



CITY OF KIRKLAND
Department of Public Works
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www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Ray Steiger, P.E., Public Works Director

Date: August 29, 2011

Subject: SANITARY SEWER CAPITAL FACILITY CHARGES

RECOMMENDATION:

City Council approve the attached ordinance authorizing the financing of Kirkland sanitary sewer capital facilities charges for residents entering into contracts for the Emergency Sewer Program (ESP), which program is codified in Chapter 15.38 of the KMC.

BACKGROUND DISCUSSION:

As allowed by RCW 35.67.360, the City's ESP financing program has been in place since 1999 and was established by City Council as a relatively affordable means of allowing properties with septic systems to hook up to the public sanitary sewer system. Prior to the ESP, property owners that experienced failed septic systems were either forced to extend the public sewer system to their property, typically an expensive endeavor on their own, pump their septic systems on an increased frequency (again a costly and tedious process), or face significant septic system reconstruction costs. The urban nature of Kirkland and the increasing degradation of the natural drainage systems lead Council to support the ESP which offers a means for property owners to utilize the public sewer system. Since its inception, residents have taken advantage of the program and, combined with development activity, ESP has lead to a number of new connections (Attachment A).

The Program's primary benefit to property owners is that there are three means by which they can buy into the system; under all scenarios, the City designs and constructs the ESP program improvements. Once the ESP program construction has been completed for a given year, benefitting property owners can then decide which of three options they prefer for their access to the system:

- 1) Pay a private contractor for conversion of their septic plumbing to a new side sewer, pay their Kirkland sewer capital facility charge (SCFC) and permit fees (currently approximately \$3,100 and \$400 respectively), contact King County DNR to instigate payment of KC capital facility charges over time, and pay their entire ESP charge; or,
- 2) Sign a 10-year repayment contract to pay off their ESP charge; this options requires them to pay for their side sewer conversion, SCFC, and permit fees at the time that they

decide to connect to the public system; the SCFC and permit fees due are those in place at the time they decide to connect; or
3) wait up to 10 years before deciding to pursue option 1) or 2).

In any case, if the property is either sold or refinanced, the property owner is required to pay off the ESP charge. Recently a number of property owners have inquired about the ability to not only finance the ESP construction charge which was identified in the original ESP formulation ordinance, but also the City's SCFC required by KMC 15.12.063. The SCFC currently must be paid in full *at the time of connection to the system*. Staff believes that the intent of the original program was to encourage residents to hook up to the public system. The delayed repayment of the SCFC does not appear to be a significant detriment to the ESP reserve funds. Therefore, staff recommends that the Council allow residents to include financing of the SCFC with the financing of the ESP charge should the resident wish to finance both. The permit fees would continue to be paid at the time of connection because RCW 35.56.360 only allows for financing of materials and equipment. The SCFC qualifies as a materials and equipment cost because it is charged to each connecting resident to reimburse the City for that resident's proportional share of the costs incurred in constructing the existing infrastructure.

At their July 26, 2011 subcommittee meeting, the Finance Committee recommended that the Council approve the proposed change as well as providing additional information regarding the percentage of annexation area that were on septic systems and whether the Northshore Utility District (NUD) had a similar program.

NUD does not have an ESP, however, they have performed many emergency sewer extensions in the past. If a customer has a failed septic system and asks for sewer extension/connection, the Board of Commissioners will consider them on a case by case basis. Where it is reasonable and the District is capable of the extension, they would construct the extension as a public works project. According to their billing records, there are about 550 accounts of the 12,000 active service accounts in Kirkland that are potentially on septic systems. Exact numbers are not known as multiple notations on the billing for parcels leads to different totals; however it is still approximately 5% of their system.

EMERGENCY SEWER PROGRAM OVERVIEW AS OF April 30, 2011

Program	Year	Length (linear feet)	# Connections Provided*	Connected To Date	Final Project Cost	Cost Per Assessment	Reimbursed through 4/30/11	% Reimbursed	Principal Due
1	1999	2,900	54	38	\$576,028	\$8,025	\$532,961	93%	\$56,872
2	2001	4,756	74	47	\$725,995	\$9,726	\$682,428	94%	\$67,941
3	2003	5,700	114	62	\$1,435,668	\$11,857	\$1,147,490	80%	\$288,178
4	2005	4,150	83	23	\$1,325,925	\$15,975	\$759,897	57%	\$566,028
5	2007	4,583	84	33	\$1,668,576	\$19,864	\$624,062	37%	\$1,044,514
6	2009	2,810	49.5	9	\$810,344	\$16,371	\$215,273	27%	\$595,071
TOTAL		24,899	458.5	212	\$ 6,542,536	\$ 81,818	\$ 3,962,111	61%	\$2,618,603

*0.5 attributed to adjacent developer sewer extension

46% Percent Connected

Program	Year	Connections	Paid in Full	Payment Refinance	Payment Sale	Payment Other	ACTIVE Contracts	Delinquent Contracts	Inactive
1	1999	54	49	14	23	12	3	1	1
2	2001	74	63	22	17	24	9	0	2
3	2003	114	76	21	22	33	23	3	12
4	2005	83	41	5	15	21	16	1	25
5	2007	84	21	6	4	11	39	0	24
6	2009	49.5	14	2	0	11	18.5	0	17
TOTAL		459	264	70	81	112	109	5	81

% of Contracts paid with refinance

15.27%

% of Sales

17.67%

% Other (payout)

24.43%

Paid in full

57.58%

% Inactive Accounts

18%

cross check

Payment Options:

1999	54	53	
2001	74	74	
2003	114	111	
2005	83	82	
2007	84	84	
Refinance			contract paid off upon refinancing of property
Sale			contract paid off upon sale of property
Other			contract paid voluntarily or under settlement
Active			currently on payment plan and under contract
Inactive			no action and or past due to enter contract w/in 10 yrs

ORDINANCE O-4319

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
EMERGENCY SEWER MAIN EXTENSIONS

WHEREAS, due to the increasing number of failing septic systems and the resulting environmental damage, the City Council established the Emergency Sewer Program (ESP) in 1999, which is codified in Chapter 15.38 of the Kirkland Municipal Code; and

WHEREAS, the ESP not only authorized the City to construct sewer main extensions in response to emergency situations, as allowed by RCW 35.67.360, it also encouraged residents to connect to newly built systems by providing City financing for each resident's proportional share of the costs of constructing the sewer main extension, which otherwise would have had to be paid at the time of connecting to the system; and

WHEREAS, in keeping with this philosophy and as also allowed by RCW 35.67.360, the Council would like to provide further encouragement to connect by allowing for financing of the sewer capital facilities charge required by KMC 15.12.063, which currently must be paid at the time of connection,

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 15.38.010 is hereby amended to read as follows:

15.38.010 Connection requests.

The owner of an existing single-family or multifamily dwelling within the Kirkland sewer system service area, having a failed or failing septic tank system, may request to connect to the public sewer system, even though such property may be located more than three hundred thirty feet from an existing sewer main (requiring construction of a sewer main extension in order to be connected). Whenever construction of a sewer main extension is required to make such connection possible, the city shall plan, design and construct such extension within a reasonable time pursuant to the criteria for sewer main extension projects and construction priorities authorized by Section [15.38.040](#) of this chapter. Upon completion of construction and acceptance of the sewer main extension, the city shall:

(1) Give notice to the requesting property owner to connect the property to the public sewer system within thirty days of receipt of the notice; and

(2) Give notice to other property owners benefited by the extension construction to connect the property to the public sewer system within thirty days of receipt of the notice; provided,

that in lieu of connection, such property owners may delay connection of the property and payment of the extension charge pursuant to Section [15.38.030](#) and/or the sewer capital facilities charge pursuant to [15.12.063 \(SCFC\)](#) by executing a written request and authorization, in a form approved by the director of public works in accordance with Section [15.38.040](#), that requests delay of connection and payment and that acknowledges filing of the document described in Section [15.38.030\(c\)](#) and creation of the lien of Section [15.38.030\(d\)\(5\)](#). The department of public works shall record the written request with the King County office of records and elections.

Section 2. Kirkland Municipal Code Section 15.38.030 is hereby amended to read as follows:

15.38.030 Extension charge—Established.

(a) The city shall collect sewer extension charges from owners of properties which individually benefit from publicly built sewer extension facilities constructed after adoption of the ordinance codified in this chapter, except property owners who previously paid their fair share of such an extension through or a LID or ULID. Facilities that may be covered in an extension charge include, but are not limited to, stubs built from the sewer main to the property line, pump stations and sewer main extensions which bring the sewer main to the farther boundary of the property.

(b) The extension charge is the property owner's equitable share of the established costs of the facilities extension from which the property owner benefits. The equitable share shall include interest charges applied from the date of construction acceptance of the sewer extension until the property connects, at a rate commensurate with the rate of interest established in subsection (d)(3) of this section, as applicable at the time of construction of the facility to which the property owner is seeking to connect.

(c) The extension facilities cost shall be allocated to benefiting property owners based on the number of residential customer equivalents. For the purposes of this chapter, "residential customer equivalents" means the number of dwelling units existing on a lot or parcel of land as of the date of construction acceptance of the sewer extension to which the property will be connected or a vacant lot or parcel of land of reasonable residential lot size as determined by the director of public works pursuant to Section [15.38.040](#) of this chapter. At completion of each extension construction project the department of public works shall record, with the King County office of records and elections, a document which identifies the

project and includes a statement of total construction cost, the amount of such cost per residential customer equivalent, a legal description of each lot or parcel of land benefited and the amount of the extension charge allocable for each lot or parcel so described.

(d) The extension charge and the SCFC shall be payable to the city as follows:

(1) For a requesting property owner and for other property owners who do not execute a written request and authorization to delay payment of the extension charge and/or the SCFC, upon receipt of the thirty-day notice to connect pursuant to Section [15.38.010](#); or

(2) For other property owners who execute a written request and authorization to delay payment of the extension charge and/or the SCFC pursuant to Section [15.38.010](#), upon connection of the property to the public sewer system pursuant to Section [15.28.010](#), or ten years following acceptance of the construction of the extension, whichever occurs first; or

(3) The city may enter into contracts with the owners of existing single-family residences, multifamily residences and businesses that meet criteria specified by the department of public works for payment of extension charges and/or the SCFC over ten successive years instead of as a lump sum. In addition to the installment payment on the extension charge and/or SCFC principal, each time payment shall include an administrative handling fee to be established by the finance director, together with interest on the unpaid balance of the extension charge and/or SCFC principal at a rate to be set quarterly on the first working day of the quarter by the finance director, which shall not exceed ninety-five percent of the market yield to maturity of the most recently issued U.S. Treasury note. The interest rate and administrative handling fee to be set quarterly shall remain in effect for said contracts for the term of the contract. The interest rate shall be set quarterly for time payment contracts entered into during that current year. The contract shall provide that the first annual payment shall be payable as of July 1st following connection with the remaining payments due on July 1st of each successive year.

(4) Notwithstanding the foregoing, the entire amount of the extension charge and the SCFC or any remaining unpaid balance thereof shall be payable in full at the time of closing upon sale of the property, or upon refinancing of the property unless the owner requests that the city waive its right to collect this charge out of the refinance proceeds, whether or not the property has been connected to the sewer extension.

(5) Pursuant to RCW 35.67.360, the extension charge and/or SCFC or any unpaid balance of the time payment contract shall

be secured by a lien against the connecting property. The lien shall attach as of the date of recording of the document required to be recorded by the department of public works by subsection (c) of this section and continue thereafter until the extension charge and/or SCFC or any unpaid balance of the time payment contract has been fully paid.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this Section, or the application of the provision to other persons or circumstances is not affected.

Section 5. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2011.

Signed in authentication thereof this ____ day of _____, 2011.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney