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Title: AN ORDINANCE regarding surface water management; revising surface water management service charges; and amending Ordinance 7590, Section 8, as amended, and K.C.C. 9.08.070 and Ordinance 7590, Section 9, as amended, and K.C.C. 9.08.080.

Sponsors: Dow Constantine

Indexes: Fees, Surface Water

Code sections: 9.08.070 -, 9.08.080 -

Attachments: 1. 15638.pdf, 2. 2006-0476 Fiscal Note.xls, 3. 2006-0476 hearing notice.doc, 4. 2006-0476 Regulatory Note.doc, 5. 2006-0476 Staff Report SWM Fee (11-08).doc, 6. 2006-0476 SWM Revised Staff Report - Fee Revised.doc, 7. 2006-0476 Transmittal Letter.doc

Date	Ver.	Action By	Action	Result
11/13/2006	1	Metropolitan King County Council	Hearing Held	
11/13/2006	2	Metropolitan King County Council	Passed	Pass
11/9/2006	1	Annual Budget Reconciliation and Adoption Committee	Amended	Pass
11/9/2006	2	Annual Budget Reconciliation and Adoption Committee	Recommended Do Pass Substitute	Pass
11/8/2006	1	Annual Budget Reconciliation and Adoption Committee	Deferred	
11/6/2006	1	Metropolitan King County Council	Hearing Held	
10/23/2006	1	Metropolitan King County Council	Introduced and Referred	

Clerk 11/14/2006

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

STATEMENT OF FACTS:

1. On April 28, 1986, the King County Council adopted Ordinance 7590, which initiated the surface water management program to provide a comprehensive approach to surface and storm

water problems including "basin planning, land use regulation, construction of facilities, maintenance and public education." On December 2, 1991, the council increased the services provided by the surface water management program and set a rate structure and service charges by adopting Ordinance 10187. On November 19, 2001, the council passed Ordinance 14261, acknowledging that the costs to provide surface water management services had increased due to the ordinary impacts of inflation and due to increased and more stringent federal and state requirements for the proper management of surface water quality and quantity.

2. Since the adoption of Ordinance 14261 on November 19, 2001, the requirements for proper management of surface water quality and quantity have increased and become more stringent.

In addition to the increased requirements already implemented since 2001, the new National Pollutant Discharge Elimination System ("NPDES") permit requires King County's compliance with more stringent requirements when this permit becomes effective on January 5, 2007. These requirements and the county's responses, together with the ordinary impacts of inflation, have increased the costs of providing surface water management services to property owners within King County and make an increase in the surface water management service charge warranted.

3. Since the King County council's adoption of Ordinance 14261 in 2001, the Washington state Department of Ecology ("Ecology") is increasing requirements concerning surface water quality and control. The Federal Clean Water Act, implemented through municipal storm water NPDES permits, mandates a wide variety of local programs to manage surface water and improve water quality. Ecology, which manages the federal NPDES permitting program in the state of Washington, initially based King County's compliance with the NPDES permit on a requirement that King County establish and implement a surface water management program ("SWMP"). Future compliance will be based on increasingly more stringent requirements for actions that must be performed as part of the SWMP. Enforcement for noncompliance can occur through

both Ecology action or through third party lawsuits, resulting in fines, criminal penalties or rulings directing the expenditure of county funds. King County's new municipal stormwater permit is scheduled to be issued on December 6, 2006, and will become effective on January 5, 2007. Operations impacted by this new NPDES permit will include King County roads, solid waste, transit, parks, airport, development and environmental services, as well surface water management services.

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

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

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY

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

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

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

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

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

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

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

Class	Impervious Surface %	Rate
Residential	NA	\$((402.00)) <u>111.00</u> /parcel/year
Very Light	0 to less than or equal to 10%	\$((402.00)) <u>111.00</u> /parcel/year
Light	greater than 10% to less than or equal to 20%	\$((255.01)) <u>277.39</u> /acre/year
Moderate		greate than or

Moderately Heavy	greater than 45% to less than or equal to 65%	\$((918.03)) <u>\$1,005.67</u> /acre/year
Heavy	greater than 65% to less than or equal to 85%	\$((1,258.05)) <u>1,363.76</u> /acre/year
Very Heavy	greater than 85% to less than or equal to 100%	\$((1,598.06)) <u>1,737.74</u> /acre/year
County Roads	NA	Set in accordance with RCW 90.03.525
State Highways	NA	Set in accordance with RCW 90.03.525

The minimum service charge in any class shall be (~~(\$102.00)~~) one hundred eleven dollars per parcel per year.

Mobile home parks' maximum annual service charges in any class shall be (~~(\$102.00)~~) one hundred eleven dollars times the number of mobile home spaces.

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

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

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

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

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

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

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

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

1. The parcel is owned and is the personal residence of a person or persons determined by the county assessor as qualified for a low income senior citizen property tax exemption authorized under RCW 84.36.381.

Parcels qualifying under this subsection B.1, shall be exempt from all charges imposed in K.C.C. 9.08.070;

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

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

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

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

classified by its percentage of impervious surface coverage. Nonresidential parcels in the light rate category qualifying under this subsection shall be charged at the rate of (~~(\$102.00)~~) one hundred eleven dollars per acre per year. Residential parcels and parcels in the very light category qualifying under this subsection shall be charged (~~(\$51.00)~~) fifty-five dollars and fifty cents per parcel per year;

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

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

allowed shall be twenty-five percent and shall be reduced below twenty-five percent in accordance with a schedule developed by the department based on the relative reduction of impact to the surface and storm water management system;

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

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

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

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

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

E. Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within thirty days of the adjustment request except when

additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

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

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

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

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