



Signature Report

November 14, 2006

Ordinance 15638

Proposed No. 2006-0476.2

Sponsors Constantine

1 AN ORDINANCE regarding surface water management;
2 revising surface water management service charges; and
3 amending Ordinance 7590, Section 8, as amended, and
4 K.C.C. 9.08.070 and Ordinance 7590, Section 9, as
5 amended, and K.C.C. 9.08.080.

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8 **STATEMENT OF FACTS:**

9 1. On April 28, 1986, the King County Council adopted Ordinance 7590,
10 which initiated the surface water management program to provide a
11 comprehensive approach to surface and storm water problems including
12 "basin planning, land use regulation, construction of facilities,
13 maintenance and public education." On December 2, 1991, the council
14 increased the services provided by the surface water management program
15 and set a rate structure and service charges by adopting Ordinance 10187.
16 On November 19, 2001, the council passed Ordinance 14261,
17 acknowledging that the costs to provide surface water management

18 services had increased due to the ordinary impacts of inflation and due to
19 increased and more stringent federal and state requirements for the proper
20 management of surface water quality and quantity.

21 2. Since the adoption of Ordinance 14261 on November 19, 2001, the
22 requirements for proper management of surface water quality and quantity
23 have increased and become more stringent. In addition to the increased
24 requirements already implemented since 2001, the new National Pollutant
25 Discharge Elimination System ("NPDES") permit requires King County's
26 compliance with more stringent requirements when this permit becomes
27 effective on January 5, 2007. These requirements and the county's
28 responses, together with the ordinary impacts of inflation, have increased
29 the costs of providing surface water management services to property
30 owners within King County and make an increase in the surface water
31 management service charge warranted.

32 3. Since the King County council's adoption of Ordinance 14261 in 2001,
33 the Washington state Department of Ecology ("Ecology") is increasing
34 requirements concerning surface water quality and control. The Federal
35 Clean Water Act, implemented through municipal storm water NPDES
36 permits, mandates a wide variety of local programs to manage surface
37 water and improve water quality. Ecology, which manages the federal
38 NPDES permitting program in the state of Washington, initially based
39 King County's compliance with the NPDES permit on a requirement that
40 King County establish and implement a surface water management

41 program ("SWMP"). Future compliance will be based on increasingly
42 more stringent requirements for actions that must be performed as part of
43 the SWMP. Enforcement for noncompliance can occur through both
44 Ecology action or through third party lawsuits, resulting in fines, criminal
45 penalties or rulings directing the expenditure of county funds. King
46 County's new municipal stormwater permit is scheduled to be issued on
47 December 6, 2006, and will become effective on January 5, 2007.
48 Operations impacted by this new NPDES permit will include King County
49 roads, solid waste, transit, parks, airport, development and environmental
50 services, as well surface water management services.

51 4. A nine-dollar increase in the base amount of the surface water
52 management charge from one hundred two dollars to one hundred eleven
53 dollars per residential parcel and corresponding upward adjustments in the
54 rates for classes of nonresidential property are needed to meet the rising
55 costs for providing necessary surface water management services.

56 5. It is in the public interest, and is necessary for the protection of health,
57 safety and welfare of the residents of King County, that the necessary
58 costs of providing surface water management services continue to be paid
59 and that the costs continue to be charged against those parcels benefiting
60 from such services and or contributing to the increase of surface water
61 runoff.

62 6. Parcels owned by federally recognized tribes or members of such tribes
63 that are located within the historical boundaries of a reservation are not
64 subject to the SWM charges provided for in K.C.C. chapter 9.08.

65 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY

66 SECTION 1. A. Section 2 of this ordinance proposes service charges for surface
67 water management services rendered to property owners in King County.

68 B. These service charges are authorized under RCW 36.89.080, and are assessed
69 under K.C.C. 2.99.030.

70 SECTION 2. Ordinance 7590, Section 8, as amended, and K.C.C. 9.08.070 are
71 each hereby amended to read as follows:

72 A. The service charges shall be based on the relative contribution of increased
73 surface and storm water runoff from a given parcel to the surface and storm water
74 management system. The percentage of impervious surfaces on the parcel and, the total
75 parcel acreage and any mitigating factors as provided in K.C.C. 9.08.080 will be used to
76 indicate the relative contribution of increased surface and storm water runoff from the
77 parcel to the surface and storm water management system. The relative contribution of
78 increased surface and storm water runoff from each parcel will determine that parcel's
79 share of the service charge revenue needs. The service charge revenue needs of the
80 program are based upon all or any part, as determined by the council, of the cost of
81 surface and storm water management services or to pay or secure the payment of all or
82 any portion of any issue of general obligation or revenue bonds issued for that purpose.

83 B. The division shall determine the service charge for each parcel within the
84 service area by the following methodology:

85 Residential and very lightly developed nonresidential parcels shall receive a flat
86 rate service charge for the reasons set forth in K.C.C. 9.08.060. Light to very heavily
87 developed parcels shall be classified into the appropriate rate category by their percentage
88 of impervious surface coverage. Land use codes or data collected from parcel
89 investigations, or both will be used to determine each parcel's percentage of impervious
90 surface coverage. After a parcel has been assigned to the appropriate rate category, the
91 service charge for the parcel will be calculated by multiplying the total acreage of the
92 parcel times the rate for that category.

93 C. There is hereby imposed upon all developed properties in the service area
94 annual service charges as follows:

Class	Impervious Surface %	Rate
Residential	NA	\$((102.00)) <u>111.00/parcel/year</u>
Very Light	0 to less than or equal to 10%	\$((102.00)) <u>111.00/parcel/year</u>
Light	greater than 10% to less than or equal to 20%	\$((255.01)) <u>277.39/acre/year</u>
Moderate	greater than 20% to less than or equal to 45%	\$((544.02)) <u>597.85/acre/year</u>
Moderately Heavy	greater than 45% to less than or equal to 65%	\$((918.03)) <u>\$1,005.67/acre/year</u>

Heavy	greater than 65% to less than or equal to 85%	\$\$((1,258.05)) <u>1,363.76/acre/year</u>
Very Heavy	greater than 85% to less than or equal to 100%	\$\$((1,598.06)) <u>1,737.74/acre/year</u>
County Roads	NA	Set in accordance with RCW 90.03.525
State Highways	NA	Set in accordance with RCW 90.03.525

95 The minimum service charge in any class shall be ~~(\$102.00)~~ one hundred eleven dollars
96 per parcel per year. Mobile home parks' maximum annual service charges in any class
97 shall be ~~(\$102.00)~~ one hundred eleven dollars times the number of mobile home spaces.

98 D. The county council will review the surface water management service charges
99 annually to ensure the long term fiscal viability of the program and to guarantee that debt
100 covenants are met. The program will use equitable and efficient methods to determine
101 service charges.

102 E. When a parcel with impervious surface is divided by the boundary of the
103 service area and a portion of the parcel's impervious surface drains into the service area,
104 the parcel shall be charged as otherwise provided herein on the basis of the lands and
105 impervious surfaces which drain into the service area. When the director has determined
106 that the impervious surface of a parcel, divided by the boundary of the service area,
107 completely drains outside of the service area, the parcel will be exempt from the rates and
108 charges of this chapter.

109 F. The King County council by ordinance may supplement or alter charges within
110 specific basins and subbasins of the service area so as to charge properties or parcels of
111 one basin or subbasin for improvements, studies or maintenance which the council deems
112 to provide service or benefit the property owners of one or more basins or subbasins.

113 SECTION 3. A. Section 4 of this ordinance proposes service charges for surface
114 water management services rendered to property owners in King County.

115 B. These service charges are authorized under RCW 36.89.080, and are assessed
116 under K.C.C. 2.99.030.

117 SECTION 4. Ordinance 7590, Section 9, as amended, and K.C.C. 9.08.080 are
118 each hereby amended to read as follows:

119 A. Any person billed for service charges may file a (())request for rate
120 adjustment(()) with the division within three years of the date from which the bill was
121 sent. However, filing of such a request does not extend the period for payment of the
122 charge.

123 B. Requests for rate adjustment may be granted or approved by the director only
124 when one of the following conditions exists:

125 1. The parcel is owned and is the personal residence of a person or persons
126 determined by the county assessor as qualified for a low income senior citizen property tax
127 exemption authorized under RCW 84.36.381. Parcels qualifying under this subsection B.1,
128 shall be exempt from all charges imposed in K.C.C. 9.08.070;

129 2. The acreage of the parcel charged is in error;

130 3. The parcel is nonresidential and the actual impervious surface coverage of the
131 parcel charged places it in a different rate category than the rate category assigned by the
132 division;

133 4. The parcel is nonresidential and the parcel meets the definition of open space in
134 K.C.C. 9.08.010. Parcels qualifying under this subsection B.4. will be charged only for the
135 area of impervious surface and at the rate which the parcel is classified under using the total
136 parcel acreage;

137 5. The parcel is served by one or more flow control or water quality treatment
138 facilities required under K.C.C. chapter 9.04, or can be demonstrated by the property owner
139 to provide flow control or water quality treatment of surface and storm water to the
140 standards in K.C.C. chapter 9.04, and any such facility is maintained at the expense of the
141 parcel owner to the standards required by the department. In addition to the previous
142 requirement, any source control best management practices applicable to the facilities or
143 activities occurring on the parcel must be implemented pursuant to the standards in K.C.C.
144 chapter 9.12 to prevent contaminants from entering surface water, storm water, or ground
145 water. Nonresidential parcels except in the light category qualifying under this subsection
146 shall be charged at the rate of one lower rate category than as classified by its percentage of
147 impervious surface coverage. Nonresidential parcels in the light rate category qualifying
148 under this subsection shall be charged at the rate of (~~(\$102.00)~~) one hundred eleven dollars
149 per acre per year. Residential parcels and parcels in the very light category qualifying
150 under this subsection shall be charged (~~(\$51.00)~~) fifty-five dollars and fifty cents per parcel
151 per year;

152 6. The parcel contains at least sixty-five percent forest and no more than twenty
153 percent impervious surface, the runoff from which is dispersed through the forested area
154 to the standards in the surface water management fee protocols, resulting in an effective
155 impervious area of no more than ten percent for the entire parcel. In addition to the
156 previous requirement, any source control best management practices applicable to the
157 facilities or activities occurring on the parcel must be implemented in accordance with
158 the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water,
159 storm water, or ground water. Nonresidential parcels, except parcels in the light
160 category, qualifying under this subsection shall be charged at the rate of one lower rate
161 category than as classified by its percentage of impervious surface coverage.

162 Nonresidential parcels in the light rate category qualifying under this subsection shall be
163 charged at the rate of (~~one hundred two dollars~~) one hundred eleven dollars per acre per
164 year. Residential parcels and parcels in the very light category qualifying under this
165 subsection shall be charged (~~fifty one dollars~~) fifty-five dollars and fifty cents per
166 parcel per year;

167 7. The parcel is not served by a flow control or water quality treatment facility,
168 and the parcel's pervious surface is used to absorb the runoff from its impervious surface
169 to the standards in the surface water management fee protocols. In addition to the
170 previous requirement, any source control best management practices applicable to the
171 facilities or activities occurring on the parcel must be implemented in accordance with
172 the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water,
173 storm water, or ground water. Nonresidential parcels that qualify under this subsection,
174 and that do not qualify under this section shall receive a discount based on the percentage

175 of impervious surface from which runoff is absorbed or dispersed according to the
176 standards in the surface water management fee protocols. The maximum discount
177 allowed shall be twenty-five percent and shall be reduced below twenty-five percent in
178 accordance with a schedule developed by the department based on the relative reduction
179 of impact to the surface and storm water management system;

180 8. The parcel is owned or leased by a public school district which provides
181 activities which directly benefit the surface water management program. The activities
182 may include: curriculum specific to the issues and problems of surface and storm water
183 management, and student activities in the community to expose students to the efforts
184 required to restore, monitor or enhance the surface and storm water management system.
185 Pursuant to RCW 36.89.085, the amount of the rate adjustment shall be determined by the
186 director based upon the cost of the activities to the school district but not to exceed the
187 value of the activity to the surface water management program. Determination of which
188 activities qualify for the surface water management service charge reduction will be made
189 by the division. Reductions in surface water management service charges will only be
190 granted to school districts which provide programs that have been evaluated by the
191 division. The rate adjustment for the school district activity may be applied to any parcel in
192 the service area which is owned or operated by the school district; ((or))

193 9. The parcel is owned by a federally recognized tribe or member of such tribe
194 and is located within the historical boundaries of a reservation and thus is not subject to the
195 charges provided for in this chapter; or

196 10. The service charge bill was otherwise not calculated in accordance with this
197 chapter.

198 C. The dollar amount of debt service on revenue or general obligation bonds
199 issued to finance storm water control facilities shall not be reduced by the rate
200 adjustments referred to in subsection B.5., 6. and 7. of this section.

201 D. The property owner shall have the burden of proving that the rate adjustment
202 sought should be granted.

203 E. Decisions on requests for rate adjustments shall be made by the director based
204 on information submitted by the applicant and by the division within thirty days of the
205 adjustment request except when additional information is needed. The applicant shall be
206 notified in writing of the director's decision. If an adjustment is granted which reduces the
207 charge for the current year or two prior years, the applicant shall be refunded the amount
208 overpaid in the current and two prior years.

209 F. If the director finds that a service charge bill has been undercharged, then either
210 an amended bill shall be issued which reflects the increase in the service charge or the
211 undercharged amount will be added to the next year's bill. This amended bill shall be due
212 and payable under K.C.C. 9.08.100. The director may include in the bill the amount
213 undercharged for two previous billing years in addition to the current bill.

214 G. Decisions of the director on requests for rate adjustments shall be final unless
215 within thirty days of the date the decision was mailed, the applicant submits in writing to
216 the director a notice of appeal setting forth a brief statement of the grounds for appeal and
217 requesting a hearing before the King County hearing examiner. The examiner's decision

218 shall be a final decision pursuant to K.C.C. 20.24.080.

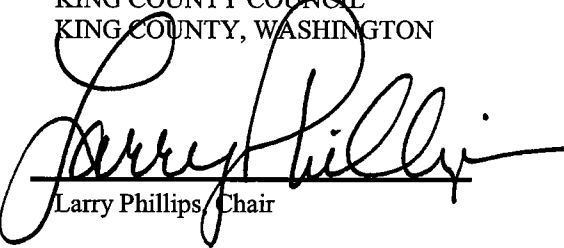
219 SECTION 3. This ordinance takes effect January 1, 2007.

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Ordinance 15638 was introduced on 10/23/2006 and passed by the Metropolitan King County Council on 11/13/2006, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Ms. Lambert, Mr. Dunn, Mr. Ferguson, Mr. Gossett, Ms. Hague, Mr. Constantine and Ms. Patterson
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

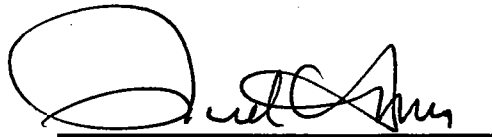

Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of November 2006.



Ron Sims, County Executive

Attachments None

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CLERK
KING COUNTY COUNCIL