

Updated Code Language: WCFAC ad hoc code committee discussion draft on modifications to Public Works version 3 DRAFT

Guide to markings in draft:

Red text indicates a change that Public Works has proposed. In some cases it appears that existing text was also changed to red and underlined, so refer to the existing text to be sure it is a change.

Underline means new text not in existing code.

Strikethrough means delete text in existing code

Blue text indicates where the WCFAC ad hoc code committee has proposed a change.

Underline means new text not in existing code.

Strikethrough means delete text in existing code.

Where the text was proposed for addition or deletion in the Public Works draft and the WCFAC ad hoc code committee proposed that the change not be made (either addition or deletion) it is **highlighted in turquoise**.

Yellow highlighting indicates unresolved areas needing more time for discussion.

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.

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.

E.B. "Ferry user fees" means the rates and charges required of and collected from ~~any and all~~ non-exempt 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 consideration or credits earned under WCC 10.34.020(I) or 2) any surcharges collected pursuant to WCC 10.34.020(O).

C. "Fare Box Considered Revenue" means the revenue from Ferry User Fees. Revenue from other funding sources will be only be included as Fare Box Considered Revenue if designated by resolution of the Whatcom County Council.

C. ~~D.~~ "Capital cost" .

E.D. "Non-Capital Extraordinary Emergency Repairs"

B.F.E. "Total Operating ~~Cost~~ Expenses" (TOE)

Added phrase to item B means new term is not needed. Do not add new item C to existing code.

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G. F. “Adjusted Total Operating Expenses” (ATOE) is the amount of Total Operating Expenses (TOE) minus adjustments defined in 10.34.05 (G)(1-6) and then used in the calculation of the Fare Box Recovery Goal.

Beginning January 1st ~~2024~~ 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(I);

(5) Other Miscellaneous Income – such as immaterial amounts due to NSF checks.

(6) _____ s

~~D.H.G. “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. ATOE to be recovered by Ferry User Fees. Fare Box Considered Revenue, as set by WCC 10.34.030.~~

~~H. “Fare Box Recovery Goal” means the amount to be recovered by Ferry User Fees. Fare Box Considered Revenue. The Fare Box Recovery Goal shall be calculated by multiplying ATOE by the Fare Box Recovery Rate.~~

~~I. “Annual Fare Box Contribution” shall be calculated by subtracting the annual Fare Box Recovery Goal from the annual Ferry User Fees Fare Box Considered Revenue. A positive amount indicates a surplus in fare collection for the year, and a negative amount indicates a deficit in fare collection for the year.~~

~~J. “Cumulative Fare Box Reserve” is the ongoing calculation of fare box surplus or deficit and shall be calculated as the sum of each year’s Annual Fare Box Contribution.~~

~~K. “Rate schedule” means the combination of ferry user fees and operational policies affecting the use of the ferry system. (Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A).~~

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Mistake in drafting: these are included in items G and B. Simply delete these lines

~~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.~~

~~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.~~

10.34.010 Effective date for ferry user fees.

Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become effective as set forth in the ordinance adopting or amending such schedule. (Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064; Ord. 93-080 Exh. Q).

10.34.020 Interpretation of rate schedule.

The following provisions should be observed in application of the ferry rate schedule:

A. Buses, mobile homes, motor homes, fifth wheels in bed of pickup, and trailers including goosenecks are charged by total length. Length includes tongue, hitch, and projections to the rear.

B. Tow vehicles with trailers shall be charged a combined rate based on total length of the trailer, as defined in subsection A of this section, and weight of the tow vehicle based on the gross vehicle weight of the designation of the vehicle. Heavy machinery that is self-propelled onto the ferry shall be charged at the corresponding vehicle weight.

C. Special trips are a surcharge in addition to the applicable fare.

D. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

E. All trucks shall be charged regular round-trip rates based on gross vehicle weight.

~~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. Vans used for something other than multiple passenger transportation, such as used by commercial businesses or outfitted as RVs shall be charged at the Vehicle with Driver 11,001 – 20,000 pounds rate.

This is not practical for crew to impose: how the crew loads vehicles changes lane coverage.

Commercial and RV use vans do not have gross vehicle weight readily visible to crew.

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G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

Children under 12 also ride free..

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.

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~~ an amount equal to the fare user fee category established in the Unified Fee Schedule will be ~~credited toward~~ applied in the fare box recovery rate Adjusted Total Operating Expense calculation each year ~~as outlined in 10.34.005(G)(4).~~

The existing code leaves the amount fixed at 2010 rates for passenger vehicle with driver. instead apply current rates.

J. During the term of the tidelands lease agreement dated October 24, 2011, lessee (Whatcom County) shall grant free foot and noncommercial passenger vehicle passage upon and across the ferry operated by lessee between Gooseberry Point and Lummi Island to those persons going to Lummi Island for legitimate tribal business who are either enrolled members of the Lummi Nation or employees thereof, and who also present appropriate identification issued by the nation, including Lummi Indian Business Council identification cards or current fishing cards/licenses as issued by the Lummi Nation.

K. A special needs-based discount is provided for Lummi Island residents who meet the ~~very low income~~ Very Low Income levels set annually by the Department of Housing and Urban Development (HUD). The special needs-based discount shall always be higher than any other discount. The current year's levels will be posted on the Whatcom County ~~public works~~ 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 not~~ be sold ~~at on~~ the ~~Whatcom County public works administration building in Bellingham~~ Ferry and will require a valid voucher issued ~~from by~~ the reviewing authority and a 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.~~

If this ability to cut off needs-based discount is kept, a definition is needed of who decides and what the cutoff level shall be.

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 multi-ride special needs-based tickets ~~will only be~~ not sold ~~at on~~ the ~~Whatcom County public works administration building in Bellingham~~ ferry and ~~will~~ require a valid photo ID.

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This is defined in 10.34.010 "Effective date for ferry user fees." Code cannot specify two different governing dates.

M. ~~Multi~~One punch on the multi-ride ~~cards purchased~~ card equals one round trip. Rate changes shall occur within 60 calendar days of the adopted date of the ordinance codified in this chapter. Multi-ride cards purchased prior to the most current fare change shall bear valid ~~until six~~for three months after the ~~effective date~~rate change takes effect. The remaining value (original value divided by original number of trips times the ~~ordinance codified in this chapter~~. Multi~~remaining unpunched trips~~) of multi-ride cards purchased at the previous rate ~~rather,~~ higher or lower than the new rate, ~~will~~ shall be ~~accepted for use~~used as one punch equals one round trip. ~~No a~~ credit towards purchasing the current fare multi-ride card. 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.~~

N. All children under the age of 12 years must be accompanied by an adult 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.~~

There is no charge leaving the island (dead or alive). Every business pays vehicle and passenger fares on the way to the island in order to provide their services.

O. A capital surcharge of \$1.00 shall be collected for all fares except for student multi-ride cards (subsection G of this section), special needs-based fares (subsection K of this section), and special senior/disabled fares (subsection L of this section). The capital surcharge shall be used exclusively for the construction of a new ferry vessel and terminal improvements.

P. Entities and individuals legally authorized to transport human remains shall be exempt from 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.

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064; Ord. 93-080 Exh. Q).

10.34.030 Use of ferry user fee revenues

Beginning January 1, 2006, a 55 percent ~~fare box recovery rate~~Fare Box Recovery Rate shall be applied and evaluated continuously, from that time forward, on an annual basis. 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~~to verify that the Fare Box Recovery Rate is being achieved. The vessel rental rate expenses shall be detailed annually as part of this review: specifically fuel costs, consulting costs, maintenance expenses, and any improvements or major

A lack of information has been a problem in the past; what added information do we need .

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This is defined in 10.34.010 "Effective date for ferry user fees." Jan.1st only possible if adopted before November.

replacements that would be considered capital expenses. The annual review shall be presented to the Whatcom County Ferry Advisory Committee and the Whatcom County Council during the 2nd quarter of each calendar year. The purpose of this review is to use the Cumulative Fare Box Reserve total and current projections to determine consider if a fare change is warranted. If determined necessary, all fare changes shall go into effect in January of the following year.

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

These four paragraphs are somewhat repetitive and difficult to understand.

Remove them

--and--

Replace with rewritten text, along with further definition of when a fare increase should be considered and how long a surplus should accumulate.

~~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~~the Adjusted Total Operating Expenses (ATOE) to determine the Fare Box Recovery Goal. The remaining in the ferry system fund collected during prior years45% of the ATOE shall be funded through other county funding sources, which include but are not limited to road taxes.

~~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.~~The Cumulative Fare Box Reserve tracks each Annual Fare Box Contribution over time, maintaining a running balance to determine annually if a surplus (positive) or deficit (negative) exists. A Cumulative Fare Box Reserve deficit

indicates that insufficient Fare Box Considered Revenue has Ferry User Fees have been collected over the years and shall be corrected by increasing future Ferry User Fees Fare Box Considered Revenues and/or decreasing TOE. A Cumulative Fare Box Reserve surplus indicates that Fare Box Considered Revenues Ferry User Fees have exceeded the amount required by the Fare Box Recovery Goal. When a cumulative surplus exists, it shall be evaluated with other available information to determine if a future fare decrease or additional ferry system services implemented.is warranted

(Ord. 2021-012 Exh. A; Ord. 2015-034 Exh. A; Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064).

¹ Prior legislation: Ord. 89-103.

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Amounts charged contrary to charter and accounting standards should be refunded to the Cum. Fare Box Reserve.

C. ~~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 past practice the Whatcom County Charter and the Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting, the monthly Tidelands lease or its replacement is a Capital cost will continue to be considered part of the Total Operating cost—means all actual Expenses calculation regardless of implementing the Governmental Accounting Standards Board’s Statement No. 87 requiring lease accounting changes for financial reporting.

It is not just emergency repairs that are not “regular and routine,” and what defines an extraordinary repair?.

E.D. “Non-Capital Extraordinary Emergency Repairs” (NCER) means emergency non-regular and routine maintenance and repair activities to the terminal structures and other infrastructure with total project expenses greater than (\$???) - what is a reasonable maximum for non-regular and routine maintenance and repair? Or is it a time limit – like it happens less than once in 20 years, or is there some other measure? And if a dollar amount, how is it to be escalated over time?) included in operating expenditures.

So what is the best way to limit fares to paying for regular and routine?

B.F.E. “Total Operating ~~Cost~~ Expenses” (TOE) means all Ferry System expenses that are not Capital Costs. TOE includes the vessel rental rate excluding capital replacements and improvements, all actual daily running expenses ~~and~~, all actual regular and routine maintenance, all NCER expenses not paid by other funds, and all administrative expenses associated with the use and operation of all physical elements of all physical elements of the ferry system.

Everything here except item 6 is contained in the existing code, just in scattered pieces. This is a sorely needed new definition.

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Beginning January 1st ~~2024~~ 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(I);
- (5) Other Miscellaneous Income – such as immaterial amounts due to NSF checks.
- (6) Beginning Jan. 1, 2024, actual NCER expenditures, up to \$150,000 in a calendar year in excess of \$? (what is the maximum amount that could be included in calculating fares that will allow fares to be predictable for long term decisions and to not impact ridership? Or should fares pay any non-regular and non-routine maintenance and repair expenses?)

So what is the fair way to keep fares from ping-ponging as extraordinary expenses arise?