



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**November 15, 2010**

**Ordinance 16958**

**Proposed No. 2010-0532.2**

**Sponsors Patterson**

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

7 **STATEMENT OF FACTS:**

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

20 2006, the council passed Ordinance 15638, acknowledging that the soon to  
21 be effective new National Pollutant Discharge Elimination System  
22 ("NPDES") permit would require King County's compliance with more  
23 stringent requirements.

24 2. Since establishment of the surface water management program in 1986,  
25 the requirements for proper management of surface water quality and  
26 quantity have continued to become more stringent. The current NPDES  
27 municipal storm water permit requires King County's compliance with  
28 more stringent requirements during the permit period, which runs from  
29 January 2007 until February 2012. The permit mandates a wide variety of  
30 programs and actions to manage surface water and improve water quality.  
31 The permit's schedule for implementing such programs and actions has  
32 resulted in escalating costs for each succeeding year of the current permit  
33 term. These programs and actions must be documented in the King  
34 County's storm water management program ("SWMP"), which the permit  
35 requires, as a matter of permit compliance, to be updated and reported on  
36 to the Washington State Department of Ecology ("Ecology") each year.  
37 Future compliance will continue to be based on increasingly more  
38 stringent requirements for actions that must be performed as part of the  
39 SWMP. Noncompliance with the terms of the permit can result in  
40 enforcement actions both by Ecology and third party citizen suits, seeking  
41 fines, penalties or rulings directing the expenditure of county funds. King  
42 County's SWMP will be subject to a new NPDES permit and additional

43 requirements that are scheduled to go into effect in 2012. Operations  
44 impacted by this new NPDES permit will include King County roads,  
45 solid waste, transit, parks, airport, development and environmental  
46 services, as well as surface water management services.

47 3. The King County surface water management program has documented  
48 capital construction needs in the current six-year Capital Improvement  
49 Program ("CIP") at a total cost of approximately \$37.13 million. These  
50 capital projects are necessary to protect life and property as well as to  
51 maintain or restore ecological functions.

52 4. The costs of NPDES permit compliance and of implementing the  
53 SWMP, including capital project costs, together with the ordinary impacts  
54 of inflation, will increase the funding levels needed to provide surface  
55 water management services to property owners within King County  
56 necessitate an increase in the surface water management service charge.

57 5. The current one hundred and eleven dollars per residential parcel fee  
58 charged by King County is insufficient to meet the projected funding  
59 needs and is significantly below the mean of one hundred forty-three  
60 dollars charged by comparable local jurisdictions.

61 6. An increase in the base amount of the surface water management  
62 charge from one hundred and eleven dollars to one hundred forty-three  
63 dollars per residential parcel, a thirty-two dollar increase, and  
64 corresponding adjustments in the rates for classes of nonresidential

65 property are needed to meet the rising costs for providing necessary  
66 surface water management services to protect public health and safety.

67 7. It is in the public interest, and is necessary for the protection of health,  
68 safety and welfare of the residents of King County, that the necessary  
69 costs of providing surface water management services continue to be  
70 funded and that such costs continue to be charged against those parcels  
71 benefiting from such services and/or contributing to the increase of surface  
72 water runoff.

73 8. Parcels owned by federally recognized tribes or members of such tribes  
74 that are located within the historical boundaries of a reservation are not  
75 subject to the Surface Water Management ("SWM") charges provided for  
76 in K.C.C. chapter 9.08.

77 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY

78 SECTION 1. A. Section 2 of this ordinance provides for service charges for  
79 surface water management services rendered to property owners in King County.

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

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

84 A. The service charges shall be based on the relative contribution of increased  
85 surface and storm water runoff from a given parcel to the surface and storm water  
86 management system. The percentage of impervious surfaces on the parcel and, the total  
87 parcel acreage and any mitigating factors as provided in K.C.C 9.08.080 will be used to

88 indicate the relative contribution of increased surface and storm water runoff from the  
89 parcel to the surface and storm water management system. The relative contribution of  
90 increased surface and storm water runoff from each parcel will determine that parcel's  
91 share of the service charge revenue needs. The service charge revenue needs of the  
92 program are based upon all or any part, as determined by the council, of the cost of  
93 surface and storm water management services or to pay or secure the payment of all or  
94 any portion of any issue of general obligation or revenue bonds issued for that purpose.

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

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

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

107	Class	Impervious Surface %	Rate
108	Residential	NA	<del>\$((111.00))</del>
109			<u>133.00/parcel/year</u>
110	Very Light	0 to less than or equal to 10%	<del>\$((111.00))</del>

111			<u>133.00/parcel/year</u>
112	Light	greater than 10% to	\$((277.39))
113		less than or equal to 20%	<u>320.61/acre/year</u>
114	Moderate	greater than 20% to less	\$((597.85))
115		than or equal to 45%	<u>702.61/acre/year</u>
116	Moderately Heavy	greater than 45% to less	\$((1,005.67))
117		than or equal to 65%	<u>1,199.36/acre/year</u>
118	Heavy	greater than 65% to less	\$((1,363.76))
119		than or equal to 85%	<u>1,641.53/acre/year</u>
120	Very Heavy	greater than 85% to less	\$((1,737.74))
121		than or equal to 100%	<u>2,046.72/acre/year</u>
122	County Roads	NA	Set in accordance
123			with RCW
124			90.03.525
125	State Highways	NA	Set in accordance
126			with RCW
127			90.03.525

128           The minimum service charge in any class shall be ~~((one hundred eleven dollars))~~  
129 one hundred thirty-three dollars per parcel per year. Mobile home parks' maximum  
130 annual service charges in any class shall be ~~((one hundred eleven dollars))~~ one hundred  
131 thirty-three dollars times the number of mobile home spaces.

132           D. The county council will review the surface water management service charges  
133 annually to ensure the long term fiscal viability of the program and to guarantee that debt

134 covenants are met. The program will use equitable and efficient methods to determine  
135 service charges.

136 E. When a parcel with impervious surface is divided by the boundary of the  
137 service area and a portion of the parcel's impervious surface drains into the service area,  
138 the parcel shall be charged as otherwise provided herein on the basis of the lands and  
139 impervious surfaces which drain into the service area. When the director has determined  
140 that the impervious surface of a parcel, divided by the boundary of the service area,  
141 completely drains outside of the service area, the parcel will be exempt from the rates and  
142 charges of this chapter.

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

147 SECTION 3. A. Section 4 of this ordinance provides for service charges for  
148 surface water management services rendered to property owners in King County.

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

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

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

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

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

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

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

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

170 5. The parcel is served by one or more flow control or water quality treatment  
171 facilities required under K.C.C. chapter 9.04, or can be demonstrated by the property  
172 owner to provide flow control or water quality treatment of surface and storm water to  
173 the standards in K.C.C. chapter 9.04, and any such facility is maintained at the expense of  
174 the parcel owner to the standards required by the department. In addition to the previous  
175 requirement, any source control best management practices applicable to the facilities or  
176 activities occurring on the parcel must be implemented pursuant to the standards in  
177 K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water, or  
178 ground water. Nonresidential parcels except in the light category qualifying under this



179 subsection shall be charged at the rate of ~~((one))~~ two lower rate category than as  
180 classified by its percentage of impervious surface coverage. Nonresidential parcels in the  
181 light rate category qualifying under this subsection shall be charged at the rate of ~~((one~~  
182 ~~hundred eleven dollars))~~ one hundred thirty-three dollars per ~~((acre))~~ parcel per year.  
183 Residential parcels and parcels in the very light category qualifying under this subsection  
184 shall be charged ~~((fifty five dollars and fifty cents))~~ sixty-six dollars and fifty cents per  
185 parcel per year;

186           6. The parcel contains at least sixty-five percent forest and no more than twenty  
187 percent impervious surface, the runoff from which is dispersed through the forested area  
188 to the standards in the surface water management fee protocols, resulting in an effective  
189 impervious are of no more than ten percent for the entire parcel. In addition to the  
190 previous requirement, and source control best management practices applicable to the  
191 facilities or activities occurring on the parcel must be implemented in accordance with  
192 the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water,  
193 storm water, or ground water. Nonresidential parcels, except parcels in the light  
194 category, qualifying under this subsection shall be charged at the rate of one lower rate  
195 category than as classified by its percentage of impervious surface coverage.  
196 Nonresidential parcels in the light rate category qualifying under this subsection shall be  
197 charged at the rate of ~~((one hundred eleven dollars))~~ one hundred thirty-three dollars per  
198 acre per year. Residential parcels and parcels in the very light category qualifying under  
199 this subsection shall be charged ~~((fifty five dollars and fifty cents))~~ sixty-six dollars and  
200 fifty cents per parcel per year;

201           7. The parcel is not served by a flow control or water quality treatment facility,  
202 and the parcel's pervious surface is used to absorb the runoff from its impervious surface  
203 to the standards in the surface water management fee protocols. In addition to the  
204 previous requirement, any source control best management practices applicable to the  
205 facilities or activities occurring on the parcel must be implemented in accordance with  
206 the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water,  
207 storm water, or ground water. Nonresidential parcels that qualify under this subsection,  
208 and that do not qualify under this section shall receive a discount based on the percentage  
209 of impervious surface from which runoff is absorbed or dispersed according to the  
210 standards in the surface water management fee protocols. The maximum discount  
211 allowed shall be twenty-five percent and shall be reduced below twenty-five percent in  
212 accordance with a schedule developed by the department based on the relative reduction  
213 of impact to the surface and storm water management system;

214           8. The parcel is owned or leased by a public school district which provides  
215 activities which directly benefit the surface water management program. The activities  
216 may include: curriculum specific to the issues and problems of surface and storm water  
217 management, and student activities in the community to expose students to the efforts  
218 required to restore, monitor or enhance the surface and storm water management system.  
219 Pursuant to RCW 36.89.085, the amount of the rate adjustment shall be determined by  
220 the director based upon the cost of the activities to the school district but not to exceed  
221 the value of the activity to the surface water management program. Determination of  
222 which activities qualify for the surface water management service charge reduction will  
223 be made by the division. Reductions in surface water management service charges will

224 only be granted to school districts which provide programs that have been evaluated by  
225 the division. The rate adjustment for the school district activity may be applied to any  
226 parcel in the service area which is owned or operated by the school district;

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

230           10. The service charge bill was otherwise not calculated in accordance with this  
231 chapter.

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

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

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

243           F. If the director finds that a service charge bill has been undercharged, then  
244 either an amended bill shall be issued which reflects the increase in the service charge or  
245 the undercharged amount will be added to the next year's bill. This amended bill shall be

246 due and payable under K.C.C. 9.08.100. The director may include in the bill the amount  
247 undercharged for two previous billing years in addition to the current bill.

248 G. Decisions of the director on requests for rate adjustments shall be final unless  
249 within thirty days of the date the decision was mailed, the applicant submits in writing to  
250 the director a notice of appeal setting forth a brief statement of the grounds for appeal and  
251 requesting a hearing before the King County hearing examiner. The examiner's decision  
252 shall be a final decision pursuant to K.C.C 20.24.080

253 SECTION 5. The council intends that applications for a two-rate discount on  
254 surface water management fees, as authorized in K.C.C. 9.08.080.B.5, shall no longer be  
255 accepted on or after January 1, 2013, or upon the effective date of an ordinance creating  
256 and implementing a new fee credit program, whichever comes first. If a new fee credit  
257 program is created and implemented, it should be a replacement for the two-rate discount  
258 provided for in 2011 and 2012, and should repeal section 6 of this ordinance. A new fee  
259 credit program should provide for a base one-rate reduction, with additional fee credits  
260 granted upon compliance with specified flow control or water quality protection  
261 standards.

262 SECTION 6. Ordinance 7590, Section 9, as amended, and K.C.C. 9.08.080 are  
263 each hereby amended to read as follows:

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

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

- 269           1. The parcel is owned and is the personal residence of a person or persons  
270 determined by the county assessor as qualified for a low income senior citizen property  
271 tax exemption authorized under RCW 84.36.381. Parcels qualifying under this  
272 subsection B.1. shall be exempt from all charges imposed in K.C.C. 9.08.070;
- 273           2. The acreage of the parcel charged is in error;
- 274           3. The parcel is nonresidential and the actual impervious surface coverage of the  
275 parcel charged places it in a different rate category than the rate category assigned by the  
276 division;
- 277           4. The parcel is nonresidential and the parcel meets the definition of open space  
278 in K.C.C 9.08.010. Parcels qualifying under this subsection B.4. will be charged only for  
279 the area of impervious surface and at the rate which the parcel is classified under using  
280 the total parcel acreage;
- 281           5. The parcel is served by one or more flow control or water quality treatment  
282 facilities required under K.C.C. chapter 9.04, or can be demonstrated by the property  
283 owner to provide flow control or water quality treatment of surface and storm water to  
284 the standards in K.C.C. chapter 9.04, and any such facility is maintained at the expense of  
285 the parcel owner to the standards required by the department. In addition to the previous  
286 requirement, any source control best management practices applicable to the facilities or  
287 activities occurring on the parcel must be implemented pursuant to the standards in  
288 K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water, or  
289 ground water. Nonresidential parcels except in the light category qualifying under this  
290 subsection shall be charged at the rate of ~~((two))~~ one lower rate category than as  
291 classified by its percentage of impervious surface coverage. Nonresidential parcels in the

292 light rate category qualifying under this subsection shall be charged at the rate of one  
293 hundred thirty-three dollars per parcel per year. Residential parcels and parcels in the  
294 very light category qualifying under this subsection shall be charged sixty-six dollars and  
295 fifty cents per parcel per year;

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

306 Nonresidential parcels in the light rate category qualifying under this subsection shall be  
307 charged at the rate of one hundred forty-three dollars per acre per year. Residential  
308 parcels and parcels in the very light category qualifying under this subsection shall be  
309 charged seventy-one dollars and fifty cents per parcel per year;

310           7. The parcel is not served by a flow control or water quality treatment facility,  
311 and the parcel's pervious surface is used to absorb the runoff from its impervious surface  
312 to the standards in the surface water management fee protocols. In addition to the  
313 previous requirement, any source control best management practices applicable to the  
314 facilities or activities occurring on the parcel must be implemented in accordance with

315 the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water,  
316 storm water, or ground water. Nonresidential parcels that qualify under this subsection,  
317 and that do not qualify under this section shall receive a discount based on the percentage  
318 of impervious surface from which runoff is absorbed or dispersed according to the  
319 standards in the surface water management fee protocols. The maximum discount  
320 allowed shall be twenty-five percent and shall be reduced below twenty-five percent in  
321 accordance with a schedule developed by the department based on the relative reduction  
322 of impact to the surface and storm water management system;

323         8. The parcel is owned or leased by a public school district which provides  
324 activities which directly benefit the surface water management program. The activities  
325 may include: curriculum specific to the issues and problems of surface and storm water  
326 management, and student activities in the community to expose students to the efforts  
327 required to restore, monitor or enhance the surface and storm water management system.  
328 Pursuant to RCW 36.89.085, the amount of the rate adjustment shall be determined by  
329 the director based upon the cost of the activities to the school district but not to exceed  
330 the value of the activity to the surface water management program. Determination of  
331 which activities qualify for the surface water management service charge reduction will  
332 be made by the division. Reductions in surface water management service charges will  
333 only be granted to school districts which provide programs that have been evaluated by  
334 the division. The rate adjustment for the school district activity may be applied to any  
335 parcel in the service area which is owned or operated by the school district;

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

339           10. The service charge bill was otherwise not calculated in accordance with this  
340 chapter.

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

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

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

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

357           G. Decisions of the director on requests for rate adjustments shall be final unless  
358 within thirty days of the date the decision was mailed, the applicant submits in writing to



359 the director a notice of appeal setting forth a brief statement of the grounds for appeal and  
360 requesting a hearing before the King County hearing examiner. The examiner's decision  
361 shall be a final decision pursuant to K.C.C 20.24.080.

362            SECTION 7. A. Sections 1 through 5 of this ordinance take effect January 1,

363 2011.

364            B. Section 6 of this ordinance takes effect January 1, 2013.

365

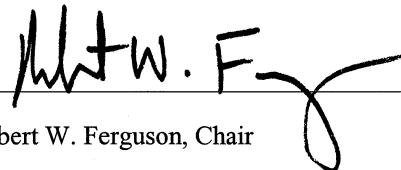
Ordinance 16958 was introduced on 10/4/2010 and passed by the Metropolitan King County Council on 11/15/2010, by the following vote:

Yes: 6 - Ms. Drago, Mr. Phillips, Mr. Gossett, Ms. Patterson, Ms. Lambert and Mr. Ferguson

No: 3 - Mr. von Reichbauer, Ms. Hague and Mr. Dunn

Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Robert W. Ferguson, Chair

ATTEST:



Anne Noris, Clerk of the Council

RECEIVED  
2010 NOV 22 PM 2:49  
CLERK  
KING COUNTY COUNCIL

APPROVED this 22 day of NOVEMBER 2010.



Dow Constantine, County Executive

Attachments: None