

Existing Code Text

WCFAC Recommended Amendments

Comments

Test 1: Does the proposed code amendment increase consistency, replace outdated or ineffective regulations, improve clarity, or make implementation easier? (housekeeping amendment)

Test 2: Does the proposed code amendment implement a change in policy that increases community well-being and the long term viability of the enterprise or system?

Note that these definitions have been labeled in alphabetical order, but are displayed adjacent to existing text as it is currently ordered.

**Chapter 10.34
FERRY RATES¹**

Sections:
[10.34.005 Definitions.](#)
[10.34.010 Effective date for ferry user fees.](#)
[10.34.020 Interpretation of rate schedule.](#)
[10.34.030 Use of ferry user fee revenues.](#)

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10.34.005 Definitions.
 A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

10.34.005 Definitions.
~~A~~F. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

10.34.005 Definitions.

When a code is being amended, improving text as you go is good.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

~~B~~J. "Total Operating cost expenses" means all Ferry System expenses that are not capital costs, including the actual daily running expenses, the vessel rental rate excluding capital expenses, all major or emergency repairs (MOER), and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

The change in term is needed in order to differentiate between the total operating costs and the costs that are included in fare calculations (Adjusted Total Operating Expenses).

The proposal retains the existing wording of "regular and routine maintenance" but inserts two new expenses to those that fares pay: "all costs that are not capital costs" and "all MOER costs" (the missing third category for expenses - those not "capital" but too large to be "regular and routine").

Existing Code Text

WCFAC Recommended Amendments

Comments

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

Note: The Public Works Draft had proposed specifically including the lease costs as operating costs even though citing the accounting standard that makes them capital.

€B. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements. Consistent with the Whatcom County Charter and the Governmental Accounting Standards Board's Statement No. 87 requiring lease accounting changes for financial reporting to be retroactive, the annual Tidelands lease or its replacement is and has been a capital cost.

The new sentences about the Tidelands lease that Public Works proposed were intended to make something that now has been defined as capital be included in operating costs. However, the lease is clearly a capital cost, and instead we are asking Council to fix the inconsistency with the Charter and to refund to the Cumulative Fare Box Reserve the excess fare payments that have been made since 2010. 55% of the lease payments totals approximately \$1.7 million.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

NEW. These new terms were in the Public Works draft revisions, but in the form of four terms and definitions. WCFAC has revised them into three terms but kept the intended meaning.

ĐE. "Fare box recovery rate" means the percentage of ATOE to be recovered by ferry user fees and is established in WCC Chapter 10.34.030(A) the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

D. "Fare box recovery goal" means the amount ferry user fees are to pay to support the ferry system and is calculated by multiplying ATOE by the fare box recovery rate.

C. "Cumulative fare box reserve" is the running total of adding the annual difference between the ferry user fees and the fare box recovery goal: when the goal is larger than the total ferry user fees collected, the difference is a deficit and is subtracted; when the total ferry user fees collected is greater than the goal, the difference is a surplus and is added.

"E" is needed as the existing code uses "Fare box recovery rate" to be both the actual percentage rate and the product of the percentage rate applied to operating expenses as modified within this definition - a mess. The new definition correctly limits it to only the percentage itself.

"D" The next definition is entirely new and is necessary to make the distinction between the percentage rate and the actual amount that is 55% of the operating expenses that ferry user fees should pay; also how differences from that amount are treated since the actual is not going to be exactly 55%.

"C" This is a new definition sorely needed. The existing code makes no distinction between the Ferry Fund and the excess fare revenue collected, so led to years of confusion about balances.

Existing Code Text

WCFAC Recommended Amendments

Comments

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.

~~E.G.~~ "Ferry user fees" means the rates and charges required of and collected from ~~any and all~~ users of the ferry system, as established and periodically amended in the Unified Fee Schedule, plus all other funds designated by resolution of the Whatcom County Council. Ferry user fees do not include 1) any payments earned under WCC Chapter 10.34.020(I) or 2) any surcharge collected pursuant to WCC Chapter 10.34.020(O).

The text is clearer if "any and all" are deleted, and "non-exempt" is not added as was proposed in the Public Works draft. The amendment says that the Unified Fee Schedule defines who pays. The second and new sentence fixes two problems: the existing code is contradictory on how the employee trip credit should be applied; also it is not clear that a surcharge is not included in ferry user fees. The Council requested that explicit permission be included in the code that they have the authority to allocate ARPA funds to the Annual Fare Box Contribution. This proposal inserts this phrase into

F. "Rate schedule"

~~F.~~ "Rate schedule"

No change.

NEW
The Public Works draft suggested this wording: "Non-Capital Emergency Repairs" (NCER) means emergency maintenance and repair activities to the terminal structures included in operating expenditures.

H. "Major Or Emergency Repairs" (MOER) means maintenance and repair activities that are not regular and routine with total project expenses that are greater than 50 percent of the average of the past three years total maintenance and repair expenses, excluding prior MOER expenses.

The existing code has only two categories: operating expenses that include "regular and routine maintenance and repair," and capital expenses. This new term and definition is for the missing category, that of major projects that are not regular and routine but not defined as capital. The new category, "MOER" recognizes an aging infrastructure requires major repairs to extend useful life. A specific definition is needed that is not subject to debate. Using past expenses as a guide is the best way to define what is included .

Existing Code Text

WCFAC Recommended Amendments

Comments

NEW. *This term suggested by Public Works. All elements except items (6) and (7) are contained in existing code, so are not new, just reorganized into one place to reduce confusion.*

In 10.34.030

Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.

in 10.34.005

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

in 10.34.020

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.

NEW items (6) and (7).

Public Works draft suggested this wording: (6) Actual NCER expenditures, up to \$150,000 in a calendar year.

A. "Adjusted Total Operating Expenses" (ATOE) is the amount of Total Operating Expenses (TOE) minus adjustments listed here and then used in the calculation of the Fare Box Recovery Goal. Beginning January 1st, 2007, the ATOE amount shall be determined by subtracting the following amounts from the TOE:

(1) Motor Vehicle Fuel Tax Attributable to Ferry Operations;

(2) Ferry Deficit Reimbursement Funds (RCW 47.56.725 (2));

(3) Investment income or loss;

(4) County employee trips as defined in 10.34.010(l);

(5) Other miscellaneous Income – such as immaterial amounts due to NSF checks;

(6) Beginning January 1, 2024, MOER expenses greater than 5% of the average of the past three years of total ferry user fees;

(7) Beginning January 1, 2024, vessel rental fees greater than 50% of average of past three years total annual ferry user fees.

Extremely important new definition that brings together bits and pieces of the existing code . Continue to use the date 2007, not 2024, since the existing code said these were to be deducted beginning 1/1/2007.

Item (6) and Item (7) are new items, each of which state beginning 1/1/2024. Both of these new items seek to prevent fares from ping-ponging when very large unusual expenses occur. No toll road averaging \$1.5 million annual revenue can produce in two years additional fares totaling \$396,000 for ER&R vessel rental and \$430,000 in major longevity dock repair costs. Fares need to rise as cost do, but leveling of large spikes in costs is needed to prevent changes in trips taken.

Item (6) refers to the new term and definition (MOER) discussed above. Rather than the Public Works proposal for a base amount being covered by their budget and whatever the remaining costs are would be covered by fares, we propose that the increase in required fares have a limit that is set as a percentage of annual fare revenue.

Item (7) is a new item, and refers to the costs of maintaining the physical vessel. The Equipment Rental and Revolving Fund rental fee used an average of 24% of the annual fare revenue for 15 years, and last year spiked to needing 38% of fare revenue. This does not include crew wages and benefits or county administrative costs.

10.34.010 Effective date for ferry user fees.
Unchanged text not shown.

10.34.010 Effective date for ferry user fees.

No change.
Note that other sections of WCC Chapter 10.34 should delete other effective dates.

Existing Code Text

WCFAC Recommended Amendments

Comments

10.34.020 Interpretation of rate schedule.
Unchanged items are not shown

10.34.020 Interpretation of rate schedule.
A, B, C, D, E, F, G, H, J, and O had no changes proposed by Public Works. Public Works proposed changes to items I, K, L, M, N, and adds new item

10.34.020 Interpretation of rate schedule.
WCFAC in addition suggests changes to items "F" and "H"

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

~~F. Over width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.~~ Vans outfitted for commercial use or as RVs shall be charged the ferry user fee for Vehicle with Driver 11,001- 20,000 pounds (small truck).

Both of these are more in the way of pointing out problems, and better solutions may be suggested by ferry crew and pursers.
Delete existing wording: It is impractical for crew to administer a 50% surcharge for using more than one lane, since how the ferry is loaded often determines whether more than one lane is used.
The same Sprinter van now has three different fares: one is the passenger vehicle less than 11,000 lbs, one is if the crew determines by checking registration that it is rated for more than 11,000 lbs, and one is if it is being used as an RV with a toilet.

H. Children 12 to under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

H. Children ~~12 to~~ under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

Corrects an oversight by prior code drafters - there is no provision in the existing code for making age 12 and under free. (The Unified Fee Schedule is also incorrect on children's fares.)

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.

I. All trips by county employees on official county business and ferry employees and their immediate household members who are not required to pay fares shall be recorded, and an amount equal to what fare would have been charged according to the rates established in the Unified Fee Schedule shall be deposited in the Ferry Fund. ~~-exempt from fares. All county employee trips exempt from fares will be tracked, and \$10.00 per trip will be credited toward the fare box recovery rate each year.~~

The \$10 amount was set in 2010 when that was the charge for a passenger vehicle with driver. It is static when established this way; instead we suggest that the credit should change as the fares change. This could be accomplished by substituting the Unified Fee Schedule fares for the \$10.

We also note that, as pointed out in the 2011 Ferry Task Force report, the free passage that is included as a benefit in some crew contracts should be counted and credited appropriately to total Ferry Fund revenue.

Existing Code Text

WCFAC Recommended Amendments

Comments

K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Department of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County public works ferry web page. The reviewing authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require a valid voucher issued from the reviewing authority and valid ID. Eligibility will be reviewed at least annually by the reviewing authority. Forms and procedures will be developed by the Whatcom County public works and the reviewing authority.

K. A special needs-based discount is provided for Lummi Island residents who meet the ~~very~~Very ~~Low~~ income levels set annually by the Department of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County public works ferry web page. The special needs-based ferry fare discount shall always be higher than any other discount. The reviewing authority will screen all applicants to determine eligibility. ~~The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year.~~ These special needs-based tickets will not be sold on the ferry ~~only be sold at the Whatcom County public works administration building in Bellingham~~ and will require a valid voucher issued from the reviewing authority and valid photo ID. Eligibility will be reviewed at least annually by the reviewing authority. ~~Forms and procedures will be developed by the Whatcom County public works and the reviewing authority.~~

Most of these are amendments suggested by Public Works to update administrative provisions. The new wording suggested by Public Works also emphasizes the County's commitment to support an economically mixed community by stating that special needs-based fares will always be the lowest fares.

The amendment recommended by WCFAC is to delete this sentence in the existing code: "The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year." If this stays in the code, then additional provisions are needed: define who makes this decision; what are the budget constraints would cause no further applications to be taken; and how an appeal could be made.

L. Eligibility for a special “senior/disabled” discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require valid ID.

L. Eligibility for a special “senior/disabled” discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will not be sold on the ferry ~~only be sold at the Whatcom County public works administration building in Bellingham~~ and will require valid photo ID.

Public Works proposed changes in administration to suit current circumstances.

Existing Code Text

WCFAC Recommended Amendments

Comments

M. Multi-ride cards purchased prior to the most current fare change shall be valid until six months after the effective date of the ordinance codified in this chapter. Multi-ride cards purchased at the previous rate rather higher or lower than the new rate will be accepted for use as one punch equals one round trip. No credit or refund will be allowed or issued. These rate changes will take place within 60 calendar days of the adopted date of the ordinance codified in this chapter.

M. One punch on the multi-ride cards pays for one round trip. ~~purchased prior to the most current fare change shall be valid until six months after the effective date of the ordinance codified in this chapter.~~ When ferry rates change, the remaining value (original value divided by original number of trips times the remaining unpunched trips) of multi-ride cards purchased at the previous rate can be used for 12 months as a credit towards purchasing the current fare multi-ride card. Multi-ride cards purchased at the previous rate, ~~rather~~ either higher or lower than the new rate, ~~will be~~ accepted for use as one punch equals one round trip for one month after new rates take effect. ~~No credit or refund replacement cards will be allowed or issued. These rate changes will take place within 60 calendar days of the adopted date of the ordinance codified in this chapter.~~

- The change to allowing the 'trade-in' of existing punchcards for new ones at the new rate resulted in a great deal of positive comment from ferry users when Public Works proposed it.
- Since the value on existing cards is not lost, the period of time in which they still will be valid on the ferry no longer needs to be six months. Public Works suggested allowing continued use for 3 months. WCFAC suggests one month in order that the new rates go into effect for both single trip purchases and multitrip purchases closer to the same time. (It would require some additional staff days when punch cards were sold on the island during that month.)
- In several places in the existing code, as well as in the versions proposed Public Works, an implementation or effective date is specified. This is contrary to the section 10.34.010 that specifies that the effective date is contained in the adopting ordinance. Remove multiple effective dates.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. ~~An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.~~

This administrative change is proposed by Public Works and seems reasonable given liability and the burden on crew to determine if a valid waiver had been provided.

NEW. *Public Works proposes this as a humanitarian aid to those who are newly bereaved and would find the after hours charges prohibitive.*

P. Entities and individuals legally authorized to transport human remains shall be exempt from after scheduled hours fares when using the ferry to pick up and transport the body of a deceased person from Lummi Island. Ferry personnel reserve the right at the time of travel to require riders claiming this exemption to present burial-transit permits required under RCW 70.58A.210 or other legal authority authorizing transport of the deceased person.

Do ambulances or other clearly marked emergency vehicles have to pay the after hours fare, and if so, should they also be exempt?

Existing Code Text

10.34.030 Use of ferry user fee revenues.

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and evaluated continuously from that time forward. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund and applied only to future operating costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.

Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.

WCFAC Recommended Amendments

10.34.030 Use of ferry user fee revenues.

A. Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied to the TOE and evaluated continuously from that time forward. The remaining ferry system expenses shall be covered through other sources of funds, which includes but is not limited to the unincorporated area Road Fund property tax.

B. In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund cumulative fare box reserve and applied only to future operating costs fare box deficits.

C. In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase or by using the unless there is adequate excess ferry user fee revenue in the cumulative fare box reserve ferry system fund collected during prior years.

D. After three sequential years of the annual total of ferry user fees not reaching 55 percent or three sequential years of the annual total of ferry user fees being greater than 55 percent, a change in ferry rates and services provided shall be considered, whatever the balance in the cumulative fare box reserve.

E. Ferry rates or services shall be revised at any time the cumulative fare box reserve has a positive balance greater than the total amount of the prior annual total of ferry user fees unless there have been three sequential years of ferry user fees not reaching the fare box recovery goal; or a negative balance greater than could be funded by one third of the total amount of the prior year ferry user fees.

F. An annual review of ferry system services, actual and projected operating costs, including the costs in the Equipment Rental and Revolving Fund vessel rental fee, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved. A six year financial pro forma report including operations and capital will be presented to the Whatcom County Council and citizen advisory bodies during the 2nd quarter of each calendar year.

~~Beginning January 1, 2007, any interest income or income from state motor vehicle fuel tax for ferry operation will be deducted from the actual operating costs before the actual 55 percent fare box recovery rate is calculated.~~

Comments

10.34.030 Use of ferry user fee revenues.

The recommended code amendments clarify this section by organizing it in the same way as the other sections. The existing code is sort of a conglomeration of items that leaves some basic policy questions unanswered or open to possible misinterpretation.

The last paragraph is moved in both this recommendation and the Public Works draft into definitions. The remaining text in the Public Works draft is reorganized here.

WCFAC proposes specific guidelines intended to keep either deficits or surpluses from growing forever, and allowing fare increases even without a Ferry Fund deficit if fares have failed to meet the 55% requirement for three years.

The Public Works draft is helpful in specifying annual financial reporting in the 2nd quarter instead of leaving it vague. WCFAC suggests that a specific six year report format be used to update Council and public.