled. The product may contain water, sand, organic matter, microorganisms, trace metals and other chemicals.

B. "Capacity" and "rated capacity" mean the average wet weather flows that the treatment plant or conveyance system is designed to handle. Average wet weather flows are wastewater flows that occur during wet months but not during storms.

C. "Capacity charge" means a charge levied on a new customer to recover capital costs needed to serve new customers.

D. "Community treatment system" means a treatment device or drainfield, or both, that is shared by two or more property owners.

E. "Component agencies" means the cities, towns, counties and sewer districts that retail wastewater treatment services, that dispose of any portions of their sanitary sewage into the wastewater system and that have entered into a contract with the county for providing for wastewater treatment.

F. “Comprehensive Water Pollution Abatement Plan” means a plan developed pursuant to RCW 35.58.200.

G. “CSO” means a combined sewer overflow, which is an overflow from a combined sewer that is designed to collect both sanitary sewage and stormwater runoff. The overflows occur during storms when flows in the system exceed the capacity of the wastewater collection system.

H. “ESA” means the federal Endangered Species Act.

I. “Existing customer” means a customer who connects, reconnects, or establishes a new service on sewers tributary to the county's metropolitan sewerage service before January 1, 2003.

J. “I/I” means inflow/infiltration, which is the total quantity of water from both inflow and infiltration without distinguishing the source.

K. “Indirect potable use” means discharging reclaimed water to surface or groundwater and withdrawing water for treatment prior to use as a drinking water source from another location in the same watershed.

L. “Infiltration” means the water entering a wastewater system, including sewer service connections, from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

M. “Inflow” means the water discharged into a wastewater system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters or drainage. “Inflow” does not include, and is distinguished from, infiltration.

N. “Mgd” means million gallons per day, a measure of wastewater treatment capacity,

O. “New customer” means a customer who connects, reconnects, or establishes a new service on sewers tributary to the county's metropolitan sewage system on or after January 1, 2003. This includes:

1. New connections to the existing collection system, including:
   a. flows from new single family and multiple unit residential connections; and
   b. new commercial or industrial connections;
2. Expansions in activity from existing connections, including:
   a. conversion of residential units (single or multiple) to include additional customers or equivalents, or both; and
   b. expansions in commercial or industrial activity;
3. Septic to sewer conversions; and
4. I/I flows from the new connections and newly constructed conveyance systems.

P. “Nonpotable use” means using reclaimed water for nondrinking water applications that may include but are not limited to irrigation, industrial processing, agricultural uses and stream augmentation.

Q. “Reclaimed water” means wastewater that is treated to a sufficiently high level that it can be safely used for intended purposes.

R. “Residential customer equivalent” means the factor in cubic feet of water used to describe the discharge from a single-family residence. Commercial and industrial customers are converted to residential customer equivalents based on the volume of water consumption.

S. “RWQC” means the regional water quality committee, which is a regional committee as defined by Section 270 of the King County Charter, with powers and duties to “develop, review and recommend ordinances and motions adopting, repealing, or amending county-wide policies and plans relating to the subject matter area for which a regional committee has been established.”

T. “RWSP” means the regional wastewater services plan.

U. "Sewer rate" means the amount in dollars, charged to a residential customer equivalent each month for use of the wastewater system.

V. “Shall” and “will” in a policy mean that it is mandatory to carry out the policy. “Should” in a policy provides noncompulsory guidance and establishes some discretion in making decisions. “May” in a policy

means that it is in the interest of the county or other named entity to carry out the policy but there is total discretion in making decisions.

W. "Wastewater revenues" means revenues from the monthly sewer rate, capacity charge, grants and other revenues, such as interest income and charges for services, available for the wastewater system.

X. "Wastewater system" means all the county's water pollution abatement facilities, together with all lands, property rights, equipment and accessories necessary for those facilities, and any other infrastructure, and all operations and programs provided by the county under chapter 35.58 RCW, including but not limited to: 1. conveyance of influent from component agencies; 2. treatment of sewage; 3. disposal of treated effluent; 4. production and recycling of biosolids; 5. regulation of I/I; 6. control of combined sewer overflows; and 7. production of reclaimed water.

Y. "Water reuse" means using reclaimed water. (Ord. 14219 § 2, 2001: Ord. 13680 § 1, 1999).

28.86.020 Comprehensive water pollution abatement plan – readoption and ratification. Resolution No. 23 and all subsequent resolutions that amended and implemented the comprehensive water pollution abatement plan, duly enacted by the council of the Municipality of Metropolitan Seattle (Metro) and not expressly repealed by that body effective not later than midnight, December 31, 1993, and that are not inconsistent with the King County Charter or county ordinances, are hereby readopted and ratified as the comprehensive water pollution abatement plan for King County. (Ord. 13680 § 2, 1999).

28.86.030 Regional wastewater services plan as supplement to comprehensive water pollution abatement plan. Under the provisions of the King County Charter and RCW 35.58.200, the RWSP, set forth in K.C.C. 28.86.010 and 28.86.040 through 28.86.150, is hereby adopted as a supplement to the comprehensive water pollution abatement plan for King County. The RWSP provides policy guidance for the wastewater system through the year 2030. (Ord. 13680 § 3, 1999).

28.86.040 Regional wastewater services plan policies and explanatory material, financial policies for comprehensive water pollution abatement plan - application.

A. The RWSP policies, as set forth in this chapter, shall provide direction for the operation and further development of the wastewater system, its capital improvement program and, as necessary, the development of subsequent policies.

B. The RWSP explanatory material, as set forth in this chapter, provides background information and generally describes the objectives of the RWSP policies.

C. Financial policies for the comprehensive water pollution abatement plan and its supplement, the RWSP, are separately adopted in K.C.C. 28.86.160. (Ord. 13680 § 4, 1999).

28.86.050 Treatment plant policies (TPP).

A. Explanatory material. The treatment plant policies are intended to guide the county in providing treatment at its existing plants and in expanding treatment capacity through the year 2030. The policies direct that secondary treatment will be provided to all base sanitary flows. The county will investigate possible tertiary treatment with a freshwater outfall to facilitate water reuse. The policies also direct how the county will provide the expanded treatment capacity necessary to handle the projected increases in wastewater flows resulting from population and employment growth. The policies provide for the construction of a new treatment plant (the Brightwater treatment plant) to handle flows in a new north service area, expansion of the south treatment plant to handle additional south and east King County flows and the reservation of capacity at the west treatment plant to handle Seattle flows and CSOs. The potential for expansion at the west and south treatment plants will be retained for unanticipated circumstances such as changes in regulations. The policies address goals for odor control at treatment plants and direct that water reuse is to continue and potentially expand at treatment plants.

B. Policies.

TPP-1: King County shall provide secondary treatment to all base sanitary flow delivered to its treatment plants. Treatment beyond the secondary level may be provided to meet water quality standards and achieve other goals such as furthering the water reuse program or benefiting species listed under the ESA.

TPP-2: King County shall provide additional wastewater treatment capacity to serve growing wastewater needs by constructing the [Brightwater]***** treatment plant [at the Route 9 site north of the city of Woodinville]***** and then expanding the treatment capacity at the south treatment plant. The west treatment plant shall be maintained at its rated capacity of one hundred thirty-three mgd. The south treatment plant capacity shall be limited to that needed to serve the eastside and south King County, except for flows from the North Creek Diversion project and the planned six-million-gallon storage tank, or minor rerating to facilitate south or east county growth. The potential for expansion at the west treatment plant and south treatment plant should be retained for unexpected circumstances which shall include, but not be limited to, higher than anticipated population growth, new facilities to implement the CSO reduction program or new regulatory requirements.

TPP-3: Any changes in facilities of the west treatment plant shall comply with the terms of the West Point settlement agreement.

TPP-4: King County's goal is to prevent and control nuisance odor occurrences at all treatment plants and associated conveyance facilities and will carry out an odor prevention program that goes beyond traditional odor control. To achieve these goals, the following policies shall be implemented:

1. Existing treatment facilities shall be retrofit in a phased manner up to the High/Existing Plant Retrofit odor prevention level as defined in Table 1 of Attachment A to Ordinance 14712******, the odor prevention policy recommendations dated March 18, 2003. This level reflects what is currently defined as the best in the country for retrofit treatment facilities of a similar size. Odor prevention systems will be employed as required to meet the goal of preventing and controlling nuisance odor occurrences;

2. Existing conveyance facilities that pose nuisance odor problems shall be retrofitted with odor prevention systems as soon as such odors occur, subject to technical and financial feasibility. All other existing conveyance facilities shall be retrofitted with odor control systems during the next facility upgrade;

3. The executive shall phase odor prevention systems implementing the tasks that generate the greatest improvements first, balancing benefit gained with cost, and report to the council on the status of the odor prevention program in the annual RWSP report as outlined in K.C.C. 28.86.165;

4. New regional treatment facilities shall be constructed with odor control systems that are designed to meet the High/New Plant odor prevention level as defined in Table 1 of Attachment A to Ordinance 14712******, the odor prevention policy recommendations dated March 18, 2003. This level reflects what is currently defined as the best in the country for new treatment facilities of a similar size;

***Reviser's note: This language was added in Ordinance 15602 but not underlined in accordance with K.C.C. 1.24.075.**

****Available in the office of the clerk of the council.**

5. New conveyance facilities serving these new regional treatment facilities shall also be constructed with odor control systems as an integral part of their design;

6. Design standards will be developed and maintained for odor control systems to meet the county's odor prevention and control goals;

7. A comprehensive odor control and prevention monitoring program for the county's wastewater treatment and conveyance facilities will be developed. This program shall include the use of near facility neighbor surveys and tracking of odor complaints and responses to complaints and shall consider development of an odor prevention benchmarking and audit program with peer utilities; and

8. New odor prevention and measurement technologies will be assessed and methods for pilot testing new technologies identified when determined by the executive to be necessary and appropriate for achieving the goals of this policy.

TPP-5: King County shall undertake studies to determine whether it is economically and environmentally feasible to discharge reclaimed water to systems such as the Lake Washington and Lake Sammamish watersheds including the Ballard Locks.

TPP-6: The county shall evaluate opportunities in collaboration with adjacent utilities regarding the transfer of flows between the county's treatment facilities and treatment facilities owned and operated by other wastewater utilities in the region. The evaluation shall include, but not be limited to, cost environmental and community impacts, liability, engineering feasibility, flexibility, impacts to contractual and regulatory obligations and consistency with the level of service provided at the county owned and operated facilities.

TPP-7: King County may explore the possibility of constructing one or more satellite treatment plants in order to produce reclaimed water. The county may build these plants in cooperation with a local community and provide the community with reclaimed water through a regional water supply agency. In order to ensure integrated water resource planning, in the interim period prior to the development of a regional water supply plan, King County shall consult and coordinate with regional water suppliers to ensure that water reuse decisions are consistent with regional water supply plans. To ensure costs and benefits are shared equally throughout the region, all reclaimed water used in the community shall be distributed through a municipal water supply or regional water supply agency consistent with a regional water supply plan.

TPP-8: King County shall continue water reuse and explore opportunities for expanded use at existing plants, and shall explore water reuse opportunities at all new treatment facilities. (Ord. 15602 § 1, 2006: Ord. 15384 § 1, 2006: Ord. 14712 § 2, 2003: Ord. 13680 § 5, 1999).

28.86.060 Conveyance policies (CP).

A. Explanatory material. The conveyance policies are intended to guide how major improvements to the wastewater conveyance system, including building and upgrading the pipes and pump stations needed to convey wastewater to the Brightwater treatment plant and building the outfall pipe from the Brightwater treatment plant, will be accomplished. The policies also include guidance for other major and minor conveyance improvements to accommodate increased flows in other parts of the service area and to prevent improper discharges from the sanitary system.

The policies also direct the executive to develop and recommend policies to implement equitable regional ownership of the conveyance system.

B. Policies.

CP-1: To protect public health and water quality, King County shall plan, design and construct county wastewater facilities to avoid sanitary sewer overflows.

1. The twenty-year peak flow storm shall be used as the design standard for the county's separated wastewater system.

2. Parameters developed by the wastewater treatment division in consultation with the metropolitan water pollution abatement advisory committee shall be used to guide project scheduling and prioritization for separated wastewater system projects.

3. The south treatment plant effluent transfer system shall be designed with a five-year design storm standard. When effluent volumes exceed the five-year design standard and exceed the capacity of the south treatment plant effluent transfer system, secondary treated effluent from the south treatment plant will be discharged to the Green/Duwamish river until the flow subsides such that the flow can be discharged through the south treatment plant effluent transfer system.

CP-2: King County shall construct the necessary wastewater conveyance facilities, including, but not limited to pipelines, pumps and regulators, to convey wastewater from component agencies to the treatment plants for treatment and to convey treated effluent to water bodies for discharge. Conveyance facilities shall be constructed during the planning period of this plan to ensure that all treatment plants can ultimately operate at their rated capacities. No parallel eastside interceptor shall be constructed. No parallel Kenmore Interceptor shall be constructed.

CP-3: King County shall periodically evaluate population and employment growth assumptions and development pattern assumptions used to size conveyance facilities to allow for flexibility to convey future flows that may differ from previous estimates.

CP-4: King County shall apply uniform criteria throughout its service area for the financing, development, ownership, operation, maintenance, repair and replacement of all conveyance facilities. The criteria shall include:

1. County ownership and operation of permanent conveyance facilities that serve natural drainage areas of greater than one thousand acres;

2. Conformance to the county's comprehensive water pollution abatement plan and the Regional Wastewater Service Plan as precondition of county ownership; and

3. A financial feasibility threshold governing limitations of the county's financial contribution to: development of a new interceptor or trunk sewer; or acquisition of an interceptor or trunk sewer constructed by a local agency. The threshold, as specified in K.C.C. 28.84.080, shall consider the capital costs that can be supported by the existing customers in the natural drainage area that would be served by the new facility.

CP-5: King County shall closely integrate water reuse planning and I/I study results with planning for wastewater conveyance and treatment facilities. King County shall consider water conservation and demand management assumptions developed by local utilities for wastewater facility planning. (Ord. 15602 § 2, 2006: Ord. 13680 § 6, 1999).

28.86.070 I/I policies (I/IP).

A. Explanatory material. The I/I policies are intended to guide the county in working cooperatively with component agencies to reduce the amount of I/I that flows into component agencies' local collection systems, thereby reducing the impact of I/I on the regional system's capacity. This cooperative process will assess levels of I/I in local conveyance systems and construct pilot projects and will evaluate the cost-effectiveness and environmental costs and benefits of local collection system rehabilitation. The executive will develop and recommend long-term measures to reduce existing and future levels of I/I into local collection systems. Incentives for component agencies to meet the adopted target for I/I reduction may include a surcharge.

B. Policies.

I/IP-1: King County is committed to controlling I/I within its regional conveyance system and shall rehabilitate portions of its regional conveyance system to reduce I/I whenever the cost of rehabilitation is

less than the costs of conveying and treating that flow or when rehabilitation provides significant environmental benefits to water quantity, water quality, stream flows, wetlands or habitat for species listed under the ESA.

I/IP-2: King County shall work cooperatively with component agencies to reduce I/I in local conveyance systems utilizing and evaluating I/I pilot rehabilitation projects, and developing draft local conveyance systems' design guidelines, procedures and policies, including inspection and enforcement standards. Evaluations of the pilot rehabilitation project sand a regional needs assessment of the conveyance system and assessments of I/I levels in each of the local sewer systems will form the basis for identifying and reporting on the options and the associated cost of removing I/I and preventing future increases. The executive shall submit to the council a report on the options, capital costs and environmental costs and benefits including but not limited to those related to water quality, groundwater inception, stream flows and wetlands, and habitat of species listed under the ESA. No later than December 31, 2005, utilizing the prior assessments and reports the executive shall recommend target levels for I/I reduction in local collection systems and propose long-term measures to meet the targets. These measures shall include, but not be limited to, establishing new local conveyance systems design standards, implementing an enforcement program, developing an incentive based cost sharing program and establishing a surcharge program. The overall goal for peak I/I reduction in the service area should be thirty percent from the peak twenty-year level identified in the report. The county shall pay one hundred percent of the cost of the assessments and pilot projects.

I/IP-3: King County shall consider an I/I surcharge, no later than June 30, 2006, on component agencies that do not meet the adopted target levels for I/I reduction in local collection systems. The I/I surcharge should be specifically designed to ensure the component agencies' compliance with the adopted target levels. King County shall pursue changes to component agency contracts if necessary or implement other strategies in order to levy an I/I surcharge. (Ord. 15602 § 3, 2006: Ord. 13680 § 7, 1999).

28.86.080 Combined sewer overflow control policies (CSOCP).

A. Explanatory material. The CSO control policies are intended to guide the county in controlling CSO discharges. Highest priority for controlling CSO discharges is directed at those that pose the greatest risk to human health, particularly at bathing beaches, and environmental health, particularly those that threaten species listed under ESA. The county will continue to work with federal, state and local jurisdictions on regulations, permits and programs related to CSOs and stormwater. The county will also continue its development of CSO programs and projects based on assessments of water quality and contaminated sediments.

B. Policies.

CSOCP-1: King County shall plan to control CSO discharges and to work with state and federal agencies to develop cost-effective regulations that protect water quality. King County shall meet the requirements of state and federal regulations and agreements.

CSOCP-2: King County shall give the highest priority for control to CSO discharges that have the highest potential to impact human health, bathing beaches and/or species listed under ESA.

CSOCP-3: Where King County is responsible for stormwater as a result of a CSO control project, the county shall participate with the city of Seattle in the municipal stormwater national pollutant discharge elimination system permit application process.

CSOCP-4: Although King County's wastewater collection system is impacted by the intrusion of clean stormwater, conveyance and treatment facilities shall not be designed for the interception, collection and treatment of clean stormwater.

CSOCP-5: King County shall accept stormwater runoff from industrial sources and shall establish a fee to capture the cost of transporting and treating this stormwater. Specific authorization for such discharge is required.

CSOCP-6: King County, in conjunction with the city of Seattle, shall implement stormwater management programs in a cooperative manner that results in a coordinated joint effort and avoids duplicative or conflicting programs.

CSOCP-7: King County shall implement its long-range sediment management strategy to address its portion of responsibility for contaminated sediment locations associated with county CSOs and other facilities and properties. Where applicable, the county shall implement and cost share sediment remediation activities in partnership with other public and private parties, including the county's current agreement with the Lower Duwamish Waterway Group, the Department of Ecology and the Environmental Protection Agency, under the federal Comprehensive Environmental Response, Compensation and Liability Act.

CSOCP-8: King County shall assess CSO control projects, priorities and opportunities using the most current studies available, for each CSO Control Plan Update as required by the Department of Ecology in the NPDES permit renewal process, which is approximately every five to seven years. Before completion of an NPDES required CSO Control Plan Update, the executive shall submit a CSO program review to the council and RWQC. Based on its consideration of the CSO program review, the RWQC may make recommendations for modifying or amending the CSO program to the council.

CSOCP-9: Unless specifically approved by the council, no new projects shall be undertaken by the county until the CSO program review has been presented to the council for its consideration. CSO project approval prior to completion of CSO program review (beyond those authorized in this subsection) may be granted based on, but not limited to, the following: availability of grant funding; opportunities for increased cost-effectiveness through joint projects with other agencies; ensuring compliance with new regulatory requirements; or responding to emergency public health situations. The council shall request advice from the RWQC when considering new CSO projects. King County shall continue implementation of CSO control projects underway as of December 13, 1999, which are the Denny way, Henderson/Martin Luther King, Jr. way/Norfolk, Harbor and Alki CSO treatment plants. (Ord. 15602 § 4, 2006: Ord. 13680 § 8, 1999).

28.86.090 Biosolids policies (BP).

A. Explanatory material. The biosolids policies are intended to guide the county to continue to produce and market class B biosolids. The county will also continue to evaluate alternative technologies so as to produce the highest quality marketable biosolids. This would include technologies that produce class A biosolids.

B. Policies.

BP-1: King County shall strive to achieve beneficial use of wastewater solids. A beneficial use can be any use that proves to be environmentally safe, economically sound and utilizes the advantageous qualities of the material.

BP-2: Biosolids-derived products should be used as a soil amendment in landscaping projects funded by King County.

BP-3: King County shall consider new and innovative technologies for wastewater solids processing, energy recovery, and beneficial uses brought forward by public or private interests. King County shall seek to advance the beneficial use of wastewater solids, effluent, and methane gas through research and demonstration projects.

BP-4: King County shall seek to maximize program reliability and minimize risk by one or more of the following:

1. maintaining reserve capacity to manage approximately one hundred fifty percent of projected volume of biosolids;
2. considering diverse technologies, end products, and beneficial uses; or
3. pursuing contractual protections including interlocal agreements, where appropriate.

BP-5: King County shall produce and use biosolids in accordance with federal, state and local regulations.

BP-6: King County shall strive to produce the highest quality biosolids economically and practically achievable and shall continue efforts to reduce trace metals in biosolids consistent with 40 C.F.R. Part 503 pollutant concentration levels (exceptional quality) for individual metals. The county shall continue to provide class B biosolids and also to explore technologies that may enable the county to generate class A biosolids cost-effectively or because they have better marketability. Future decisions about technology, transportation and distribution shall be based on marketability of biosolids products.

BP-7: When biosolids derived products are distributed outside the wastewater service area, the county shall require that local sponsors using the products secure any permits required by the local government body.

BP-8: King County shall work cooperatively with statewide organizations on biosolids issues.

BP-9: King County shall seek to minimize the noise and odor impact associated with processing, transporting and applying of biosolids, consistent with constraints of economic and environmental considerations and giving due regard to neighboring communities.

BP-10: Where cost-effective, King County shall beneficially use methane produced at the treatment plants for energy and other purposes. (Ord. 13680 § 9, 1999).

28.86.100 Water reuse policies (WRP).

A. Explanatory material. The water reuse policies are intended to guide the county in continuing to develop its program to produce reclaimed water. The county will coordinate its program with regional water supply plans and work with state agencies and local jurisdictions on opportunities for water reuse. The county will implement pilot and demonstration projects. Additional projects shall be implemented subject to economic and financial feasibility assessments, including assessing environmental benefits and costs.

The water reuse policies, as in the treatment plant policies, intend that the county continue producing reclaimed water at its treatment plants. The treatment plant policies also address the potential construction of one or more satellite plants. These small plants would provide reclaimed water, with the solids being transferred to the regional plants for processing.

B. Policies.

WRP-1: King County shall actively pursue the use of reclaimed water while protecting the public health and safety and the environment. The county shall facilitate the development of a water reuse program to help meet the goals of the county to preserve water supplies within the region and to ensure that any reclaimed water reintroduced into the environment will protect the water quality of the receiving water body and the aquatic environment.

WRP-2: By December 2007, the King County executive shall prepare for review by council a reclaimed water feasibility study as part of a regional water supply plan which will include a comprehensive financial business plan including tasks and schedule for the development of a water reuse program and a

process to coordinate with affected tribal and local governments, the state and area citizens. The reclaimed water feasibility study shall be reviewed by the RWQC. At a minimum the feasibility study shall comply with chapter 90.46 RCW and include:

1. Review of new technologies for feasibility and cost effectiveness, that may be applicable for future wastewater planning;
2. Review of revenue sources other than the wastewater rate for distribution of reused water;
3. Detailed review and an update of a regional market analysis for reused water;
4. Review of possible environmental benefits of reused water; and
5. Review of regional benefits of reused water.

WRP-3: Recycling and reusing reclaimed water shall be investigated as a possible future significant new source of water to enhance or maintain fish runs, supply additional water for the region's nonpotable uses, preserve environmental and aesthetic values and defer the need to develop new potable water supply projects.

WRP-4: King County's water reuse program and projects shall be coordinated with the regional water supply plans and regional basin plans, in accordance with state and federal standards. The coordination shall be done with the affected water supply purveyors. Water reuse must be coordinated with water supply/resource purveyors to ensure that resources are developed in a manner complementary with each other to allow the most effective management of resources in the county.

WRP-5: King County shall implement nonpotable projects on a case-by-case basis. To evaluate nonpotable projects, King County shall develop criteria which will include, but are not limited to: capital, operation and maintenance costs; cost recovery; potential and proposed uses; rate and capacity charge impacts; environmental benefits; fisheries habitat maintenance and enhancement potential; community and social benefits and impacts; public education opportunities; risk and liability; demonstration of new technologies; and enhancing economic development. A detailed financial analysis of the overall costs and benefits of a water reuse project shall include cost estimates for the capital and operations associated with a project, the anticipated or existing contracts for purchases of reused water, including agricultural and other potential uses, anticipated costs for potable water when the project becomes operational; and estimates regarding recovery of capital costs from new reused water customers versus costs to be assumed by existing ratepayers and new customers paying the capacity charge. Water reuse projects that require major capital funding shall be reviewed by RWQC and approved by the council.

WRP-6: King County shall work with local water purveyors, including when the local purveyors update their water comprehensive plans, to evaluate the opportunities for water reuse within their local service area.

WRP-7: King County shall develop an active water reuse public education and involvement program to correspond with the development of the water reuse program and be coordinated with other water conservation education programs.

WRP-8: King County shall utilize a forum or multiple forums to provide opportunities for coordination and communication with the Washington state Departments of Health and Ecology, which have the principal state regulatory roles in the planning, design and construction of reuse facilities. The county shall involve other parties on these forums, including but not limited to, the Corps of Engineers, Washington state Department of Fish and Wildlife, National Marine Fisheries Service, United States Fish and Wildlife Service, regional water suppliers, tribal governments, local water and wastewater districts, cities, local health departments, watershed forums and environmental and community groups.

WRP-9: King County shall work, on a case-by-case basis, with the Washington state Departments of Health and Ecology on water reuse projects including, but not limited to, those that are not specifically cited in the 1997 Department of Health and Ecology Water Reclamation and Reuse Standards.

WRP-10: King County shall hold and maintain the exclusive right to any reclaimed water generated by the wastewater treatment plants of King County.

WRP-11: King County's water reuse program projects shall not impair any existing water rights unless compensation or mitigation for such impairment is agreed to by the holder of the affected water rights.

WRP-12: King County shall retain the flexibility to produce and distribute reclaimed water at all treatment plants including retaining options to add additional levels of treatment.

WRP-13: King County shall continue to evaluate potential funding of pilot-scale and water reuse projects, in whole or in part, from the wastewater utility rate base.

WRP-14: King County shall complete an economic and financial feasibility assessment, including environmental benefits, of its water reuse program. The assessment shall include the analysis of marginal costs including stranded costs and benefits to estimate equitable cost splits between participating governmental agencies and utilities. The assessment shall also include a review of existing and planned water and wastewater facilities in an approved plan to ensure that water reuse facilities are justified when any resulting redundant capacity as well as other factors are taken into account.

WRP-15: King County should pursue development of a water reuse program to discharge reclaimed water to reduce freshwater consumption used in the operation of the Ballard Locks when environmental benefits and financial conditions merit this investment and new program. (Ord. 15602 § 5, 2006: Ord. 13680 § 10, 1999).

28.86.110 Wastewater services policies (WWSP).

A. Explanatory material. The wastewater services policies guide the county in both providing wastewater services to its customers and maintaining the wastewater system in a cost-effective, environmentally responsible manner. These policies shall also guide King County's development and operation of community treatment systems.

King County provides wholesale wastewater treatment and disposal service to component agencies. The county's wastewater service area boundary generally coincides with the boundaries of these component agencies, including certain areas in Snohomish county and Pierce county. The county is to provide wastewater services to areas within the respective urban growth boundaries and in rural areas only to protect public health and safety, in conformance with state provisions and local growth management act policies and regulations.

B. Policies.

WWSP-1: King County shall provide wastewater services to fulfill the contractual commitments to its component agency customers in a manner that promotes environmental stewardship, recognizes the value of wastewater in the regional water resource system and reflects a wise use of public funds.

WWSP-2: King County shall continue to foster tribal relations as appropriate to structure processes for joint water quality stewardship.

WWSP-3: King County shall not accept additional wastewater directly from private facilities within the boundaries of a component agency without the prior written consent of such component agency.

WWSP-4: King County's wastewater service area generally has been developed along those boundaries adopted in the original metropolitan Seattle sewerage and drainage survey, substantive portions of which were adopted as the county's comprehensive water pollution abatement plan and amended. King County's wastewater service area consists of the service areas of the component agencies with which a sewage disposal agreement has been established (agreement for sewage disposal, section 2) and the county's service area boundary is the perimeter of these areas. The service area boundary for sewer service provided to Snohomish county and Pierce county shall not exceed each county's urban growth boundary. The service area boundary within King County shall be consistent with countywide planning policy CO-14 and the King County Comprehensive Plan which permit sewer expansion in rural areas and resource lands where needed to address specific health and safety problems. To protect public health and safety, the county may assume in accordance with state procedures, the ownership of existing sewer treatment and conveyance facilities that have been constructed by a sewer district organized under state law.

WWSP-5: Extensions of existing conveyance facilities or construction of new conveyance facilities must be consistent with King County's land use plans and policies, and certified by potentially affected land use jurisdictions as consistent with their adopted land use plans and policies.

WWSP-6: King County shall operate and maintain its facilities to protect public health and the environment, comply with regulations and improve services in a fiscally responsible manner.

WWSP-7: King County shall plan, design and construct wastewater facilities in accordance with standards established by regulatory agencies and manuals of practice for engineering.

WWSP-8: King County shall construct, operate and maintain facilities to prevent raw sewage overflows and to contain overflows in the combined collection system. In the event of a raw sewage overflow, the county shall initiate a rapid and coordinated response including notification of public health agencies, the media, the public and the affected jurisdiction. Preserving public health and water quality shall be the highest priority, to be implemented by immediately initiating repairs or constructing temporary diversion systems that return flow back to the wastewater system.

WWSP-9: To ensure the region's multibillion-dollar investment in wastewater facilities, an asset management program shall be established that provides for appropriate ongoing maintenance and repair of equipment and facilities. The wastewater maintenance budget, staffing levels and priorities shall be developed to reflect the long-term useful life of wastewater facilities as identified by the asset management program

WWSP-10: The asset management program shall establish a wastewater facilities assets management plan, updated annually, establishing replacement of worn, inefficient and/or depreciated capital assets to ensure continued reliability of the wastewater infrastructure.

WWSP-11: King County shall design, construct, operate and maintain its facilities to meet or exceed regulatory requirements for air, water and solids emissions as well as to ensure worker, public and system safety.

WWSP-12: King County shall accept sewage, septage and biosolids from outside its service area provided that it is consistent with the King County Comprehensive Plan or the comprehensive plan of the source jurisdiction, capacity is available and no operating difficulties are created. The county shall establish a rate to recover costs from accepting sewage, septage and biosolids from outside its service area.

WWSP-13: King County shall identify the potential for "liability protection" for component agencies for unexpected costs associated with water quality requirements.

WWSP-14: King County shall continue its long-standing commitment to research and development funding relating to water quality and technologies for the wastewater system.

WWSP-15: King County will consider development and operation of community treatment systems under the following circumstances:

1. The systems are necessary to alleviate existing documented public health hazards or water quality impairment;
2. Connections to public sewers tributary to conventional wastewater treatment facilities are not technically or economically feasible;
3. Installation of on-site septic systems is not technically feasible;
4. Properties to be served by said systems are within the jurisdiction and service area of a local government authority authorized to provide sewer service;
5. The local sewer service provider agrees to own and operate the collection system tributary to the community treatment system;
6. Development of the community systems and provision of sewer service are consistent with all applicable utility and land use plans; and
7. Public sewer extensions shall be in compliance with King County Comprehensive Plan Policy F-313 as in effect on March 11, 1999. (Ord. 13680 § 11, 1999).

28.86.120 Water quality protection policies (WQPP).

A. Explanatory materials. The water quality protection policies are intended to guide King County in identifying and resolving regional water quality issues, protecting public and environmental health and protecting the public's investment in wastewater facilities and water resource management. Research and

analysis are required and will be used to evaluate water quality in county streams and other bodies of water within the service district.

B. Policies.

WQPP-1: King County shall participate in identifying and resolving water quality issues pertaining to public health and ecosystem protection in the region to ensure that the public's investment in wastewater facilities and water resource management programs is protected.

WQPP-2: King County shall evaluate the impacts and benefits of actions that affect the quality of the region's waters and identify measures to meet and maintain water quality standards.

WQPP-3: King County shall forecast future aquatic resource conditions that may affect wastewater treatment decisions and work cooperatively to identify cost-effective alternatives to mitigate water quality problems and enhance regional water quality.

WQPP-4: King County shall participate with its regional partners to identify methods, plans and programs to enhance water quality and water resources in the region.

WQPP-5: The King County executive shall implement a comprehensive water quality monitoring program of streams and water bodies that are or could be impacted by influent, effluent, sanitary system overflows or CSOs. The range of data to be gathered should be based on water pollutants and elements that scientific literature identifies as variables of concern, what is needed to substantiate the benefits of abating combined sewer overflows and what is required by state and federal agencies. The executive shall submit summary reports and comprehensive reviews of this information to the King County council as outlined in K.C.C. 28.86.165.

WQPP-6: King County shall implement and maintain water quality, monitoring, evaluating and reporting programs to support the national pollutant discharge elimination system for wastewater and other permit applications, and ensure permit compliance.

WQPP-7: King County shall actively participate in the development of water quality laws, standards and program development to ensure cost-effective maintenance or enhancement of environmental and public health.

WQPP-8: King County shall assess the risk to human health and the environment from wastewater treatment and conveyance activities, and use this information in evaluating water pollution abatement control options. (Ord. 15384 § 2, 2006: Ord. 13680 § 12, 1999).

28.86.130 Wastewater planning policies (WWPP)

A. Explanatory material. The wastewater planning policies are intended to guide the county in its long-term comprehensive planning for design and construction of facilities that meet the wastewater needs of customers within the service area.

Recognizing that the RWSP is a complex and dynamic comprehensive development guide that will regularly need to be updated, the county will conduct annual reviews of plan implementation and its consistency with policies, and of scientific, economic and technical information as well as periodic comprehensive reviews of the assumptions on which the RWSP is based.

These policies also express the intent of the council to request that the RWQC continue review of the conditions and assumptions that guide the implementation of the RWSP.

B. Policies.

WWPP-1: King County shall plan comprehensively to provide for the design and construction of facilities that meet the wastewater system needs of the service area and shall coordinate with other local jurisdictions to ensure that construction-related disruption to neighborhoods is minimized.

WWPP-2: In planning future wastewater systems, King County shall make a long-term assessment of wastewater system needs.

WWPP-3: In planning for facilities, King County shall work collaboratively with other jurisdictions and look for opportunities to achieve cost savings.

WWPP-4: Facility sizing shall take into account the need to accommodate build-out population.

WWPP-5: RWSP review processes. King County shall monitor the implementation of the RWSP and conduct reviews of the RWSP as outlined in K.C.C. 28.86.165. (Ord. 15384 § 3, 2006: Ord. 13680 § 13, 1999).

28.86.140 Environmental mitigation policies (EMP).

A. Explanatory material. The environmental mitigation policies are intended to guide King County in working with communities to develop mitigation measures for environmental impacts from the construction and operation of wastewater facilities. These policies also ensure that the siting and mitigation processes for wastewater facilities are consistent with the Growth Management Act and the state Environmental Policy Act.

B. Policies.

EMP-1: King County shall work with affected communities to develop mitigation measures for environmental impacts created by the construction, operation, maintenance, expansion or replacement of regional wastewater facilities. These mitigation measures shall:

1. Address the adverse environmental impacts caused by the project;

2. Address the adverse environmental impacts identified in the county's environmental documents; and

3. Be reasonable in terms of cost and magnitude as measured against severity and duration of impact.

EMP-2: Mitigation measures identified through the state Environmental Policy Act process shall be incorporated into design plans and construction contracts to ensure full compliance.

EMP-3: The siting process and mitigation for new facilities shall be consistent with the Growth Management Act and the state Environmental Policy Act, as well as the lawful requirements and conditions established by the jurisdictions governing the permitting process.

EMP-4: King County shall mitigate the long-term and short-term impacts for wastewater facilities in the communities in which they are located. The county's goal will be to construct regional wastewater facilities that enhance the quality of life in the region and in the local community, and are not detrimental to the quality of life in their vicinity.

EMP-5: King County shall enter into a negotiated mitigation agreement with any community that is adversely impacted by the expansion or addition of major regional wastewater conveyance and treatment facilities. Such agreements shall be executed in conjunction with the project permit review. Mitigation shall be designed and implemented in coordination with the local community, and shall be at least ten percent of the costs associated with the new facilities. For the south treatment plant and for the new north treatment plant, a target for mitigation shall be at least ten percent of individual project costs, or a cumulative total of ten million dollars for each plant, whichever is greater, provided that mitigation funded through wastewater revenues is consistent with: chapter 35.58 RCW; Section 230.10.10 of the King County Charter; agreements for sewage disposal entered into between King County and component agencies; and other applicable county ordinance and state law restrictions. (Ord. 13680 § 14, 1999).

28.86.150 Public involvement policies (PIP).

A. Explanatory material. The public involvement policies are intended to guide the county in maintaining public information and education programs and to engage the public and component agencies in planning, designing and operating decisions that affect them.

B. Policies.

PIP-1:King County shall maintain public information/education programs and engage the public and component agencies of local sewer service in the planning, designing and operating decisions affecting them.

PIP-2: King County shall develop public information and education programs to support county wastewater programs and shall lay the groundwork for public understanding of and involvement in specific programs.

PIP-3: King County shall involve public officials and citizens of affected jurisdictions early and actively in the planning and decision-making process for capital projects.

PIP-4: King County shall inform affected residents and businesses in advance of capital construction projects.

PIP-5: King County shall disseminate information and provide education to the general public, private sector and governmental agencies regarding the status, needs and potential future of the region's water resources.

PIP-6: King County shall actively solicit and incorporate public opinions throughout the implementation of its comprehensive plan.

PIP-7: Beginning January 1, 2001, King County shall implement a public awareness and education program regarding the environmental impacts and costs to wastewater rate payers of I/I in the local and regional conveyance systems.

PIP-8: King County shall support regional water supply agencies and water purveyors in their public education campaign on the need and ways to conserve water. King County should promote pilot projects that support homeowner water conservation in coordination with water suppliers and purveyors, emphasizing strategies and technologies that reduce wastewater. (Ord. 13680 § 15, 1999).

28.86.160 Financial policies (FP).

A. Under the provisions of the King County Charter and RCW 35.58.200, these financial policies are hereby adopted and declared to be the principal financial policies of the comprehensive water pollution abatement plan for King County, adopted by the Municipality of Metropolitan Seattle (Metro) in Resolution No. 23, as amended, and the RWSP, a supplement to the plan.

B. Explanatory material.

1. Financial forecast and budget. Policies FP-1 through FP-7* are intended to guide the county in the areas of prudent financial forecasting and budget planning and are included to ensure the financial security and bonding capacity for the wastewater system. This set of policies also addresses the county's legal and contractual commitments regarding the use of sewer revenues to pay for sewer expenses.

2. Debt financing and borrowing. Policies FP-8* through FP-11* are intended to guide the county in financing the wastewater system capital program. These policies direct that capital costs be spread over time to keep rates more stable for ratepayers by the county issuing bonds. A smaller share of annual capital costs will be funded directly from sewer rates and sewer revenues and capacity charges.

3. Collecting revenue. Policies FP-12* through FP-14* are intended to guide King County in establishing annual sewer rates and approving wastewater system capital improvement and operating budgets. Monthly sewer rates, which are the primary source of revenue for the county's regional wastewater system, are to be uniformly assessed on all customers. Customers with new connections to the wastewater system will pay an additional capacity charge. The amount of that charge is set by the council, within the constraints of state law.

4. Community treatment systems. Policy FP-15* is intended to guide the county in the financial management of community treatment systems.

C. Policies.

1. Financial forecast and budget.

FP-1: The county shall maintain for the wastewater system a multiyear financial forecast and cash-flow projection of six years or more, estimating service growth, operating expenses, capital needs, reserves and debt service. The financial forecast shall be submitted by the executive with the annual sewer rate ordinance.

FP-2: If the operations component of the proposed annual wastewater system budget increases by more than the reasonable cost of the addition of new facilities, increased flows, new programs authorized by the council, and inflation, or if revenues decline below the financial forecast estimate, a feasible alternative spending plan shall be presented, at the next quarterly budget report, to the council by the executive identifying steps to reduce cost increases.

FP-3: The executive shall maintain an ongoing program of reviewing business practices and potential cost-effective technologies and strategies for savings and efficiencies; the results shall be reported in the annual budget submittal and in an annual report to the RWQC.

FP-4: New technologies or changes in practice that differ significantly from existing technologies or practices shall be reported to the council and RWQC with projected costs prior to implementation and shall also be summarized in the RWSP annual report.

FP-5: Significant new capital and operational initiatives proposed by the Executive that are not within the scope of the current RWSP nor included in the RWSP, or are required by new state or federal regulations will be reviewed by the RWQC and approved by the council to ensure due diligence review of potential impacts to major capital projects' schedules, including Brightwater, the bond rating or the sewer rate and capacity charge.

FP-6: The county shall maintain for the wastewater system a prudent minimum cash balance for reserves, including but not limited to, cash flow and potential future liabilities. The cash balance shall be approved by the council in the annual sewer rate ordinance.

FP-7: Unless otherwise directed by the council by motion, the King County department of natural resources and parks or its successor agency shall charge a fee that recovers all direct and indirect costs for any services related to the wastewater system provided to other public or private organizations.

FP-8: Water quality improvement activities, programs and projects, in addition to those that are functions of sewage treatment, may be eligible for funding assistance from sewer rate revenues after consideration of criteria and limitations suggested by the metropolitan water pollution abatement advisory committee, and, if deemed eligible, shall be limited to one and one half percent of the annual wastewater system operating budget. An annual report on activities, programs and projects funded will be made to the RWQC. Alternative methods of providing a similar level of funding assistance for water quality improvement activities shall be transmitted to the RWQC and the council within seven months of policy adoption.

***Reviser's note: Ordinance 15602 added new policies FP-3, FP-4 and FP-5, but this reference was not changed.**

FP-9: The calculation of general government overhead to be charged to the wastewater system shall be based on a methodology that provides for the equitable distribution of overhead costs throughout county government. Estimated overhead charges shall be calculated in a fair and consistent manner, utilizing a methodology that best matches the estimated cost of the services provided to the actual overhead charge. The overall allocation formula and any subsequent modifications will be reported to the RWQC.

FP-10: The assets of the wastewater system are pledged to be used for the exclusive benefit of the wastewater system including operating expenses, debt service payments, asset assignment and the capital program associated therewith. The system shall be fully reimbursed for the value associated with any use or transfer of such assets for other county government purposes. The executive shall provide reports to the RWQC pertaining to any significant transfers of assets for other county government purposes in advance of and subsequent to any such transfers.

2. Debt financing and borrowing.

FP-11: The county shall structure bond covenants to ensure a prudent budget standard.

FP-12: King County should structure the term of its borrowings to match the expected useful life of the assets to be funded.

FP-13: The wastewater system's capital program shall be financed predominantly by annual staged issues of long-term general obligation or sewer revenue bonds, provided that:

All available sources of grants are utilized to offset targeted program costs;

Funds available after operations and reserves are provided for shall be used for the capital program; excess funds accumulated in reserves may also be used for capital;

Consideration is given to competing demands for use of the county's overall general obligation debt capacity; and

Consideration is given to the overall level of debt financing that can be sustained over the long term given the size of the future capital programs, potential impacts on credit ratings, and other relevant factors such as intergenerational rate equity and the types of projects appropriately financed with long-term debt.

FP-14: To achieve a better maturity matching of assets and liabilities, thereby reducing interest rate risk, short-term borrowing shall be used to fund a portion of the capital program, provided that:

Outstanding short-term debt comprises no more than fifteen percent of total outstanding revenue bonds and general obligation bonds; and

Appropriate liquidity is available to protect the day-to-day operations of the system.

3. Rates - sewer rates and capacity charge.

FP-15: King County shall charge its customers sewer rates and capacity charges sufficient to cover the costs of constructing and operating its wastewater system. Revenues shall be sufficient to maintain capital assets in sound working condition, providing for maintenance and rehabilitation of facilities so that total system costs are minimized while continuing to provide reliable, high quality service and maintaining high water quality standards.

1. Existing and new sewer customers shall each contribute to the cost of the wastewater system as follows:

a. Existing customers shall pay through the monthly sewer rate for the portion of the existing and expanded conveyance and treatment system that serves existing customers.

b. New customers shall pay costs associated with the portion of the existing wastewater conveyance and treatment system that serves new customers and costs associated with expanding the system to serve new customers. New customers shall pay these costs through a combination of the monthly sewer rate and the capacity charge. Such rates and charges shall be designated to have growth pay for growth.

2. Sewer rate. King County shall maintain a uniform monthly sewer rate expressed as charges per residential customer equivalent for all customers.

a. Sewer rates shall be designed to generate revenue sufficient to cover, at a minimum, all costs of system operation and maintenance and all capital costs incurred to serve existing customers.

b. King County should attempt to adopt a multiyear sewer rate to provide stable costs to sewer customers. If a multiyear rate is established and when permitted upon the retirement by the county of certain outstanding sewer revenue bonds, a rate stabilization reserve account shall be created to ensure that adequate funds are available to sustain the rate through completion of the rate cycle. An annual report on the use of funds from this rate stabilization account shall be provided annually to the RWQC.

c. The executive, in consultation with the RWQC, shall propose for council adoption policies to ensure that adequate debt service coverage and emergency reserves are established and periodically reviewed.

3. Capacity charge. The amount of the capacity charge shall be a uniform charge, shall be approved annually and shall not exceed the cost of capital facilities necessary to serve new customers. The methodology that shall be applied to set the capacity charge is set forth in FP-12.3.a*.

a. The capacity charge shall be based on allocating the total cost of the wastewater system (net of grants and other non rate revenues) to existing and new customers as prescribed in this subsection. The total system cost includes the costs to operate, maintain, and expand the wastewater system over the life of the RWSP. Total estimated revenues from the uniform monthly rate from all customers and capacity charge payments from new customers, together with estimated non rate revenues, shall equal the estimated total system costs. The capacity charge calculation is represented as follows:

$$\text{Capacity Charge} = \frac{\left[\text{Total system costs} - \text{rate revenue from existing customers}\right] - \text{Rate revenue from new customers}}{\text{Number of new customers}}$$

where:

(1) total system costs (net of grants and other non rate revenues) minus rate revenue from existing customers equals costs allocated to new customers.

(2) costs allocated to new customers minus rate revenue from new customers equals the total revenue to be recovered through the capacity charge.

(3) total capacity charge revenue requirements divided by the total number of new customers equals the amount of the capacity charge to be paid by each new customer.

b. The capacity charge may be paid by new customers in a single payment or as a monthly charge at the rate established by the council. The county shall establish a monthly capacity charge by dividing that amount by one hundred eighty (twelve monthly payments per year for fifteen years). The executive shall transmit for council adoption an ordinance to adjust the discount rate for lump sum payment. The executive shall also transmit for council adoption an ordinance to adjust the monthly capacity charge to reflect the county's average cost of money if the capacity charge is paid over time.

c. King County shall pursue changes in state law to enable the county to require payment of the capacity charge in a single payment.

d. The capacity charge shall be set such that each new customer shall pay an equal share of the costs of facilities allocated to new customers, regardless of what year the customer connects to the system. The capacity charge shall be based upon the costs, customer growth and related financial assumptions used for the Regional Wastewater Services Plan adopted by Ordinance 13680 as such assumptions may be updated. Customer growth and projected costs, including inflation, shall be updated every three years beginning in 2003.

e. The county should periodically review the capacity charge to ensure that the actual costs of system expansion to serve new customers are reflected in the charge. All reasonable steps should be taken to coordinate the imposition, collection of and accounting for rates and charges with component agencies to reduce redundant program overhead costs.

f. Existing customers shall pay the monthly capacity charge established at the time they connected to the system as currently enacted by K.C.C. 28.84.055. New customers shall pay the capacity charge established at the time they connect to the system.

***Reviser's note: Ordinance 15602 added new policies FP-3, FP-4 and FP-5, but this reference was not changed.**

g. To ensure that the capacity charge will not exceed the costs of facilities needed to serve new customers, costs assigned and allocated to new customers shall be at a minimum ninety five percent of the projected capital costs of new and existing treatment, conveyance and biosolids capacity needed to serve new customers.

h. Costs assigned and allocated to existing customers shall include the capital cost of existing and future treatment, conveyance and biosolids capacity used by existing customers, and the capital costs of assessing and reducing infiltration and inflow related to the use of the existing conveyance and treatment capacity.

i. Capital costs of combined sewer overflow control shall be paid by existing and new customers based on their average proportionate share of total customers over the life of the RWSP.

j. Operations and maintenance costs shall be paid by existing and new customers in the uniform monthly rate based on their annual proportionate share of total customers.

k. Any costs not allocated in FP-12.3 f, g, h, i and j* shall be paid by existing and new customers in the sewer rate.

l. Upon implementation of these explicit policies, the Seattle combined sewer overflow benefit charge shall be discontinued.

4. Based on an analysis of residential water consumption, as of December 13, 1999, King County uses a factor of seven hundred fifty cubic feet per month to convert water consumption of volume-based customers to residential customer equivalents for billing purposes. King County shall periodically review the appropriateness of this factor to ensure that all accounts pay their fair share of the cost of the wastewater system.

FP-16: The executive shall prepare and submit to the council a report in support of the proposed monthly sewer rates for the next year, including the following information:

Key assumptions: key financial assumptions such as inflation, bond interest rates, investment income, size and timing of bond issues, and the considerations underlying the projection of future growth in residential customer equivalents;

Significant financial projections: all key projections, including the annual projection of operating and capital costs, debt service coverage, cash balances, revenue requirements, revenue projections and a discussion of significant factors that impact the degree of uncertainty associated with the projections;

Historical data: a discussion of the accuracy of the projections of costs and revenues from previous recent budgets, and

Policy options: calculations or analyses, or both, of the effect of certain policy options on the overall revenue requirement. These options should include alternative capital program accomplishment percentages (including a ninety percent, a ninety-five percent and a one hundred percent accomplishment rate), and the rate shall be selected that most accurately matches historical performance in accomplishing the capital program and that shall not negatively impair the bond rating.

FP-17: Expenditures from the wastewater revenues to correct water pollution problems caused by septic systems shall occur only if such expenditures financially benefit wastewater system current customers when the additional monthly sewer rate revenues from these added customers are considered.

FP-18: The cost of community treatment systems developed and operated in accordance with WWSP-15 would not be subsidized by the remaining ratepayers of the county's wastewater treatment system. (Ord. 15602 § 7, 2006: Ord. 14219 § 3, 2001: Ord. 14199 § 253, 2001: Ord. 13680 § 16, 1999).

***Reviser's note: Ordinance 15602 added new policies FP-3, FP-4 and FP-5, but this reference was not changed.**

28.86.165 Reporting policies. The executive shall review the implementation of the RWSP on a regular basis and submit the following reports to council and the RWQC:

A. Regional wastewater services plan annual report. The executive shall submit a written report to the council and RWQC in September each year until the facilities identified in the RWSP are operational. This report, covering the previous year's implementation, will provide the following:

1. A summary of activities for each major component of the RWSP, including treatment, conveyance, infiltration and inflow, combined sewer overflows, water reuse, biosolids and highlights of research and development projects underway and proposed for the coming year;

2. Details on each active RWSP project in the capital budget, including a project summary, project highlights, project issues, upcoming activities, schedules, an expenditures summary including staff labor and miscellaneous services, a description of adjustments to costs and schedule and a status of the projects contracts;

3. A status of the odor prevention program, including a listing and summary of odor complaints received and progress on implementing odor prevention policies and projects;

4. A summary of the previous year's results for the comprehensive water quality monitoring program;

5. A review of the plan elements, including water pollution abatement, water quality, water reclamation, Endangered Species Act compliance, biosolids management and variability of quality over time, wastewater public health problems, compliance with other agency regulations and agreements, to ensure it reflects current conditions; and

6. An update of anticipated RWSP program costs through the year 2030;

B.1. Comprehensive regional wastewater services plan review. The executive shall submit a written report to council and RWQC that provides a comprehensive review of the RWSP. The report will review the following:

a. assumptions on the rate and location of growth, the rate of septic conversions and the effectiveness of water conservation efforts;

b. phasing and size of facilities; and

c. effectiveness of RWSP policies implementation, for infiltration and inflow reduction, water reuse, biosolids, CSO abatement, water quality protection, environmental mitigation and public involvement;

2. The next comprehensive regional wastewater services plan review is due in September 2007. Subsequent reports will be prepared every three to five years as established by the council and RWQC following their review of the current report. The specific due date will be based upon the availability of necessary information, the completion of key milestones, and the time needed to collect and analyze data. The executive may recommend policy changes based on the findings of the report and other information from changing regulations, new technologies or emerging or relevant factors;

3. The comprehensive regional wastewater services plan review will include all elements of the RWSP annual report, replacing it for that year;

C. Brightwater monthly report. The executive shall prepare a monthly report to council for the Brightwater project based on a reporting format approved by motion by the King County council. The reporting format shall include a project summary, project highlights, project issues, upcoming activities, schedules, an expenditures summary including staff labor and miscellaneous services, a description of adjustments to costs and schedule and a status of the project's contracts. This report will be distributed electronically and will continue until Brightwater becomes operational; and

D. Operational master plan. The RWSP Operational Master Plan that was adopted by council in December 1999 shall be updated on a regular basis in conjunction with policy revisions to the RWSP. (Ord. 15384 § 6, 2006).

28.86.170 Capital improvement program. The capital improvement program required to implement the comprehensive water pollution abatement plan, as amended, including the RWSP, a supplement to the comprehensive water pollution abatement plan, as amended, shall be prepared pursuant to K.C.C. 4.04.200 through 4.04.270. (Ord. 13680 § 17, 1999).

28.86.180 Implementation.

A. The RWSP operational master plan that was adopted by council in December 1999, shall be updated on a regular basis following substantive adopted policy revisions to the RWSP, and shall meet the requirements of K.C.C. chapter 4.04.

B. The operational master plan shall contain projects related to major program elements and shall further define as necessary the major projects, projected capacity, milestones, projected completion dates, and estimated costs.

1. Treatment capacity.

a. Population and employment growth is projected to require the wastewater system capacity to expand from two hundred forty-eight mgd to three hundred four mgd by 2030. The estimated cost and list of treatment facilities and improvements to achieve this expanded capacity by 2030, shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

b. The Brightwater treatment plant at the Route 9 site shall be built with a capacity of thirty-six mgd by 2010 or as soon thereafter as possible to handle wastewater flows from a new north service area as defined in the plan. This plant would provide secondary treatment and would discharge treated effluent to Puget Sound. To facilitate the production of reclaimed water, the possibility of upgrading to tertiary treatment with a freshwater outfall should be investigated prior to subsequent expansions.

c. Expanding the treatment capacity at the south treatment plant from one hundred fifteen mgd to one hundred thirty-five mgd by 2029. This expansion would handle increased wastewater flows from the southern and eastern portions of the service area. Some or all of the plant capacity could also be upgraded to tertiary treatment, to meet water quality standards or facilitate water reuse, as part of future expansions or in additions to the secondary level of treatment using available land reserves at the plant site.

d. The west treatment plant will be maintained at its capacity of one hundred thirty-three mgd, primarily to serve the city of Seattle and handle flows from the combined sewers in the area. Additional facilities may be planned in the year 2018 to accommodate the extended peak CSO flows that will occur after storms once CSO control projects are constructed.

2. Conveyance facilities.

a. Conveyance facilities are to be configured, sized, and scheduled to support the treatment plants by conveying wastewater to and treated effluent from the plants. The estimated cost, schedule and list of conveyance facility improvements, shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

b. King County will construct additional conveyance improvements (e.g., increasing conveyance and pump station capacity and extending conveyance) to accommodate increased flows in other parts of the service area to serve population growth in the smaller wastewater service basins and to prevent improper discharges from the sanitary system.

3. I/I control.

a. The I/I control program shall be implemented incrementally and be limited to projects that prove to be most cost effective. The estimated cost, schedule and list of I/I improvement projects, shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

b. The goal of the I/I control program is to reduce the expense of conveyance system improvements over time. Every ten years, beginning in 2010, the wastewater treatment division will conduct system monitoring to update hydraulic models and measure the effectiveness of I/I control and reduction in the system.

4. CSOs.

a. CSOs shall be prioritized based on first controlling discharges that impact human health, bathing beaches and/or species listed under ESA. The second priority is other CSO locations that have the potential to affect public health and safety. Third priority are all other CSO locations. The estimated cost, schedule and list of CSO control projects, will be reported in the CSO program review (preceding the west treatment plant NPDES permit renewal), and shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

b. CSO projects may include:

(1) constructing large underground tanks and tunnels to store combined flows during storms. These flows would then be pumped to the west treatment plant once the rain subsides; and

(2) treating the combined sewage at existing CSO outfall locations using technology to remove solids and disinfect the combined sewage before discharge.

c. Refinements to the CSO program may be required in response to changing conditions and new information. The listing of species under the ESA may affect project priorities, schedules, and associated mitigation options.

5. Biosolids.

a. King County will continue to produce Class B biosolids using anaerobic digestion at the south and west treatment plants and to implement the same process at the Brightwater treatment plant until a new technology can be used reliably. The plan also proposes that the county continue to evaluate alternative technologies to reduce the water content of biosolids while preserving their marketability. The primary objective of this evaluation will be to identify alternatives to digesters at the west treatment plant, a condition of the West Point Settlement Agreement.

b. As part of ongoing planning for its treatment plants, King County will periodically evaluate conventional, alternative and new solids processing technologies using criteria such as product quality (class A or B), marketability, odor and other potential community impacts, impact on sewer rates, reliability of the treatment process, amount of land needed for the treatment facility and the number of truck trips needed to transport the biosolids produced. Based on the results of this evaluation and public comment, the executive should recommend one of three biosolids handling scenarios at any of all of the treatment plants:

(1) continue using anaerobic digestion;

(2) supplement anaerobic digestion with another treatment technology; or

(3) replace anaerobic digestion with another treatment technology.

c. The estimated cost, schedule and list of biosolids improvement projects, shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

d. The county should continue using a public-private partnership approach to recycling biosolids such as using biosolids on working forests in King County to enhance wildlife habitat and generate long-term income from selective timber harvests.

6. Water reuse.

a. The south and west treatment plants should continue to produce reclaimed water for non-potable uses and explore the production of reclaimed water at new facilities. King County will explore the production of reclaimed water at new facilities and work with water suppliers to plan and implement an accelerated water reuse program that could augment existing water supplies.

b. If a public education and involvement program on water reuse is to be developed and implemented, it shall be coordinated with water conservation education programs. The estimated cost, schedule and list of water reuse projects, shall be included in future RWSP operational master plans, summarized in RWSP annual reports and comprehensive reviews as outlined in K.C.C. 28.86.165.

7. Community treatment systems.

a. Any operations under these policies shall require an operational master plan as described in K.C.C. 4.04.200.C.1. Failure to submit such a plan shall cause the affected capital improvement project to be out of compliance with these polices.

b. In addition to the requirements of K.K.C. 4.04.200.C.1, an operational master plan submitted under these policies shall include:

(1) description of career retention programs that are to be structured in a manner consistent with the King County/metro merger, labor law and King County's labor contracts;

(2) an engineering evaluation that confirms that the selected projects are most cost effective and technically efficacious and consistent with King County growth management policies for the surrounding area; and

(3) explanation of how King County participation in community treatment systems is consistent with other water pollution abatement activities of the department of natural resources and parks, which currently operates centralized wastewater treatment facilities as contrasted with community treatment systems. (Ord. 15602 § 8, 2006: Ord. 14199 § 254, 2001: Ord. 13680 § 18, 1999.)

28.86.200 Productivity initiative for the wastewater program.

A.1. The executive shall develop and implement a productivity initiative for the wastewater program that would include implementing business plans, meeting annual budget targets, creating an incentive fund, continuing to work collaboratively with labor, developing service agreements with county support agencies and modifying certain internal wastewater program administrative policies.

2. The goals of the productivity initiative are to:

a. continue providing high quality wastewater treatment and conveyance services to the region;

b. use private sector models to improve management of the wastewater program;

c. improve cost efficiencies;

d. provide savings to the public;

e. define target budgets and accountability measures for meeting those targets;

f. continue working collaboratively with labor; and

g. allow employees to be creative in meeting the vision of becoming the best wastewater program.

B.1 The productivity incentive program, referred to in this subsection as "program," is hereby created as a component of the productivity initiative. The goals of the program are to: provide financial incentives to employees to achieve higher than projected savings to the wastewater treatment ratepayers; encourage teamwork; and encourage employee involvement in and ownership of the business.

2. Except as otherwise excluded in this subsection, represented and nonrepresented full-time and part-time regular and term-limited temporary employees in the wastewater program, which provides design/construction, maintenance and operations, planning, finance and administration, technology assessment, environmental laboratory, and industrial waste program services are eligible to participate in the program. However, the wastewater division manager and the wastewater division assistant manager are not eligible.

3. The executive shall establish a reserve subaccount known as the productivity incentive fund, in the wastewater treatment reserves fund. This reserve subaccount shall receive a pro rata share of interest earnings from the wastewater treatment reserves fund.

4. The productivity incentive fund oversight committee is hereby created and shall be responsible for oversight of the productivity incentive fund. The committee shall have the authority and responsibility to determine the distribution and use of the fund, subject to the approval of the wastewater treatment division manager. Membership in the productivity incentive fund oversight committee shall include:

a. represented employees approximately proportional to each union's percentage of employees in the wastewater program;

b. nonrepresented employees approximately proportional to their percentage of employees in the wastewater program;

c. two wastewater program management representatives; and

d. ex officio, nonvoting membership including, but not limited to, the office of the executive and the department of executive services, finance and business operations division.

5. It is the intent of the council that the productivity incentive fund be used to support a variety of incentives including, but not limited to:

a. provision of additional training opportunities for employees;

b. investments in productivity improvement projects;

c. funding overexpenditures on asset management and operating projects;

d. monetary payments or awards to employees; and

e. employee awards and recognition.

C.1. The productivity initiative for the wastewater program also applies to the wastewater program's capital improvement program.

2.a. The objectives of extending the productivity initiative to the wastewater program's major capital improvement projects are to:

(1) provide savings to ratepayers through the appropriate use of approved contracting methods and more efficient management of consultants and contractors;

(2) refine and improve the accuracy of cost estimating for major capital improvement projects; and

(3) test the efficacy of different approved contracting methods and contract incentives in reducing the overall cost and time needed to complete major capital improvement projects.

b. For a major capital improvement project, which, for the purposes of this section, means a capital improvement project with an estimated cost of one million dollars or more, to be eligible for the productivity initiative, the wastewater treatment division must use the following best practices:

(1) determining the difference between the level of service of the current capital assets and the needed level of service for the new or upgraded asset. The wastewater treatment division shall identify how the project under consideration will achieve the planned or required results;

(2) evaluating alternative approaches to achieving the results;

(3) integrating organizational goals into the major capital decision-making process;

(4) establishing a review and approval framework supported by analysis;

(5) tracking project costs, schedule and performance; and

(6) evaluating results and incorporating lessons learned.

c. Project targets for major capital improvement projects in the productivity initiative shall be determined by an independent third party.

3.a. The objectives of extending the productivity initiative to the wastewater program's asset management program are to:

(1) provide savings to ratepayers through the development of a more strategic approach to the maintenance and replacement of wastewater assets;

(2) refine and improve the accuracy of budget forecasting for wastewater asset management;

(3) improve reliability of the wastewater treatment system;

(4) test new asset management techniques on a subgroup of assets and determine the applicability of these techniques to the rest of the wastewater system;

(5) compare the costs of using in-house resources to perform small capital construction projects versus the more traditional practice of contracting out this work; and

(6) provide incentives for employees to develop innovative approaches to asset management.

b. Application of the productivity initiative for the wastewater program to asset management maintenance and replacement projects shall be limited to categories of assets for which detailed information on historical maintenance costs, current replacement costs, and a determination of remaining useful life have been developed.

4. Certain capital program work of the wastewater program has traditionally been performed by independent contractors procured by the county rather than county employees. If the wastewater program begins to use county employees for all or any portion of such capital program work in connection with implementation of the productivity initiative, subsequent use of independent contractors shall not be limited as a result of this temporary pilot project.

5.a. The executive shall, by June of each year, file with the clerk of the council for distribution to the chair of the council and the chair of the labor, operations and technology committee, or its successor committee, an annual report that evaluates the implementation of the productivity initiative for the wastewater program. Based on the experience, data and analysis from 2004 and 2005, the executive shall, by June 2006, file with the clerk of the council for distribution to the chair of the council and the chair of the labor, operations and technology committee, or its successor committee, recommendations for modifications that may be needed, together with any necessary proposed legislation, to help further the goals and objectives outlined in this section.

b. The executive shall facilitate a thorough review of the productivity initiative for the wastewater program no later than December 31, 2010. The review shall be undertaken by an independent third party hired and supervised by the county auditor, with input from the wastewater program, and shall provide for a report to the council, which shall be filed with the clerk of the council for distribution to the chair of the council and the chair of the labor, operations and technology committee, or its successor committee. The review is to determine how effective the productivity initiative has been in achieving the goals and objectives in this section.

c. The productivity initiative for the wastewater program expires April 30, 2011, unless before that date an ordinance is enacted to continue the productivity initiative. Any major capital improvement project included in the productivity initiative, for which targets have been set by April 30, 2011, as specified in subsection C.2.c of this section, may continue with provisions of the productivity initiative applied through the completion of the project.

6. King County's wastewater treatment system shall continue to be maintained as a public facility and shall be managed and operated by public employees for so long as the productivity initiative is in effect. (Ord. 14941 § 4, 2004).

V. PUBLIC TRANSIT

Chapter 28.91
ESTABLISHMENT AND GOALS

Sections:

28.91.010 Establish new chapter.
28.91.020 Goals.

28.91.010 Establish new chapter. There is hereby established in the King County Code new chapters which shall pertain to the provision of public transit services and which shall contain the provisions of this ordinance. (Ord. 11033 § 1, 1993).

28.91.020 Goals. It is the mission of the department of transportation to provide the best possible public transportation services that improve the quality of life in King County.

The director shall, on at least an annual basis, report to the council on the performance of the public transportation services program, and shall propose goals and objectives for the following budget year. (Ord. 11962 § 2, 1995).

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Chapter 28.92
DEFINITIONS

Sections:

28.92.010 Definitions.
28.92.030 Bus Shelters.
28.92.040 Commercial Activities.
28.92.050 Comprehensive Plan.
28.92.051 Department.
28.92.052 Director.
28.92.060 Flextime Program.
28.92.070 Government.
28.92.080 Marginal cost per service hour.
28.92.090 Newsracks.
28.92.100 Off-peak trip.
28.92.105 Other passenger facilities.
28.92.110 Park & Ride Lots.
28.92.115 Peak Period Trip.
28.92.120 Person.
28.92.130 Persons with Disabilities.
28.92.140 Public Communication Activities.
28.92.150 Public Transportation Services.
28.92.160 Transit Center(s).
28.92.170 Transit property(ies).
28.92.175 Transit vehicle(s).
28.92.180 Transit vehicle(s).
28.92.190 Tunnel facilities.
28.92.200 Tunnel mezzanine area(s).
28.92.210 Tunnel platform area(s).
28.92.220 Tunnel plaza areas or plaza areas.

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28.92.010 Definitions. The following words and phrases when used in this chapter shall have the meanings hereinafter set forth in this section, whether appearing in capital or lower case form. If not defined below, the words and phrases used in this title shall have their common and ordinary meanings to the degree consistent with the technical subjects herein or the meanings set forth elsewhere in this title of the King County Code. (Ord. 11033 § 3 (part), 1993).

28.92.030 Bus Shelters. Bus shelters shall mean those structures located in bus loading zones which provide cover to waiting passengers. (Ord. 11033 § 3 (part), 1993).

28.92.040 Commercial Activities. Commercial activities shall mean engaging in activities which are primarily of a business or commercial purpose, including but not limited to selling, offering for sale, displaying, distributing or providing any goods, merchandise or services as well as any advertising, promotion or conveying of information or materials related to such goods, merchandise or services. Provided, however, a passenger who, while using the transit system, merely wears clothing or buttons which bear a lawful commercial message or lawfully parks a vehicle which bears a lawful commercial message shall not be deemed to be engaged in a commercial activity requiring authorization under K.C.C. 28.96.310. (Ord. 11950 § 3, 1995: Ord. 11033 § 3 (part), 1993).

28.92.050 Comprehensive plan. Comprehensive plan shall mean the public transportation comprehensive plan adopted by Resolution No. 6641 of the council of the Municipality of Metropolitan Seattle and all amendments thereto. (Ord. 11962 § 3, 1995).

28.92.051 Department. Department shall mean the department of King County which is responsible for the provision of public transportation services. (Ord. 11950 § 4, 1995).

28.92.052 Director. Director shall mean the director of the department or a duly authorized designee. (Ord. 11950 § 5, 1995: Ord. 11431 § 1, 1994).

28.92.060 Flextime Program. Flextime program shall mean a program for employers who have at least twenty-five percent (25%) of their employees shifts beginning or ending at times other than 7:15-8:25 a.m. and 4:30-5:30 p.m. (Ord. 11033 § 3 (part), 1993).

28.92.070 Government. Government shall refer to any agency of the federal or state government and any city, county or municipal corporation of the State of Washington. (Ord. 11033 § 3 (part), 1993).

28.92.080 Marginal cost per service hour. Marginal cost per service hour which may be calculated separately for bus and transit van service, shall mean the direct operating cost of providing an additional hour of each type of service, including operator wages and benefits, customer service costs, fuel costs and vehicle maintenance costs. (Ord. 11962 § 4, 1995).

28.92.090 Newsracks. Newsracks shall mean any stand, box, structure, rack, or other device which is designed and used for the sale of and/or distribution of newspapers, periodicals, magazines, or other publications or combinations of the same. The placement of newsracks in or on passenger facilities shall be governed by separate policies otherwise approved by the council. (Ord. 11033 § 3 (part), 1993).

28.92.100 Off-peak trip. Off-peak trip means any scheduled trip that is not a peak period trip. (Ord. 11033 § 3 (part), 1993).

28.92.105 Other passenger facilities. Other passenger facilities or passenger facilities shall mean all transit passenger facilities, other than tunnel facilities, including but not limited to transit centers, park and ride lots, bus shelters and streetcar platforms, whether owned, leased or operated by the department. "Passenger facilities" does not include public streets and sidewalks adjacent to the facility unless the public streets and sidewalks are covered under a use or other permit granted to the county for transit purposes. (Ord. 11950 § 6, 1995).

28.92.110 Park & Ride Lots. Park & ride lots shall mean locations at which persons park their individual vehicles and transfer to a county vehicles or car/vanpool vehicles, including all physical improvements and landscaping. (Ord. 11962 § 5, 1995).

28.92.115 Peak Period Trip. Peak period trip means any scheduled weekday trip that reaches its destination between 6:00 a.m. and 9:00 a.m. or leaves its origin between 3:00 p.m. and 6:00 p.m. (Ord. 11033 § 3 (part), 1993).

28.92.120 Person. Person shall mean any individual, firm, partnership, corporation, organization, association or entity of any kind. (Ord. 11033 § 3 (part), 1993).

28.92.130 Persons with Disabilities. Persons with disabilities shall refer to those persons who, by reason of illness, injury, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are non-ambulatory and those with semi-ambulatory capabilities, are unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. (Ord. 11431 § 2, 1994: Ord. 11033 § 3 (part), 1993).

28.92.140 Public Communication Activities. Public communication activities shall mean communicating or attempting to communicate to the public (1) with intent to convey a particularized message of a political, social, religious, ideological or philosophical nature and (2) in a manner likely to be understood by those who receive it, including such methods as: public speaking; posting or distributing flyers, pamphlets, brochures, books or other written material; musical performance, including the passive acceptance of donations by the performer; collecting petition signatures; political campaigning; demonstrating and carrying signs; and soliciting or receiving funds or contributions of any kind by an organization registered with the Secretary of State under chapter 19.09 RCW and any other office requiring registration for charitable solicitations under applicable law. Provided, however, the offering for sale and sale of goods or merchandise shall constitute "commercial activities" and not "public communications activities" unless the goods or merchandise are inextricably intertwined with a political, social, religious, ideological or philosophical message. Provided, further, a passenger who, while using the transit system, merely wears clothing or buttons which bear a lawful message or lawfully parks a vehicle which bears a lawful message shall not be deemed to be engaged in a public communications activity subject to the limitations and prohibitions of 28.96.210. (Ord. 11950 § 7, 1995: Ord. 11033 § 3 (part), 1993).

28.92.150 Public Transportation Services. Public transportation services shall include transportation in buses, transit vans, dial-a-ride vehicles, vanpools, and paratransit vehicles; and shall also include department services supporting transportation in carpools and other alternatives to single occupant vehicles. (Ord. 11962 § 6, 1995).

28.92.160 Transit Center(s). Transit center(s) shall mean locations where transit vehicles have a common terminus and facilities are provided to facilitate passenger boarding, deboarding, and transfers between transit vehicles, including all physical improvements and landscaping. (Ord. 11962 § 7, 1995).

28.92.170 Transit property(ies). Transit property(ies) shall mean all vehicles and facilities used in the transit system including transit vehicles, tunnel facilities and other passenger facilities. (Ord. 11950 § 8, 1995).

28.92.175 Transit vehicle(s). Transit vehicle(s) shall mean all transit passenger vehicles including buses, transit vans, dial-a-ride vehicles, paratransit vans, trolleys, street railcars and any other revenue service vehicles operated by or on behalf of the department, but not including vanpool vans. (Ord. 11962 § 8, 1995).

28.92.180 Transit vehicle(s). Transit vehicle(s) shall mean all transit passenger vehicles including buses, paratransit vans, trolleys, street railcars and any other revenue service vehicle operated by or on behalf of the department, but not including vanpool vans. (Ord. 11950 § 9, 1995).

28.92.190 Tunnel facilities. Tunnel facilities shall mean the stations providing access to the buses running in the downtown Seattle tunnel corridor and related facilities including the roadway at and between stations, platform levels, mezzanine levels and above ground plazas. (Ord. 11950 § 11, 1995).

28.92.200 Tunnel mezzanine area(s). Tunnel mezzanine area(s) or mezzanine area(s) are those portions of the Westlake, University Street and Pioneer Square tunnel stations which are between the surface level entrance to the station and the platform level where transit vehicles operate. (Ord. 11950 § 10, 1995).

28.92.210 Tunnel platform area(s). Tunnel platform area(s) or platform area(s) are those portions of each tunnel station where the public boards and exits transit vehicles. (Ord. 11950 § 12, 1995).

28.92.220 Tunnel plaza areas or plaza areas. Tunnel plaza areas or plaza areas are those portions of the International District/Chinatown and Convention Place tunnel stations that are located at the surface street level and that provide access or egress to the subsurface levels. (Ord. 15074 § 2, 2004: Ord. 11950 § 13, 1995).

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Chapter 28.94
PUBLIC TRANSIT

Sections:

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28.94.015 Rates of fare for transit program.

A. Except as may otherwise be provided by ordinance, the following fare categories and rates are established for regularly scheduled county public transportation service on buses, trolleys, transit vans, dial-a-ride vehicles and streetcars:

	Off-peak	One-zone peak	Two-zone peak
Regular fare	$1.25	$1.50	$2.00
Child fare	No charge	No charge	No charge
Youth fare	$ .50	$ .50	$ .50
Family fare	$1.25	N/A	N/A
Seniors and persons with disabilities fare	$ .25	$ .50	$ .50

The fare categories and rates are subject to, and defined by, the following:

1. The descriptions of transit zones are set forth in K.C.C. 28.94.030;

2. The time-of-day limitations for peak period trips and off-peak period trips are set forth in K.C.C. 28.92.115 and 28.92.100;

3. The child fare is available to persons up to six years old when accompanied by a responsible person paying the proper fare as set forth in this chapter. Up to four children may ride with each responsible person;

4. The youth fare is available to persons from six through seventeen years old and persons over seventeen years old who attend regular sessions of junior or senior high school;

5. The family fare is available to a group that includes a person at least eighteen years old and up to four persons seventeen years old or younger. The family fare is valid on Sundays and the days on which the following holidays are legally observed: New Year's Day; Martin Luther King, Jr., Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day;

6. The senior and persons with disabilities fare is available to persons who apply for and receive a regional reduced fare permit. The permits are available to persons at least sixty-five years old and persons with disabilities as provided in the regional reduced fare permit program authorized under K.C.C. 28.94.255; and

7. A person with a disability who has been issued an “attendant ride free” permit by the department may be accompanied by an attendant, who is not required to pay a fare.

B. A fare in subsection A of this section is paid when a person pays the appropriate amount in cash or presents an appropriate pass, transfer or other fare payment media established under, and used in accordance with, this chapter.

C. The following passes are established for use on regularly scheduled county public transportation service on buses, trolleys, transit vans, dial-a-ride vehicles and streetcars:

1. Weekend/holiday all-day pass -- $2.50.

A weekend/holiday all-day pass may be issued and sold at the price indicated to persons at least six years old. A weekend/holiday all-day pass may be purchased only on Saturdays, Sundays and the days on which the following holidays are legally observed: New Year's Day; Martin Luther King, Jr., Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day. A weekend/holiday all-day pass entitles persons at least six years old to unlimited rides during the day indicated on the pass;

2. Weekday all-day pass - $5.00.

A weekday all-day pass may be issued and sold at the price indicated to persons at least six years old. A weekday all-day pass may be purchased only on weekdays. An all-day pass entitles persons at least six years old to unlimited rides during the day indicated on the pass;

3. Monthly pass for seniors and persons with disabilities -- $5.50.

Monthly passes may be issued and sold at the price indicated to persons who have applied for and received a regional reduced fare permit. The permits are available to persons at least sixty-five years old and persons with disabilities as provided in the regional reduced fare permit program authorized under K.C.C. 28.94.255. The monthly pass entitles the purchaser to unlimited rides during the month indicated on the pass;

4. Annual pass for seniors and persons with disabilities -- $66.00.

Annual passes may be issued and sold at the price indicated to persons who have applied for and received a regional reduced fare permit. The permits are available to persons sixty-five years of age and older and persons with disabilities as provided in the regional reduced fare permit program authorized under K.C.C. 28.94.255. The annual pass entitles the purchaser to unlimited rides during the year indicated on the pass; and

5. Regional passes.

Regional passes, in various single-trip value denominations and for various effective periods, may be issued and sold in accordance with the terms of an agreement approved by the county council and entered into with other public transportation providers in the region. The various effective periods, single-trip values and prices for the regional passes shall be established by the agreement. A valid regional pass may be presented an unlimited number of times during its effective period as full or partial payment of the applicable fare. To the extent the single trip value of the regional pass is not sufficient to cover the applicable fare, the rider shall pay the difference in cash.

D. The rate of fare for paratransit service shall be 75 cents per trip and $13.50 for a monthly pass.

E. The rate of fare for customized bus service to residents of Center Park, a facility of the Seattle Housing Authority located at 2121 - 26th Avenue South, Seattle, is equal to the paratransit fares specified in subsection D of this section. (Ord. 14481 § 2, 2002: Ord. 14096 § 2, 2001: Ord. 13660 § 2, 1999: Ord. 13480 § 2, 1999).

28.94.020 Transit routes and classes of service. The director shall implement the system of public transit routes and services described in this section.

A. Regular routes shall include numbered routes and descriptions therefor as established and revised from time to time by the council. The regular routes, including implementation dates, shall be described in a document called "Public Transit Regular Routes." The director shall ensure that said routes shall be operated and implemented except as otherwise provided in this section.

B. Changes to regular routes shall be subject to approval by the council except as specifically provided in this section.

1. The director is authorized to approve and implement the following changes of established routes and schedules and to update the "Public Transit Regular Routes" document accordingly:

a. Any single change or cumulative changes in a service schedule which affect the established weekly service hours for a route by twenty-five percent or less.

b. Any change in route location which does not move the location of any route stop by more than one half mile.

c. Any changes in route numbers.

2. In addition, if, in the opinion of the director, an emergency exists which requires any change to established routes, schedules or classes of service, the director may implement such change for such period as may be necessary in the director's judgment or until such time as the council shall establish otherwise. Such changes which the director intends to be permanent shall be reported in writing to the chair of the council.

C. Other routes, such as but not limited to tripper service, limited, special, customized and other types of transit routes, may be established by the director consistent with annual appropriations and the comprehensive plan.

D. The director shall establish transit schedules for all routes and classes of service consistent with annual appropriations and the comprehensive plan.

E. The director shall periodically review and evaluate the effectiveness of all public transit routes and services, requests for changes to the routes and services, and the requirements of the comprehensive plan and shall prepare recommendations to the council for changes to routes and services.

F. Within service area boundaries approved by the council and consistent with annual appropriations and the comprehensive plan, the director is authorized to plan, implement and modify dial-a-ride service (DART), including, but not limited to, establishing general routes from which vehicles may deviate in response to demand.

G. The director is authorized and directed to establish such guidelines, and procedures as may be necessary to implement the policies set forth in this chapter. In establishing such guidelines and procedures, the director shall provide for consultation with citizens and each component jurisdiction in advance of any major route or service changes affecting such jurisdictions. (Ord. 11962 § 10, 1996: Ord. 11431 § 4, 1994: Ord. 11033 § 5, 1993).

28.94.030 Public transit zones. The system of zones for public transit service described in this section is hereby established. The director may provide for other special and buffer zones for particular periods of time or purposes and may impose special conditions, regulations or limitations on travel and fares within said zones. Public transit zones within the boundaries of the county shall be described as follows:

A. "Zone 1 Seattle" is that portion of King County lying east of Puget Sound and west of Lake Washington; and bounded on the north by a line beginning in Puget Sound on the westerly projection of Northwest 145th Street, thence easterly along said projection and Northwest 145th Street and North 145th Street and Northeast 145th Street including any straight line projections to discontinuous sections of said streets to Lake Washington; and bounded on the south by the following described line: beginning at a point where the City of Seattle-King County boundary intersects the shoreline of Puget Sound at Seola Beach Drive Southwest, thence northerly and easterly along the City of Seattle-King County boundary to Olson Place Southwest, thence northerly along Olson Place Southwest and 1st Avenue South to South Cloverdale Street, thence easterly along South Cloverdale Street to 14th Avenue South, thence northerly along 14th Avenue South and 16th Avenue South, thence southerly along East Marginal Way South to South Boeing Access Road, thence easterly along South Boeing Access Road and South Ryan Way to the City of Seattle-King County boundary at 51st Avenue South, thence easterly along the City of Seattle-King County boundary to the west shoreline of Lake Washington on the easterly projection of South Ryan Street.

B. "Zone 2 county" is that portion of King County lying outside the boundaries of Zone 1 Seattle. (Ord. 11033 § 6, 1993).

28.94.032 Downtown Seattle transit tunnel stations. The stations in the downtown Seattle transit tunnel shall be known as Convention Place Station, Westlake Station, University Street Station, Pioneer Square Station and International District/Chinatown Station. (Ord. 15074 § 3, 2004).

28.94.035 ADA paratransit program.

A. As required in 49 C.F.R. pt. 37, subpart F, the county shall provide paratransit or other special services, referred to in this section, K.C.C. 28.94.045 and K.C.C. 28.94.245 as "ADA paratransit services," to individuals eligible under the federal Americans with Disabilities Act of 1990, referred to in this section, K.C.C. 28.94.045 and K.C.C. 28.94.245 as "ADA". The county may supplement the ADA paratransit services with other service described in K.C.C. 28.94.045.

B. ADA paratransit services shall be provided during the same hours and days as regular, fixed, non-commuter bus service, within corridors that extend three-fourths of a mile on either side of the regular, fixed, non-commuter bus routes, as the routes may be amended from time to time.

C. ADA paratransit services shall be provided on a curb-to-curb basis.

D. ADA paratransit services shall be provided on an advance reservations basis, on the day before the occurrence of the ride requested.

E. ADA paratransit services may include requiring riders to transfer from one paratransit vehicle to another as part of the trip requested by the rider.

F. Subscription service shall not be provided as part of the ADA paratransit services.

G. ADA paratransit services may include feeder service to and from an accessible bus zone for individuals who are able to use the fixed route system.

H. In furtherance of the ADA paratransit program, the director may:

1. Organize and manage the provision of ADA paratransit services, including but not limited to call-taking, scheduling, dispatching, operations and vehicle maintenance, and, subject to applicable contracting and procurement requirements, enter into agreements with public and private agencies and entities for the provision of one or more of the services;

2. Develop and implement procedures in accordance with 49 C.F.R. pt. 37, subpart F, for the certification of ADA paratransit eligibility and the suspension of ADA paratransit service to eligible individuals with a documented pattern or practice of missing scheduled rides. The suspensions shall not be processed according to the procedures dealing with suspensions related to violations of rules of conduct on transit property and facilities as set forth elsewhere in K.C.C. chapter 28.96;

3. Develop and implement procedures for ADA paratransit service, and establish eligibility, administrative and operations procedures and referral services for the services;

4. Encourage the participation of, and enter into agreements with, public and private agencies and entities to coordinate their transportation resources as provided in this section;

5. Enter into agreements with other transit agencies to establish procedures for allocating paratransit trips and the cost of paratransit services to ADA-eligible riders seeking to transfer between transportation systems or cross jurisdictional boundaries and allocate the costs of providing paratransit services where the paratransit services of the other agencies overlap the county's ADA paratransit services; and

6. Submit plans, reports and information to the Federal Transit Administration as may be required under applicable federal regulations. (Ord. 13441 § 2, 1999).

28.94.045 King County metro community transportation program and services.

A. The King County metro community transportation program is hereby established to supplement available public and private transportation services operating in King County that are targeted to individuals with special transportation needs. Individuals with special transportation needs shall include those individuals who, because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation. Services provided under this section may be implemented and updated by the director as provided in this chapter and within annual appropriations.

B. King County metro community transportation program paratransit services may be provided daily between the hours of six a.m. and ten p.m. unless otherwise specified in this section, and may include:

1. For individuals who meet the eligibility criteria for ADA paratransit services, services provided in the area of the county within corridors that extend three-quarter miles on either side of regular, fixed, non-commuter bus routes, as the routes may be amended from time to time. The area shall expand and contract during the same days and hours as the regular, fixed, non-commuter bus routes; provided further that the easternmost paratransit service corridor shall extend one and one-half miles to the east of the easternmost regular, fixed, non-commuter bus route; and provided further that when such paratransit service corridors as specified herein result in areas within the King County Urban Growth Boundary being surrounded on all sides by paratransit service corridors, such areas shall be included in the service area for King County metro community transportation program paratransit services.

2. For individuals who meet the eligibility criteria for ADA paratransit services, services provided with door-to-door driver assistance when such assistance is determined to be essential, using criteria established by the director. The director or designee shall determine the days and hours and the conditions under which these services can be provided safely and when they will be provided outside the established King County metro community transportation service hours and service area in response to the special transportation needs of individual riders;

3. For individuals who meet the eligibility criteria for ADA paratransit services, services provided with hand-to-hand driver assistance when such assistance is determined to be essential, using criteria established by the director, and when such individuals are sponsored by an agency or other organization that enters into a contract with the county for the assistance. The director or designee shall determine the days and hours and conditions under which these services can be provided safely and when they will be provided outside the established King County metro community transportation service hours and service area in response to the special transportation needs of individual riders;

4. For individuals who meet the eligibility criteria for ADA paratransit services, an advance reservation period that may be extended up to seven days in advance of the occurrence of the ride requested. However, any extension of the reservation period shall not adversely affect the system capacity for scheduling ADA paratransit program rides requested;

5. For individuals who meet the eligibility criteria for ADA paratransit services, subscription service arranged for individuals who establish a recurrent pattern of travel that, under criteria established by the director, provides for the efficient operation of the services. However, the arrangements shall not adversely affect the system capacity for scheduling ADA paratransit program rides requested; and

6. For individuals who have a valid regional reduced fare permit, are at least eighteen years of age and have an annual income at or below seventy percent of the median income for the state of Washington, as determined from time to time by the Washington State Department of Social and Health Services and adjusted for family size, and who live too far from regular, fixed, non-commuter bus routes or general public dial-a-ride service, transportation services to and from the bus routes or dial-a-ride service may be provided. The director or designee shall determine the days and hours and conditions under which these services can be provided safely and when they will be provided outside the established King County metro community transportation service hours and service area in response to the special transportation needs of individual riders. The services shall not be provided if the individual can make other public or private transportation arrangements.

C. King County metro community transportation program paratransit services may be provided to public and private agencies who share in the cost of service delivery and whose participants:

1. Meet the eligibility criteria for ADA paratransit services;

2. Have a valid regional reduced fare permit, are at least eighteen years of age and have an annual income at or below seventy percent of the median income for the state of Washington, as determined from time to time by the Washington State Department of Social and Health Services and adjusted for family size;

3. Are deemed eligible as participants to attend programs at or with agencies that participate in the county's community partnership services under D of this section; or

4. Have special transportation needs and are participants, customers or clients at programs, agencies or other entities that enter into contracts with the county to coordinate or share their transportation resources with the county and its service providers for the purpose of maximizing the provision of transportation services and the use of all available county and non-county resources. The director or designee shall determine when such paratransit services may be provided outside the established King County metro community transportation program service area in response to the special transportation needs of individual riders. Insofar as practicable, the county shall secure commitments from the public and private agencies so that by the 2004 their share of the costs of providing the services is not less than twenty-five percent. Cost participation by agencies may include direct or in-kind cost contributions.

D. Community partnership services, including but not limited to operating, capital and technical support and resources, to support volunteer and other transportation services may be provided and updated by the director as provided in this chapter. The individuals identified in C of this section are eligible for the services. The services shall be allocated, subject to applicable contracting and procurement requirements, to public or private non-profit entities and municipalities within King County that provide or sponsor social services to eligible individuals and to other entities whose participation enhances the county's transportation and transportation-related human and community services goals and objectives. Planning for community partnership services shall include those agencies in King County are responsible for establishing service goals for eligible populations. This may include, but is not limited to, the King County department of human services, the Area Agency on Aging and the Seattle-King County public health department.

E. Services to assist individuals in using the most cost-effective, appropriate and available transportation resource or resources may be made available to individuals eligible under C of this section, and may include:

1. Bus travel training and orientation services; and
2. Information and referral services.

F. The executive shall initiate an effort to increase the availability of accessible vehicles in the local taxicab industry that do not charge rates greater than for nonaccessible vehicles. The goal of such an effort must be to achieve at least ten percent accessibility in the taxicabs licensed by the county by the year 2001.

G. In furtherance of the King County metro community transportation program, the director may:

1. Organize and manage the provision of King County metro community transportation program paratransit services, including but not limited to call-taking, scheduling, dispatching, operations and vehicle maintenance, and, subject to applicable contracting and procurement requirements, enter into agreements with public and private agencies and entities for the provision of one or more of the services;

2. Develop and implement procedures, and establish eligibility, administrative and operations procedures and referral services, for the King County metro community transportation program;

3. Encourage the participation and enter into agreements with public and private agencies and entities to coordinate their transportation resources as provided in this section; and

4. Enter into agreements with other transit agencies to establish procedures for allocating King County metro community transportation program paratransit trips and the cost of King County metro community transportation program paratransit services for riders seeking to transfer between transportation systems or cross jurisdictional boundaries and to allocate the costs of providing paratransit services where the paratransit services of the other agencies overlap the county's paratransit services. (Ord. 13441 § 3, 1999).

28.94.070 Mitigation of adverse impacts on public transportation.

A. To assist in mitigating the adverse impacts of new or existing developments on public transportation and to meet requirements on new or existing developments established by local jurisdictions, the executive is authorized to enter into agreements with developers, employers, property owners and local jurisdictions under which such parties would donate property or cash to the department for public transportation purposes and/or compensate the department for services, including but not limited to certifying and administering carpool parking and monitoring private sector transportation management programs and actions; provided, that such agreements shall be approved by the council as required by the county charter, ordinance an/or applicable state law; and provided further, that such donations and agreements must be approved by the local jurisdiction imposing such requirements.

B. Each agreement shall include a termination for convenience provision and a term of not greater than five years.

C. The provisions of this section shall not supersede the terms of the Commuter Pool Transfer Agreement executed by the City of Seattle and Municipality of Metropolitan Seattle on March 15, 1984.

D. The director shall submit annual reports to the council on the number and nature of donations accepted and agreements entered into under this section. (Ord. 11962 § 11, 1995).

28.94.080 Alternative fuel systems. It is the policy of the county to consider alternative fuel systems, including electric trolleys, clean diesel and natural gas, when procuring new buses and trolleys for the transit fleet. (Ord. 11962 § 12, 1995).

28.94.090 Historic vehicle fleet.

A. The department shall maintain the historic vehicle fleet established by Metro.

B. The following criteria shall be employed by the director for making decisions on additions to the county's historic vehicle fleet:

1. The vehicle must have been operated in public transit service in the Seattle/King County area by the county or one of its predecessor operators. It is the intent that the historic vehicle fleet be limited to vehicles actually operated in the service area of the county.

2. A significant number of these vehicles should have operated in the Seattle/King County area for an extended period of time (at least ten years).

3. The vehicle should have introduced a significant innovation in the transit industry or a significant feature benefiting transit riders in the Seattle/King County area.

4. The vehicle should be significant because of its rarity or uniqueness, either as a vehicle type or as a representative of a predecessor transit operator.

C. To be considered for historic vehicle status, a report will be prepared for submission to the director describing the vehicle and detailing the result of the application of each criterion. Final determination of historic vehicle status rests with the director.

D. Once a vehicle has been determined by the director to be an historic vehicle, it will be retained as a part of the historic vehicle fleet.

E. If the council determines to dispose of or discontinue the historic vehicle fleet, to the extent permitted by applicable law, the fleet or individual historic vehicles may be offered to the Metro Employees Historic Vehicle Association, as contemplated by the agreement entered into by Metro and said Association, or to a local museum.

F. The division may accept donations of parts for the historic vehicle fleet when such donations have a total value of $10,000 or less. Any gift of parts having a value greater than $10,000 shall be subject to the provisions of K.C.C. 2.80.010. (Ord. 13032 § 1, 1998: Ord. 11033 § 12, 1993).

28.94.100 Public restroom policy for public transit program.

A. The county will provide public restrooms at transit centers that meet the following criteria.

1. The transit center has been designed and sited principally to facilitate transfers between different routes.

2. The transit center is to be developed off-street on property that the county either owns or controls through a long-term lease.

3. County service through the transit center makes significant use of "timed meet" schedules.

4. The transit center has capacity for eight or more in-service coaches; layover bays or terminal space do not count toward meeting this capacity requirement.

5. There is adequate space on the transit center platform to provide a restroom facility without compromising operating requirements.

6. A daily platform population of 2,000 or more patrons is projected. This includes transfer activity as well as trips originating or terminating at the center.

7. At least 25 buses per peak hour pass through the transit center.

8. Independent of any decision to provide a public restroom, the level of operational activity at the transit center justifies the on-site assignment of a service supervisor for all or a portion of the operating day.

B. If these criteria are met, the public restroom will be a uni-sex facility that will be used both by county employees and by the general public. The restroom will only be available to the public for those hours when a department representative is scheduled to be on-site to manage the service. During those hours, public access to the facility will be controlled by this supervisor.

C. If a local jurisdiction or adjacent property owners wish to expand hours of public access to the restroom beyond those available through the department's normal staff assignments, the local jurisdiction or property owner and the county may elect to enter into an agreement to share the additional operating costs for expanded restroom hours; provided, that such agreements shall be approved by the council as required by the King County Charter, ordinance and/or applicable state law.

D. The department shall not provide public restrooms at any of the county's customer facilities that do not meet the criteria above, including the Downtown Seattle Tunnel.

E. The county will not staff its customer facilities simply to maintain or expand hours of access to public restrooms. (Ord. 11962 § 13, 1995).

28.94.110 Commute trip reduction program. To assist local and state agencies in implementing RCW 70.94.521 et seq., known as the Commute Trip Reduction Law, the director is authorized to develop and administer a commute trip reduction ("CTR") program to provide technical expertise in demand management strategies and administrative services such as employer assistance, worksite identification and notification, database development, program review and reporting, and ordinance development to such agencies and/or employers. The executive is authorized to enter into agreements with local and state agencies and/or employers in King County under which the department would provide and the agencies and/or employers would pay for such technical expertise and administrative services; provided, that the department shall recover its costs to the maximum extent practicable under such agreements; and provided further, that such agreements shall be approved by the county council to the extent such approval is required by the King County Charter, ordinance and/ applicable state law. (Ord. 11962 § 14, 1995).

28.94.120 Authorization to adopt administrative rules and procedures. The director is authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this chapter. (Ord. 11033 § 15, 1993).

28.94.130 Effective date. The effective date of Ordinance 11033 is January 1, 1994. (Ord. 11033 § 16, 1993).

28.94.140 Public involvement - sounding boards - accessible services advisory committee - transit advisory committee. The transit public involvement model employed by the King County department of transportation shall consist of three major elements:

A. Sounding boards which are geographically, topically or community-based groups convened for a limited time to consider specific transit topics. Designed to promote the transit division's responsiveness and accountability to the communities it serves, sounding boards shall work with the division to help plan and problem-solve in identified areas of concern such as transit service changes and capital improvements. Sounding boards shall be established by the transit division, supported by the department and the transit advisory committee and provide feedback to the transit advisory committee, local jurisdictions, sub-area transportation forums as well as the division, the executive and the council. For major planning exercises such as service changes, sounding boards shall make consensus recommendations to the transit advisory committee and the transit general manager who, in consultation with the King County council and the transit

advisory committee, shall appoint its members to include one member of the transit advisory committee and to otherwise reflect community diversity and the range of affected interests.

B. An accessible services advisory committee that shall advise the transit general manager, the executive, the council, local jurisdictions, sub-area transportation forums and the transit advisory committee on transit matters of concern to the elderly and persons with disabilities. The committee shall have fifteen members recruited by the department of transportation, appointed to two-year terms by the executive and confirmed by the council. Seven of the initial fifteen members shall be appointed to one-year terms and all subsequent appointments shall be for two years. Committee appointments shall reflect the diversity and geographic distribution of county residents. The committee shall adopt by-laws, elect a chair and vice-chair to one-year terms, adopt an annual work plan and meet in open public sessions as often as needed to complete the work plan. The annual work plan shall include issues of interest to the committee as well as all items requested by the council or the transit division. Committee support shall be provided by department of transportation staff.

C. A transit advisory committee that shall:

1. Advise the transit general manager, the executive, the council, local jurisdictions and sub-area transportation forums on transit issues and policy;

2. Function as a sounding board for updates of the six-year transit development plan;

3. Participate in an annual transit open house convened by the transit division to inform the public of available transit services and promote transit ridership;

4. Serve as a resource for inter-jurisdictional transit promotion and coordination;

5. Have fifteen members who are:

a. transit riders;

b. recruited by the department of transportation to reflect the diversity and geographic distribution of county residents;

c. appointed by the executive and confirmed by the council; and

d. appointed to staggered two-year terms with seven of the initial fifteen members appointed to one-year terms and all subsequent appointments for two years;

6. Adopt by-laws, annually elect a chair and vice-chair and adopt a work program which shall include issues of interest to the committee as well as all items requested by the council or the transit division;

7. Meet monthly or as needed to complete the work plan and address other issues as they arise;

8. Designate one member to serve on each sounding board and consider issues arising from the work of the sounding boards; and

9. Be supported by staff from the department of transportation. (Ord. 13543 § 1, 1999: Ord. 11431 § 7, 1994).

28.94.150 Home free program. In order to increase the attractiveness of public transportation services and other alternatives to commuting in single occupancy vehicles (SOV), there is hereby established a program under which the department, in return for a fee, may pay the taxi fare for non-SOV commuters who experience emergencies or other unanticipated events while at work or other designated locations and are unable to return home in their usual commute mode. To the extent funds are appropriated by the council, the executive is authorized to enter into agreements with businesses, agencies, institutions and other organizations establishing the fee and other terms and conditions under which the department would pay the taxi fares of eligible persons employed by or otherwise associated with the organization. To the extent funds are appropriated by the council, the executive is further authorized to enter into agreements with providers of taxi service establishing the terms and conditions under which the department would pay the fares on behalf of eligible persons participating in the program. (Ord. 11962 § 15, 1995).

28.94.160 Transportation voucher program. In order to increase the attractiveness of public transportation services and other alternatives to commuting in single occupancy vehicles (SOV), there is hereby established a program under which the department may sell transportation vouchers to businesses, agencies, institutions and other organizations for distribution to their employees or others. Said vouchers shall be sold at their full face value and shall be redeemable in accordance with terms and conditions supportive of non-SOV commuting as established by the director. To the extent funds are appropriated by the council, the executive is authorized to enter into such agreements with banks, printers, employers, vendors and others as necessary to implement the transportation voucher program. (Ord. 11962 § 16, 1995).

28.94.165 Equivalent cash fares. The director is authorized to issue, sell, consign, or accept, or any combination thereof, tickets, tokens, commodities or certificates at rates equal to the equivalent cash fare. In order to implement the consignment of fare media authorized under this chapter, the executive is authorized to enter into retail consignment contracts to pay commissions to outlets which sell the fare media. (Ord. 13480 § 3, 1999: Ord. 12643 § 4, 1997).

28.94.170 System of transfers. The director shall establish a system of transfers to permit a person paying the proper fare to ride regularly scheduled service in any direction subject to the zone and time-of-day limitations applicable to the transfer. The holder of a transfer of a lesser value than the proper fare shall pay the cash difference. The time limit for transfers shall not exceed two and one-half hours from time of issuance. (Ord. 12643 § 5, 1997).

28.94.175 Pass agreements. The executive is authorized to negotiate and enter into flexpass or regional annual pass agreements with employers, groups of employers, educational institutions, transportation management associations and other organizations for the purpose of selling passes for distribution and use by employees, students and/or others traveling to their facilities. The executive is also authorized to negotiate and enter into a multiyear pass sale agreement with the owner or developer of a transit-oriented development, or the owner or developer's successor, under which the transit-oriented development purchases and distributes transit passes to the residents of its housing units. For the purposes of this section, "transit-oriented development" means a development that is designated as a transit-oriented development in an agreement with the county and that includes the construction of new housing units at or within one quarter mile of a county transit center or park and ride lot. At a minimum, these institutional agreements shall contain the following terms:

A. A description of the type of pass to be sold. The types of passes sold under the institutional agreements shall be:

1. Flexpasses;
2. Transit-oriented development resident passes; or
3. Regional passes if the institutional pass sale agreements are authorized under the agreement entered into with other transit providers that established the regional passes.

B.1. For flexpass agreements: a description of the services and benefits available to the flexpass holder, of which there shall be at least two services or benefits provided by the other party to the agreement that are in addition to the transit element, the designation of a transportation coordinator and the distribution of alternative commuting information; the number of passes to be issued and the cost thereof, the cost of issuing additional and replacement passes during the term of the agreement, a schedule of payments and an agreement term not to exceed three years. Unless otherwise agreed to by the council, the price terms for the transit element of a flexpass agreement shall be established according to one of two methods described in subsection B.2 of this section. Further, the agreement shall require reimbursement of the cost of additional services provided by the department and shall include provisions for modification due to changes in fares and program fees.

2.a. For the purpose of establishing flexpass prices by area, the director is authorized to identify contiguous geographic areas within the county that are characterized throughout by a similar level of transit service and transit mode-split. The director shall establish flexpass prices according to the following formulae for on-going and new flexpass participants located in the pricing areas.

Flexpass price for on-going area flexpass participants: TR x estimated average annual trips attributable to passes issued under all ongoing area flexpass agreements entered into by parties located in

the subject pricing area. The estimated average annual trip figure shall include a factor determined by the department to reflect the anticipated growth in trips expected for on-going area flexpass participants.

Flexpass price for party entering into its initial area flexpass agreement: TR x estimated average annual transit trips by non-participants located in the subject pricing area. The estimated average annual trip figure shall include a factor determined by the department to reflect the anticipated growth in trips expected for a new participant in the flexpass program.

For purposes of this formula, "TR" means the weighted average fare per trip determined by the department. The area flexpass prices shall be established at least every two years and upon the adoption of any applicable fare increase. Except for flexpass agreements covering at least five hundred employees or multiple worksites throughout the county, area prices shall apply to all flexpass agreements entered into with a party that is located in a pricing area.

b. For employers and other parties that have at least five hundred employees, multiple worksites throughout the county or are located outside a pricing area, the following schedule of annual calculations shall determine the flexpass price term.

First twelve months:	Trip revenue x baseline trips
Second twelve months:	(TR x baseline trips) + [(TR x added trips) x 1/3]
Third twelve months:	(TR x baseline trips) + [(TR x added trips) x 2/3]
Fourth twelve months and thereafter:	(TR x baseline trips) + (TR x added trips)

For purposes of this formula, "trip revenue" or "TR" means the weighted average fare per trip determined by the department.

For purposes of this formula, "baseline trips" means the estimated number of transit trips taken by the contracting party's covered population of students, employees or others, or any combination thereof, in the twelve months preceding execution of the flexpass agreement. Baseline trips may be adjusted on an annual basis to account for changes in the number of eligible employees.

For purposes of this formula, "added trips" means those trips taken during the prior twelve months, determined either from surveys or electronic counting of actual flexpass use, which exceed the number of baseline trips established at the execution of the flexpass agreement. Electronic counts of one month or more will be annualized and used in lieu of survey results if available.

For purposes of this formula, in the event a party terminates or does not renew a flexpass agreement, any subsequent flexpass agreement entered into with that party shall be priced as if in the "fourth twelve months and thereafter" category.

C. For transit-oriented development resident pass agreements: the term of the agreement, the number and type of passes to be provided, the method and frequency of pass distribution, the price of the passes and the timing of the payment or payments. The director shall establish the price at a level that will generate no less than the revenue that the director estimates would otherwise be received if the residents of the transit-oriented development paid cash fares over the term of the agreement. The director shall assume in the price determination: the anticipated rides per pass will be at least eighteen rides per month per pass; and the anticipated fare per trip is at least the weighted average fare per trip as determined generally by the department.

D. For regional annual pass agreements: the price of the regional passes, the cost of issuing additional and replacement passes during the term of the agreement, the level of subsidy provided by the purchasing entity, a schedule of payments and an agreement term not to exceed one year. The price of a regional annual pass sold under an institutional pass sale agreement is the regular price as established in the agreement entered into with other transit providers as set for the in K.C.C. 28.94.015C.4. Purchasing entities are entitled to price discounts only if the discounts are provided under the agreement. (Ord. 14096 § 3, 2001: Ord. 13587 § 1, 1999: Ord. 13480 § 4, 1999: Ord. 12643 § 6, 1997).

28.94.180 Visitor passes. The director is authorized to issue and sell visitor passes entitling the holders thereof to public transportation services as specified by the passes, provided such issuance is not expected to require the addition of regularly scheduled service. The director shall establish the rates of fare, the number of visitor passes and the extent of services available under said passes based on the estimated average visitor usage and the administrative costs of issuing the passes. Said passes may be valid for a period not to exceed seven consecutive days. The director is further authorized to issue and sell said passes to travel, convention and special event groups for quantities over one hundred at a rate that is not less than seventy percent of the established visitor rate. Visitor pass privileges shall commence and terminate on the date(s) for which the passes are valid. (Ord. 12643 § 7, 1997).

28.94.185 Vanpool fares. The director is authorized to establish rates of fare for vanpools, provided that the rates of fare are established at a level reasonably estimated to recover the operating and capital costs of, and at least twenty-five percent of the cost of administering, the vanpool program. (Ord. 12643 § 8, 1997).

28.94.190 Limited service fares. The director is authorized to establish rates of fare for limited service to special or seasonal activities or events, provided such rates of fare and any contributions are established at a level reasonably estimated to recover at least twenty-five percent of the marginal cost for the service hours provided. In addition, the rates of fare for limited service shall be established at a level at least equal to the rates of fare for equivalent regularly scheduled service. If, however, the limited service is not equivalent to any regular service, then the rates of fare shall be no less than one-half of the one-zone, off-peak full fare set forth in this chapter. Such limited services shall be on an individual fare-paying basis and be scheduled according to such routes, schedules and dates as are determined by the director. (Ord. 12643 § 9, 1997).

28.94.195 Customized bus service fares. The director is authorized to establish rates of fare for customized bus service, provided such rates of fare are established at a level reasonably estimated to recover at least eighty percent of the marginal cost for the service hours provided. Such customized services shall be on an individual fare-paying basis and be regularly scheduled according to such routes, schedules and dates as are determined by the director. There shall be no zone fares charged on customized bus service. Passes held by senior citizens, persons with disabilities, and employees, and other special passes or permits may be honored on customized bus service insofar as consistent with overall cost recovery requirements set forth above. Transfers may be issued on customized bus service. (Ord. 12643 § 10, 1997).

28.94.200 Animal fares. The following procedure and rate of fare shall be used for animals riding on coaches. For small animals that do not occupy space other than the lap of the person accompanying the animal and for assistive animals, there shall be no fare charged. For all other animals, a fare equivalent to the fare paid by the individual accompanying the animal shall be charged and a transfer issued upon request except that no zone fare shall be charged. Animals riding on coaches shall be leashed or otherwise restrained and shall not pose a problem of health, injury to property or persons, or disturbance to other passengers. (Ord. 12643 § 11, 1997).

28.94.210 Public school district agreements. The executive is authorized to execute agreements with public school districts to supply students with passes in connection with special school programs, but the price for passes under the agreements shall be established at a rate of thirty-six times the youth fare set forth in this chapter for each month in which these passes are valid, and the passes shall be valid only for rides on regularly scheduled county public transportation service on buses, trolleys, transit vans, dial-a-ride vehicles and streetcars. (Ord. 14096 § 4, 2001: Ord. 13480 § 5, 1999: Ord. 12643 § 12, 1997).

28.94.215 Governmental agency ticket and/or pass agreements. The executive is authorized to execute agreements with local, state and federal governmental entities to provide tickets and/or passes

to their employees or others traveling to their facilities at rates other than those set forth in this chapter; provided, that usage by such employees and others is not expected to require the addition of regularly scheduled public transportation services; provided further, that such agreements are not estimated to reduce the revenue which would otherwise be received for such travel. Such agreements shall be subject to approval by the council to the extent such approval is required by the charter, ordinance and/or applicable state law. (Ord. 12643 § 13, 1997).

28.94.220 Peace officers fares. Notwithstanding any other provision in this chapter, general authority Washington peace officers employed by a general authority Washington law enforcement agency with officers in King County may ride regularly scheduled public transportation services without payment of fare provided such officers are in uniform or display their police badge(s) to the transit operator. (Ord. 12643 § 14, 1997).

28.94.225 Ride free services agreements. The executive is authorized to execute agreements to provide ride free services within geographic areas; provided, that such agreements shall be subject to approval by the council. (Ord. 12643 § 15, 1997).

28.94.230 Leasing of transit vehicles. For the lease of a transit vehicle of the county for charter operation by others, the minimum rental shall be the marginal cost per service hour of such vehicle's operation as established from time to time by the director plus ten percent thereof. (Ord. 12643 § 16, 1997).

28.94.235 Interagency trip agreements. The executive is authorized to execute agreements with other transit agencies to establish a system of fare payment for passengers transferring between transportation systems. The agreements shall be subject to approval by the council to the extent the approval is required by the charter, ordinance or applicable state law, or any combination thereof. The agreements shall provide that the county's share of the fares collected for trips involving transfers between transit agencies shall be the estimated revenue collected for the trips multiplied by the ratio of the revenue that would have been generated by application of the county's appropriate fares or prorated per trip pass prices due under other provisions of this chapter for the county portions of these interagency trips divided by the sum of the revenue that would have been generated by the application of each agency's appropriate fares or prorated per trip pass prices for all segments of such interagency trips. (Ord. 15669 § 2, 2007: 13480 § 6, 1999: Ord. 12643 § 17, 1997).

28.94.240 Waiving or discounting fare or pass prices. For the purpose of attracting new ridership, relieving congestion, developing market strategies, testing prices or experimental service, and implementing other special transit programs or promotions, the director may waive or discount the fare or pass prices otherwise established in this chapter whenever such waiver or discount is not expected to require the addition of regularly scheduled public transportation services and, in the judgment of the director, the value of the program or promotion and the benefit to the public exceeds the expected loss of revenue. The loss in revenue of all such programs, promotions and fare discounts shall, in the aggregate, be no greater than $350,000 annually. (Ord. 12643 § 18, 1997).

28.94.245 Provisions of tickets to human services agencies. The director is authorized to establish a program for the sale and distribution of tickets to human service agencies at twenty percent of their cash value for the purpose of meeting the transportation needs of low income and homeless populations. The total amount of the eighty percent discount provided under the program shall not exceed one million dollars for any one year. The allocation of discount tickets under the program shall be made by the director in conjunction with local jurisdictions and the county's department or departments responsible for human services programs. The local jurisdictions and the county department or

departments shall determine the number of tickets from their respective allocations which shall be sold to the human service agencies eligible under the program. Tickets sold under the program are valid on all public transportation and paratransit service. (Ord 14096 § 5, 2001: Ord. 13640 § 1, 1999: Ord. 12643 § 19, 1997).

28.94.255 Regional reduced fare permit memorandum of understanding. The executive is hereby authorized to execute and administer a regional reduced fare permit memorandum of understanding, substantially in the form of Exhibit A, attached to Ordinance 11640, with Puget Sound transit agencies and the Washington State Ferry System. (Ord. 12643 § 21, 1997).

28.94.260 Regional reduced fare permit administrative fee. The administrative fee for the regional reduced fare permit for seniors and disabled persons shall be three dollars. (Ord. 12643 § 22, 1997).

28.94.265 Annual reports on services and fares. The director shall submit annually to the council, by no later than the date on which the executive transmits the executive proposed budget to the council, a report on the services and fares authorized by K.C.C. 28.94.050 and 28.94.175 through 28.94.250 of this chapter. (Ord. 12643 § 23, 1997).

28.94.280 Transit good Neighbor program.

A. There shall be established within the Metro transit division of the King County department of transportation a Transit Good Neighbor program, which shall be implemented in cooperation with interested cities and the labor unions representing transit division employees. The purpose of the Transit Good Neighbor program is to obtain additional transit capital funds for bus shelters, benches and other passenger amenities in exchange for advertising on the shelter, bench or other amenity, and to develop partnerships for litter control.

B. The Metro transit division of the King County department of transportation shall develop a plan, by September 1st, 2001, to implement the program that includes, but is not limited to:

1. Identification of cities that want to participate in this program and whose codes permit advertising in the public right-of-way;

2. Identification of cities, organizations and businesses that want to adopt shelters by providing funds for shelter capital costs and by assisting with litter control;

3. Development of standards for advertising esthetics on the adopted shelters, benches and other passenger amenities; and

4. Development of procedures needed to implement the program. (Ord. 14095 § 3, 2001).

28.94.300 Severability. The provisions of this chapter (28.94.300) shall be effective in all cases unless otherwise provided by federal law. The provisions of this chapter are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or other portion of this chapter or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter or the validity of the application to other persons or circumstances. (Ord. 12643 § 24, 1997).

Chapter 28.95
SEVERABILITY

Section:

28.95.010 Severability.

28.95.010 Severability. The provisions of this title shall be effective in all cases unless otherwise provided for by state or federal law. The provisions of this title are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or other portion of this title or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this title or the validity of the application to other persons or circumstances. (Ord. 11032 § 33, 1993).

(King County 9-2006)

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Chapter 28.96
REGULATION OF CONDUCT ON TRANSIT PROPERTY

Section:

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(King County 9-2006)

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I. GENERAL

28.96.010 Civil infractions - misdemeanors.

A. Infractions. The following actions are prohibited in, on or in relation to, all transit properties. For conduct not amounting to a violation of another applicable state or local law bearing a greater penalty or criminal sanction than is provided under this section, a person who commits one of the following acts in, on or in relation to transit property is guilty of a civil infraction to which chapter 7.80 RCW applies.

1. Allowing any animal to occupy a seat on transit property, to run at large without a leash, to unreasonably disturb others, or to obstruct the flow of passenger or bus traffic; but animals may occupy a passenger's lap while in a transit vehicle or facility;

2. Allowing his or her animal to leave waste on transit property;

3. Rollerskating, rollerblading or skateboarding;

4. Riding a bicycle, motorcycle or other vehicle except for the purpose of entering or leaving passenger facilities on roadways designed for that use. In tunnel facilities, bicycles must be walked at all times and may not be transported on escalators. However, nothing in this section shall be construed to apply to commissioned peace officers or county employees engaged in authorized activities in the course of their employment;

5. Eating or drinking. However, eating and drinking nonalcoholic beverages are permitted on the mezzanine and exterior plaza levels of tunnel stations and the exterior areas of other passenger facilities. Also, drinking a nonalcoholic beverage from a container designed to prevent spillage is permitted on transit property;

6. Bringing onto a transit passenger vehicle any package or other object which blocks an aisle or stairway or occupies a seat if to do so would, in the operator's sole discretion, cause a danger to passengers or displace passengers or expected passengers;

7. Operating, stopping, standing or parking a vehicle in any roadway or location restricted for use only by transit vehicles or otherwise restricted;

8. Engaging in public communication activities or commercial activities except as authorized under K.C.C. 28.96.020 through 28.96.210.

9. Riding transit vehicles or using benches, floors or other areas in tunnel and other passenger facilities for the purpose of sleeping rather than for their intended transportation-related purposes;

10. Camping in or on transit property; storing personal property on benches, floors or other areas of transit property;

11. Entering or crossing the transit tunnel roadway or transit vehicle roadways in and about other passenger facilities, except in marked crosswalks or at the direction of county or public safety personnel;

12. Extending an object or a portion of one's body through the door or window of a transit vehicle while it is in motion;

13. Hanging or swinging on bars or stanchions, with feet off the floor, inside a transit vehicle or other transit property; hanging onto or otherwise attaching oneself at any time to the exterior of a transit vehicle or other transit property;

14. Engaging in any sport or recreational activities on transit property;

15. Parking a vehicle in an approved parking area on transit property for more than seventy-two consecutive hours;

16. Using a transit facility for residential or commercial parking purposes;

17. Performing any nonemergency repairs or cleaning of a vehicle parked on transit property; and

18. Conducting driver training on transit property.

B. Misdemeanors. The following actions are prohibited in, on or in relation to all transit properties. For conduct not amounting to a violation of another applicable state or local criminal law bearing a greater penalty than is provided under this chapter, a person who commits one of the following acts in, on or in relation to transit property is guilty of a misdemeanor.

1. Smoking or carrying a lighted or smoldering pipe, cigar or cigarette while in a transit vehicle or in the platform or mezzanine areas of the tunnel;

2. Discarding litter other than in designated receptacles;

3. Playing a radio, tape recorder, audible game device or any other sound-producing equipment, except when the equipment is connected to earphones that limit the sound to the individual listener. However, the use of communication devices by county employees, county contractors or public safety officers in the line of duty is permitted, as is the use of private communication devices used to summon, notify or communicate with other individuals (such as "beepers" or portable telephones);

4. Spitting, expectorating, urinating or defecating except in restroom facilities;

5. Carrying flammable liquids, flammable or nonflammable explosives, acid or any other article or material of a type or in a manner that is likely to cause harm to others. However, cigarette, cigar or pipe lighters, firearms, weapons, and ammunition may be carried if in a form or manner that is not otherwise prohibited by law or ordinance;

6. Intentionally obstructing or impeding the flow of transit vehicle or passenger movement, hindering or preventing access to transit property, causing unreasonable delays in boarding or deboarding, reclining or occupying more than one seat, or in any way interfering with the provision or use of transit services;

7. Unreasonably disturbing others by engaging in loud, raucous, unruly, harmful, abusive or harassing behavior;

8. Defacing, destroying or otherwise vandalizing transit property or any signs, notices or advertisements on transit property;

9. Drinking an alcoholic beverage or possessing an open container of an alcoholic beverage. However, possessing and drinking an alcoholic beverage is not prohibited in the tunnel facilities if authorized as part of a scheduled special event for which all required permits have been obtained and when said facilities are not in use for transit purposes;

10. Entering nonpublic areas, including but not limited to tunnel staging areas and equipment rooms, except when authorized by the director or when instructed to by county or public safety personnel;

11. Dumping any materials whatsoever on transit property, including but not limited to chemicals and automotive fluids;

12. Throwing an object at transit property or at any person in transit property;

13. Failing to present a valid, unexpired pass, transfer or ticket or otherwise failing to pay the appropriate fare as required under county ordinance;

14. Possessing an unissued transfer or tendering an unissued transfer as proof of fare payment;

15. Falsely representing oneself as eligible for a special or reduced fare or obtaining any permit or pass related to the transit system by making a false representation;

16. Falsely claiming to be a transit operator or other transit employee; or through words, actions and/or the use of clothes, insignia or equipment resembling department-issued uniforms and equipment, creating a false impression that he or she is a transit operator or other transit employee;

17. Bringing onto transit property odors which unreasonably disturb others or interfere with their use of the transit system, whether such odors arise from one's person, clothes, articles, accompanying animal or any other source;

18. Engaging in gambling or any game of chance for the winning of money or anything of value; and

19. Discharging a laser-emitting device on a transit vehicle, directing such a device from a transit vehicle toward any other moving vehicle or directing such a device toward any transit operator or passenger. (Ord. 13544 § 1, 1999: Ord. 11950 § 14, 1995).

II. PUBLIC COMMUNICATION ACTIVITIES

28.96.020 General.

A. Purpose. In furtherance of its proprietary function as provider of public transportation, the county makes a variety of transit properties available to persons who use public transit services. Although transit properties may be accessed by the general public, they are not open public forums either by nature or by designation. Transit properties are intended to be used for public transit-related activities and provide little, if any, space for other activities.

Most public communication activities are generally prohibited in or on transit properties, regardless of viewpoint expressed, because they are incompatible with the county's legitimate interests, including but not limited to:

1. Securing the use of scarce parking spaces and shelter space for persons who are using public transit services;

2. Maintaining safe, clean and secure transit properties to retain existing, and attract new users of public transit services;

3. Reducing litter pick-up and other maintenance or other administrative expenses so as to maximize the provision of public transit services;

4. Preventing delays and inconvenience to passengers by minimizing congestion, and expediting their boarding, transferring, and deboarding of transit vehicles; and

5. Securing scarce space at the tunnel and other passenger facilities for potential commercial activities intended to produce revenues for the system and attract riders with convenience services and goods.

It is the purpose of this chapter to describe the varying degrees to which passengers and the public are allowed to engage in public communication activities on the three categories of transit property identified in Sections 28.96.030, 28.96.040 and 28.96.050. This chapter does not apply to county activities or to county employees engaged in authorized activities in the course of their employment.

B. Obligations of communicator. In addition to any civil infraction or criminal sanctions which may be applicable under this chapter or applicable federal, state and local law, any person engaged in public communication activities and found responsible for littler, damages or destruction of property, whether by accident or intent, shall be responsible for cleaning-up and/or shall be liable for the cost of clean-up, repair and replacement as necessary.

C. Non-county uses. Notwithstanding the limitations and prohibitions contained in this chapter, the county reserves the right to enter into licenses, leases or other use agreements permitting non-county uses of transit properties which are found to be compatible with the county's proprietary public transit

function and interests; provided, the executive shall comply with applicable King County Charter, King County Code and state law requirements in executing such licenses, leases and agreements. (Ord. 11950 § 15 (part), 1995).

28.96.030 Transit vehicles and tunnel platform areas. Public communication activities are prohibited in transit vehicles and tunnel platform areas. (Ord. 11950 § 15 (part), 1995).

28.96.040 Tunnel mezzanine and plaza areas.

A. Public communication activities that are otherwise lawful are permitted in mezzanine and plaza areas subject to the prohibitions, limits, exceptions, terms and conditions of this chapter.

B. Signs, leaflets, posters, flyers, pamphlets, brochures and written, pictorial or graphic material of any kind, structures, banners and any other paraphernalia may not be posted or affixed to tunnel property or erected in or on tunnel property.

C. Signs carried by or on a person are permitted, provided the signs are not constructed of a size or material that could inadvertently or intentionally cause injury to a person or property. Signs must not be of a size that obstructs the free flow of pedestrians and must not exceed thirty-six inches by thirty-six inches in any case. A sandwich board sign must not extend significantly beyond the carrier's shoulders.

D. Public communication activities are not permitted within fifteen feet of any stairway, escalator, elevator, entrance, customer service counter, ticket or automatic teller machine or authorized commercial activity. Public communications activities are not permitted within five feet of any fire safety system component, telephone, information board or news vending machine. Additionally, public communications activities must not block normal pedestrian paths to and from the areas noted in this subsection.

E. For safety and security reasons, to ensure that the free flow of pedestrians and the intended transportation functions of the tunnel stations are met, and to accommodate other activities competing for the limited available space, a collective maximum number of individuals allowed to engage in public communications activities at any one Downtown Seattle Transit Tunnel location is hereby established. Because of different station configurations, the number of individuals allowed to engage in public communication activities at the same location and time shall be limited as follows:

Station (Location)	Maximum # number of persons
Convention Place (Plaza)	8
Convention Place (Platforms)	0
Westlake (Mezzanine)	8
Westlake (Platforms)	0
University Street (N. Mezzanine	4
University Street (S. Mezzanine)	4
University Street (Platforms)	0
Pioneer Square (N. Mezzanine)	4
Pioneer Square (S. Mezzanine)	4
Pioneer Square (Platforms)	0
International District/Chinatown (Plaza)	8
International District/Chinatown (Platform)	0

F. A single group whose number of participants is known in advance, or is found at the time, to consist of four or more persons shall be required to obtain a letter of authorization in accordance with 28.96.060.E.

G. Individuals or groups engaged in public communication activities who desire to use a table or public address system, loudspeaker or other sound amplifying device must obtain a letter of authorization

with the appropriate endorsement or endorsements in accordance with K.C.C. 28.96.060, 28.96.070 and 28.96.080.

H. Persons engaged in public communications activities in compliance with K.C.C. 28.96.020 may nevertheless be required to cease or to move to another specified area within the same or a different tunnel location if the number of persons engaged in public communication activities, their location or their manner of conducting the activities creates safety or security problems, interferes with the free flow of persons into, within or from a plaza or mezzanine area or interferes with the operation use and quiet enjoyment of the facility or transit service therein. (Ord. 15074 § 4, 2004: Ord. 11950 § 15 (part), 1995).

28.96.050 Other passenger facilities.

A. Public communications activities which are otherwise lawful are permitted in or on passenger facilities other than the tunnel, subject to the prohibitions, limits, exceptions, terms and conditions of this chapter.

B. Selling or offering for sale books, pamphlets, or any other written, printed or recorded material is prohibited.

C. Soliciting or receiving funds is prohibited regardless of the purpose or method employed.

D. Signs, leaflets, posters, flyers, pamphlets, brochures and written, pictorial or graphic material of any kind, structures, banners and any other paraphernalia may not be posted or affixed to passenger facilities or vehicles parked at such facilities and may not be erected in or on passenger facilities. Provided, however, posting of literature in accordance with department regulations is permitted on kiosks or bulletin boards installed by the department for use by passengers and the general public.

E. Signs carried by or on a person are permitted provided the signs are not constructed of a size or material which could inadvertently or intentionally cause injury to a person or property. Signs must not be of a size that obstructs the free flow of pedestrians and must not exceed 36 inches by 36 inches in any case. A "sandwich board" sign must not extend significantly beyond the carrier's shoulders.

F. Public communication activities are not be permitted in parking areas or roadways. Public communication activities must not block any loading zone, signage, stairway, escalator, elevator, customer service counter, ticket or automatic teller machine, authorized commercial activity, any fire safety system component, telephone, information board or the normal pedestrian paths to and from such areas.

G. For safety and security reasons and to ensure that the free flow of pedestrians and the intended transportation functions of the passenger facilities are met, a collective maximum number of individuals allowed to engage in public communications activities at any one passenger facility may be established by the department based on the size and configuration of the facility.

H. A single group whose number of participants is known in advance, or is found at the time, to consist of four (4) or more persons shall be required to obtain a letter of authorization in accordance with Section 28.96.060, subject to the department's determination of a collective maximum number of individuals, representing the same or different group or cause, which may be authorized at each passenger facility.

I. Persons engaged in public communications activities in compliance with this chapter may nevertheless be required to cease or to move to another specified area within the passenger facility if the number of persons engaged in the activities, their location or their manner of conducting the activities create safety or security problems, interfere with the free flow of persons into, within or from transit vehicles or passenger facilities, or interfere with the operation, use and quiet enjoyment of transit vehicles, passenger facilities or public transportation services.

J. Persons engaged in public communication activities in or on passenger facilities shall not use any parking spaces provided at such facilities unless they are also using a public transportation service.

K. Persons engaged in public communication activities who desire to use a public address system, a loudspeaker or other sound amplifying device must obtain a letter of authorization with the appropriate endorsement in accordance with 28.96.060 and 28.96.080. (Ord. 11950 § 15(part), 1995).

28.96.060 Letter of authorization.

A. A letter of authorization will be issued on a first-come, first-served basis, subject to availability, and will be valid for a specific location, date, and time period. Actual use of a letter will be limited to the normal hours and days during which a specified location is open for public access. No more

than two (2) letters will be issued for a given location, date and time period to individuals representing the same group or cause.

B. A letter of authorization may be obtained in-person from the department during normal county business hours for same-day use or may be obtained up to seven (7) days in advance of the date of intended use. Mailed requests for letters of authorization must be received at least ten (10) days prior to the date of intended use to allow time for return receipt.

C. Persons or groups who are issued letters of authorization shall, as a precondition to the issuance of the letter, agree to indemnify, defend and hold harmless the county and its officers, agents and employees from all suits, claims, actions and damages of whatsoever kind or nature arising out of or resulting from the persons' or groups' use of the premises, except to the extent caused by the negligence of the county and its officers, agents and employees. Such persons or groups shall further covenant and agree to specifically assume potential liability for actions brought by their own employees against the county and its officers, agents and employees and, for that purpose only, they shall specifically waive any immunity under the workers' compensation act, Title 51 RCW.

D. A letter of authorization may be transferred to another person engaged in the same activity provided the receiving party complies with the conditions of the letter and retains it on his/her person during the activity.

E. Persons issued a letter of authorization will be required to have it on their person or with their group when engaged in their activity. At the request of a county employee or a law enforcement officer, persons or groups engaged in public communication activities must produce a valid letter for the date, time period and location of the activities if they are utilizing a table, using sound amplification equipment, or where four (4) or more persons are engaged in the activity. Persons or groups without a valid Letter will be required to cease their activities until a valid letter is obtained or the activities are conducted without a table, sound amplification equipment or involving less than four (4) individuals.

F. Letters of authorization may not be reproduced or altered in any manner. Reproduced or altered letters will be considered invalid and confiscated. The holder of the invalid letter will be required to cease their activity until a valid letter is obtained or the activity is conducted without a table, sound amplification equipment or involving less than four (4) individuals.

G. A letter of authorization (with or without a table or sound amplification endorsement) may be revoked immediately if:

1. The person or group engaged in the public communication activity violates this chapter or any applicable federal, state or local law; or

2. The activity has attracted a crowd of sufficient size so as to begin to adversely affect the safety, security or rights of others, the free flow of pedestrians, or the normal operational requirements of the facility.

Once a letter has been revoked, an individual or group shall not continue their activity until another letter has been obtained. If the letter has been revoked, any table or sound amplification equipment involved in the terminated activity must be removed immediately, together with all related materials, by the individual(s) involved. No table, equipment or other materials may be left behind unattended or stored on the premises. (Ord. 11950 § 15(part), 1995).

28.96.070 Table endorsement: tunnel plaza and mezzanine levels only.

A. Persons requesting a letter of authorization to engage in public communication activities in a tunnel plaza or mezzanine area may, at their option, indicate a desire to provide a table to store, display, and distribute materials in conjunction with their activity. If the maximum number of tables allowed per station area has not already been committed for the desired date, a Table Endorsement will be indicated on the letter.

B. The maximum number of tables permitted per station location will be equal to one-half the collective maximum number of persons allowed to be simultaneously engaged in public communication

activities for that location, i.e., four (4) tables per station. At University Street and Pioneer Square stations, however, only two (2) tables will be allowed per split mezzanine.

C. Tables may be used in accordance with the following conditions:

1. The table shall not exceed four (4) feet in width by eight (8) feet in length.

2. A maximum of three (3) chairs will be permitted at each table.

3. The table/chairs must be supplied by the letter holder, and must be removed prior to the close of a station for the day, or the time period for which the letter of authorization is valid, whichever is earliest. A table must be attended at all times unless the letter holder is physically present within the area and can maintain sight of the table at all times.

4. Tables may not be located within 15 feet of any stairway, escalator, elevator, fire safety system component, telephone, customer service counter, information board, ticket or news vending machine, entrance, exit, or authorized commercial activity within a designated area. Additionally, tables may not block normal pedestrian paths to or from the areas noted above.

5. Members of the same group or organization may simultaneously operated a second table at a given station after 12:00 noon on a given day, provided the maximum number of tables and/or persons engaged in public communication activities for a stated time period and location is not exceeded. A separate letter of authorization, with a "table endorsement" must be requested and issued for a second table.

6. Materials must be stored on top of or beneath each table. Under no circumstances may the table, chair, stored articles or person(s) staffing the table obstruct the free flow of persons moving within or through a station.

7. Signs, leaflets or other materials may be affixed to the table. No signs, leaflets or other materials may be posted or erected within station facilities unless space has otherwise been provided for such use.

8. The county shall not be responsible for any table, chair(s), or any materials around, under or upon the table. (Ord. 11950 § 15(part), 1995).

28.96.080 Sound amplification endorsement: tunnel plaza and mezzanine level only.

A. When the use of a loudspeaker system or other sound amplifying device is desired in conjunction with a public communication activity in a tunnel plaza or mezzanine area, a written request must be received by the department at least fourteen (14) days in advance of the date of intended use. The request should state the type and amplification power of the system/device proposed for use. The department will review the request and grant, grant with restrictions or deny the request. Only one sound amplification endorsement will be issued for a given location, time period and day. Exceeding the maximum permitted sound level under local or state law is prohibited and shall be grounds for revocation of a letter of authorization.

B. If approved the department, a sound amplification endorsement will be indicated on a letter of authorization sent to the applicant, along with any special requirements or restrictions associated with the equipment's use. The letter must be kept on-site when the equipment is in use. If the "sound amplification" request cannot be approved, but a letter of authorization for other purposes is still appropriate, the latter may be issued, accompanied by an explanation for why the original request could not be accommodated. (Ord. 11950 § 15(part), 1995).

III. COMMERCIAL ACTIVITIES

28.96.210 Regulation of commercial activities on transit property. As part of its proprietary function as the provider of public transportation, the county seeks to generate revenue from the commercial use of transit vehicles, the tunnel and other passenger facilities to the extent such commercial activity is consistent with the security, safety, comfort and convenience of its passengers. Accordingly, all commercial activity is prohibited on transit property except as may be permitted by the county in a written permit,

concession contract, license agreement, advertising agreement or other written agreement. Provided, however, posting of commercial literature in accordance with department regulations is permitted on kiosks or bulletin boards installed by the department for use by passengers and the general public for such purpose. (Ord. 11950 § 16, 1995).

IV. SPECIAL EVENTS

28.96.310 Regulation of special events on tunnel property.

A. Subject to the terms of this chapter and compliance with all applicable regulations and approvals required under state and local law, the department, at its sole discretion, may permit other organizations to use tunnel facilities for receptions, running events and similar special events.

B. At a minimum, the department shall consider the following in determining whether or not to permit a special event at a tunnel facility.

1. Safety or security risks;
2. Impediments to the free flow of transportation system users and other pedestrians during regular operating hours under normal or potential emergency conditions;
3. Interference with tunnel operations and maintenance activities, including scheduled construction, testing, training, and routine operations and maintenance;
4. Interference with approved commercial activities;
5. Availability of adequate space and necessary utilities to accommodate the event;

6. Need for additional maintenance and security caused by the event; and
7. Ability of event sponsor to reimburse the department for any additional expenses incurred as a result of permitting the special event.

C. The department may, at its sole discretion, preclude entirely, specify a location or on a monthly, quarterly, or annual basis, establish a maximum number of special events that may be accommodated at a given station, or throughout the tunnel system, considering such physical, operational and safety-related constraints as the following:

1. Sufficient space must remain available to accommodate normal use of tunnel services.
2. The absence of overhead sprinkler systems in some stations may preclude all or certain types of special events at those locations.
3. No special events will be permitted on platform levels of any station during revenue service periods.
4. Routine, one-time, or emergency circumstances associated with system maintenance, training, or operations may at times preclude the scheduling of, or result in the cancellation of, a special event.

D. Application for permission to use a tunnel facility for a special event shall be submitted, along with a detailed event plan, to the department at least forty-five (45) days in advance of the desired event date. The event sponsor shall be responsible for obtaining any permits required by external agencies (e.g., Seattle Fire, Engineering, or Health departments, etc.) prior to the department granting permission to use the tunnel facility.

E. Applicants whose special event has been approved will be required to enter into a written agreement with the county which may include the following terms and conditions as deemed necessary and appropriate by the department;

1. User fee, rental rate or combination thereof;
2. Limitation to only activities which have been specifically described in the approved event plan;
3. Payment of a deposit or bond (if determined appropriate);
4. Proof of insurance of the type and in the amount specified by the county;
5. Indemnity and defense of the county in any claim arising as a direct or indirect result of the activity;

6. Cost-recovery provision ensuring reimbursement for any physical damages to county property or other costs incurred by the county as a result of the event (i.e., increased maintenance, security, etc., not covered by a basic user fee or rental rate);

7. Provision for termination of the agreement by the county due to non-compliance with the terms of the agreement or unreasonable or unanticipated conflict with normal operation and maintenance of the tunnel;

8. Conditions specific to the event including but not limited to, such conditions as the date, time and specific location of the event and any requirements for utilities, safety devices, security and cleanup. (Ord. 11950 § 17, 1995).

V. ENFORCEMENT

28.96.410 General. In addition to any other remedies and sanctions available under applicable civil and criminal federal, state and local law, a person violating the rules and provision of this chapter shall be subject to the following:

A. Immediate expulsion from transit properties;

B. Suspension of the privilege of entering upon and using the transit system and properties;

C. Civil penalties if the violation constitutes an infraction; and

D. Criminal penalties if the violation constitutes a misdemeanor.

The classification of a violation as either an infraction or a misdemeanor under Section 28.96.010 shall not limit or preclude any action or prosecution from being undertaken pursuant to another applicable local, state or federal law. (Ord. 11950 § 18(part), 1995).

28.96.420 Immediate expulsion. Any person violating a rule or provision of Sections 28.96.010 through 28.96.310 or any federal, state or local law may be ordered to leave transit property by a commissioned peace officer, department personnel as authorized by the director or authorized personnel of a contracted service provider in accordance with the terms of the applicable service contract. Failure to immediately comply with such an expulsion order shall be grounds for prosecution for criminal trespass. (Ord. 11950 § 18(part), 1995).

28.96.430 Suspension of use privileges. Violation of a rule or provision of this chapter or any federal, state or local law shall be cause for suspension of a person's privileges to enter upon transit property and use the transit system. Such a suspension may be ordered by department personnel authorized by the director or by the authorized personnel of a contracted service provider in accordance with the terms of the applicable service contract. Notice of such suspension shall be in writing and shall inform the person suspended of the cause, the period of the suspension, and that failure to comply shall be grounds for criminal prosecution. Service of the suspension notice may be accomplished by personal delivery or by mailing a copy, addressed to the person's last known address, by certified U.S. mail. Unless otherwise specified on the notice, the suspension shall take effect immediately upon actual or constructive receipt of the notice by the person being excluded. A person may not defeat the effectiveness of a suspension by refusing to accept the notice. Receipt of the notice is construed to have been accomplished if the person knew or reasonably should have known from the circumstances that his/her privileges to enter upon transit property and use the transit system have been suspended. Receipt of the notice is also construed to have been accomplished two (2) days after a suspension notice is placed in the U.S. mail. Failure to immediately comply with such a suspension order shall be grounds for prosecution for criminal trespass.

A person whose use privileges have been suspended may submit a written request for a review of the suspension, which request must be received by the director within ten (10) calendar days after the effective date of the suspension. Upon receiving a timely request, the director shall designate a person to review the suspension. The suspended person may orally present his/her reasons why the suspension should not be served, by phone or in person at a time and location mutually agreed upon with the reviewer. Within ten (10) calendar days after the suspended person presents his/her reasons, the reviewer shall make

a decision affirming, modifying or terminating the suspension. The reviewer's decision shall be final. (Ord. 11950 § 18(part), 1995).

28.96.440 Infractions - penalty. A person who is guilty of committing an infraction under Section 28.96.010A shall be subject to a monetary penalty of not more than five hundred dollars ($500.00) plus statutory assessments. Any person cited for a civil infraction shall be subject to the applicable Rules for Courts of Limited Jurisdiction and penalty schedules. (Ord. 11950 § 18(part), 1995).

28.96.450 Misdemeanors - penalty. A person who is guilty of committing misdemeanor infraction under Section 28.96.010B shall be subject to a fine of not more than one thousand dollars ($1,000) and by imprisonment in the county jail for not more than ninety (90) days, or both. (Ord. 11950 § 18(part), 1995).

28.96.610 Limitation of obligations. Nothing in the rules or requirements set forth in this chapter shall create a duty to any person on the part of the county or form any basis for liability on the part of the county, the members of its council, its agents or employees. The obligation to comply with said chapters is solely that of any persons entering upon transit property and the county's enforcement of said chapters is discretionary, not mandatory. (Ord. 11950 § 19, 1995).

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