

Approved: 11/29/2023

Effective: 12/09/2023

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 23-111

APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE THE
INTERLOCAL AGREEMENT BETWEEN
SNOHOMISH COUNTY AND THE CITY OF MILL CREEK
FOR ACTIVITIES RELATED TO SOLID WASTE IN SNOHOMISH COUNTY

WHEREAS, Snohomish County and the City of Mill Creek recognize the importance and necessity for insuring the proper handling and disposal of solid waste in Snohomish County; and

WHEREAS, the current agreement for Solid Waste Management including Snohomish County and the City of Mill Creek, which was executed on January 28, 2003, expires on December 31, 2023; and

WHEREAS, Snohomish County has prepared a Comprehensive Solid and Hazardous Waste Management Plan (Comprehensive Plan) for Snohomish County and cities and towns in Snohomish County; and

WHEREAS, it is the mission of the Solid Waste Division of Snohomish County's Department of Public Works to protect people, the environment, and natural resources by preventing, reducing, and solving problems associated with Snohomish County solid waste; and

WHEREAS, the County and City agree that providing the most effective and efficient system for managing solid waste generated in Snohomish County requires the use of the solid waste system established by Snohomish County's Comprehensive Plan to the fullest extent possible.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council hereby adopts the foregoing recitals as findings of fact and conclusions as if set forth in full herein.

Section 2. The Snohomish County Council hereby authorizes Snohomish County participation in the solid waste program with the City of Mill Creek and approves and authorizes the Snohomish County Executive to execute the *Intergovernmental Services Agreement Between Snohomish County and the City of Mill Creek For Activities Related to Solid Waste in Snohomish County*, substantially in the form of Exhibit A attached hereto.

PASSED this 29th day of November, 2023.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Jared Mead
Council Chair

ATTEST:

M. Glendon
Deputy Clerk of the Council

- (X) APPROVED
- () EMERGENCY
- () VETOED

DATE: November 29, 2023

[Signature]
County Executive

ATTEST:

Melissa Geraghty

Approved as to form only:

/s/ Sean Reay 9 8 2023
Deputy Prosecuting Attorney

Exhibit "A"

**INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN
SNOHOMISH COUNTY AND THE CITY OF MILL CREEK
FOR ACTIVITIES RELATED TO SOLID WASTE IN SNOHOMISH COUNTY**

INTERLOCAL AGREEMENT REGARDING SOLID WASTE MANAGEMENT

This INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND ITS CITIES AND TOWNS REGARDING SOLID WASTE MANAGEMENT (the “Interlocal Agreement”), is made and entered into, by and between SNOHOMISH COUNTY, a Washington County (the “County”) and the CITY OF MILL CREEK, a Washington municipal corporation (the “City”) pursuant to Chapter 39.34 RCW.

RECITALS

- A. The County and City executing this Interlocal Agreement are authorized and directed by chapter RCW 70A.205 to prepare a Comprehensive Solid Waste Management Plan; and
- B. The County prepared a Comprehensive Solid and Hazardous Waste Management Plan (the “Comprehensive Plan”) for the County and cities and towns of the County in 1990, 2002, 2013, and 2021, with active involvement of the cities and towns within the County; and
- C. Providing the most effective and efficient system for managing solid waste generated in Snohomish County, including its cities and towns, requires use of the solid waste disposal system established by the County and the Comprehensive Plan to the fullest extent possible;

AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the City executing this Agreement agree as follows:

1. **Previous Agreements.**

This Interlocal Agreement supersedes the previously executed Interlocal Agreement between Snohomish County and its cities and towns regarding Solid Waste Management entered into in 2003.

2. **Definitions.** For the purposes of this Interlocal Agreement, the following definitions apply. See also Snohomish County Codes (especially Chapters 7.35 and 7.41) and State law (especially WAC 173-350-100) for additional definitions related to Solid Waste Management:
- 2.1. “City”/“Town” means a City or Town in Snohomish County, Washington that is a signatory to this Interlocal Agreement.
 - 2.2. “Combustion” means the process of burning something.
 - 2.3. “Comprehensive Plan” means the Snohomish County Comprehensive Solid and Hazardous Waste Management Plan authorized and directed by chapter RCW 70A.205 and issued in 2021 and as amended from time to time.
 - 2.4. “County” means Snohomish County, Washington.
 - 2.5. “Household Hazardous Waste” or “HHW” means wastes that would be classified as hazardous due to their nature or characteristics, except that the wastes are generated by households.
 - 2.6. “Incinerate, Incinerated, or Incineration” means the controlled combustion of solid waste that yields satisfactory non-putrescible residues and air effluents.
 - 2.7. “Person” means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
 - 2.8. “Recyclable materials” means those solid wastes that are separated from other wastes for anaerobic digestion, composting, recycling or reuse, including but not limited to papers, metals, glass, plastics, aggregates, fabrics, yard debris, food waste, manures, wood waste and other materials that are identified as recyclable material in the Comprehensive Plan, and are recycled. Wood waste processed as hog fuel and used for energy recovery shall be considered a recyclable material for purposes of this Interlocal Agreement.
 - 2.9. “Recycling” or “Recycle” or “Recycled” means transforming or remanufacturing waste materials into usable and marketable materials for use other than landfill disposal, alternative daily (landfill) cover, industrial waste stabilizer, combustion, or incineration.
 - 2.10. “Solid Waste” means all putrescible and non-putrescible wastes, whether in solid or in liquid form, except liquid-carried industrial wastes and sewage, and including garbage, rubbish, ashes, industrial wastes, swill, construction, demolition and land-clearing

wastes, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, digested sludge, vegetable or animal solid and semi-solid wastes, dead animals, and other discarded solid and semi-solid materials. Municipal solid waste (MSW), a subset of solid waste, refers to wastes normally collected from residential households, commercial businesses, and containers.

2.11. “Solid Waste Handling” means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of Solid Waste.

2.12. “System” means all facilities for Solid Waste Handling owned or operated, or contracted for, by the County, and all administrative activities related thereto.

3. **Responsibilities for Waste Disposal and System.** For the duration of this Interlocal Agreement, the County shall have the following responsibilities:

3.1. The County shall continue to provide for the efficient disposal of all Solid Waste, not otherwise restricted by chapters 7.35 and 7.41 SCC, generated within unincorporated areas of the County and within the City to the extent, in the manner, and by facilities as described in the Comprehensive Plan. The County shall not be responsible for disposal of, nor claim that this Interlocal Agreement extends to, Solid Waste that has been recycled in compliance with the Comprehensive Plan.

3.2. The County shall provide for the disposal of household hazardous wastes generated by residential households located in jurisdictions party to this Interlocal Agreement at the System’s existing Moderate Risk Waste Facility, or in another reasonable and similarly convenient manner.

3.3. The County shall continue to operate the System in a financially prudent manner, minimize fee increases, and use System revenues only for System purposes.

3.4. The System shall continue to be comprehensive, and include educational and other programs, as defined by the Comprehensive Plan.

4. **Comprehensive Plan.**

For the duration of this Interlocal Agreement, the City shall participate in the Comprehensive Plan, provided that the City shall have the right to prepare or maintain its own Comprehensive

Solid and Hazardous Waste Management Plan authorized and directed by chapter RCW 70A.205 and to assess a solid waste fee on its own residents. For the duration of this Interlocal Agreement the City, in conformity with RCW 70A.205.040 (4), as may be amended from time to time, authorizes the County to include in the Comprehensive Plan provisions for the management of Solid Waste generated within its corporate limits.

5. **City Designation of County System for Solid Waste Disposal.**

The City shall, to the extent permitted by law, designate the County System for the disposal of all Solid Waste generated within the corporate limits of that City, and within the scope of the Plan, and authorize the County to designate a disposal site or sites for the disposal of such Solid Waste except for recyclable and other materials removed from Solid Waste for recycling in conformity with the Comprehensive Plan. The designation of the County in this section shall not reduce or otherwise affect the City's control over Solid Waste collection as permitted by applicable state law.

6. **Enforcement.**

In unincorporated Snohomish County, the County shall be responsible for enforcement of laws and regulations requiring persons to dispose of Solid Waste at sites designated by the County as required by chapter 7.35 SCC.

The City shall by ordinance require persons to dispose of Solid Waste at the same sites designated by the County for disposal of Solid Waste. Thereafter, in incorporated Snohomish County, the City shall be responsible for enforcement of its laws and regulations requiring persons to dispose of Solid Waste at those sites designated by the County.

The County (taking the lead role) with the City will provide outreach both within unincorporated and incorporated Snohomish County to educate the public about the requirements of Solid Waste disposal at sites designated by the County.

7. **Indemnifications.**

- 7.1. The County shall indemnify and hold harmless and defend the City against any and all claims by third parties arising out of the County's operation of the System and performance under this Interlocal Agreement, and shall have the right to settle those claims by third parties, recognizing that all costs incurred by the County thereby are System costs which must be satisfied from disposal rates. In providing a defense for the City, the County shall exercise good faith in that defense or settlement so as to protect the City's interests. The County's agreement to indemnify the City for any and all claims arising out of the County's operation of the System extends to all claims caused by the actions of officers or agents of the County, including but not limited to actions which constitute misfeasance, or intentional misconduct or wrongdoing, even if the cost of such claims is held by a court of competent jurisdiction to not be a proper cost to the System. For the purpose of this paragraph, "claims of arising out of the County's operations" shall include claims arising out of the ownership, control or maintenance of the System, but shall not include claims arising out of the collection of Solid Waste within the City prior to its delivery to a disposal site designated by the County or other activities under control of the City.
- 7.2. If the County acts to defend the City against a claim, the City shall cooperate with the County.
- 7.3. The County shall defend the City against any challenge, whether judicially or before an administrative hearings panel, to the Comprehensive Plan elements adopted pursuant to this Interlocal Agreement.
- 7.4. The City agrees to indemnify, protect, defend and hold harmless the County from and against all claims, demands and causes of action of any kind or character, including any cost of defense and attorney's fees, arising out of any actions, errors or omissions of the City in performing this Interlocal Agreement except for those arising out of the sole negligence of the County or otherwise listed in this Section 7.
- 7.5. Waiver of Immunity Under Industrial Insurance Act. The indemnification provisions of Sections 7.1-7.4 above are specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with

a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

7.6. For the purposes of this section, reference to the City and to the County shall be deemed to include the officers, agents, and employees of any such party, acting within the scope of their authority.

7.7. Survival. The provisions of this Section 7 shall survive the expiration or earlier termination of this Interlocal Agreement.

8. **Duration.**

This Interlocal Agreement shall continue to be in full force and effect until December 31, 2038, unless terminated as described in the following paragraph.

9. **Revision, Amendment, Supplementation or Termination.**

This Interlocal Agreement shall be reviewed by the parties in conjunction with any review of the Comprehensive Plan. The terms of the Interlocal Agreement may be revised, amended, or supplemented, or the Interlocal Agreement as a whole may be terminated before expiration provided in paragraph 8 only upon the written agreement of the parties to this Interlocal Agreement executed with the same formalities as the original. No revision, amendment, supplementation, or termination shall be adopted or put into effect if it impairs any contractual obligation of the County.

10. **Miscellaneous.**

10.1. No waiver by any party of any term or condition of this Interlocal Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or of a different provision of this Interlocal Agreement.

10.2. This Interlocal Agreement is not entered into with the intent that it shall benefit a city or town not signing this Interlocal Agreement, and no other person or entity shall be entitled to be treated as a third party beneficiary of this Interlocal Agreement.

11. Contract Administrator.

Pursuant to RCW 39.34.030(4)(a), the parties hereby appoint the County as the Contract Administrator who will be responsible for administering this Agreement, and the direction of the parties, and this Contract Administrator shall take such action as is necessary to ensure that this Agreement is implemented in accordance with its terms.

12. No Separate Entity.

This Agreement does not create a separate legal or administrative entity, and consequently is being administered in accordance with RCW 39.34.030(4).

13. Severability.

If any term or condition of this Interlocal Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect with the invalid term, condition, or application. To this end, the terms and conditions of this Interlocal Agreement are declared severable.

14. Filing.

As provided by RCW 39.34.040, this Agreement shall be filed with the Snohomish County Auditor, or, alternatively, posted on the official website of each party.

15. Authority.

Each of the individuals signing this Interlocal Agreement on behalf of a party to this Interlocal Agreement, certifies that his or her signature has been authorized by appropriate action by ordinance, resolution, or otherwise pursuant to the law of that party to bind the party to the terms of this Interlocal Agreement.

[Remainder of this page intentionally left blank.]

