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

Sponsors: Julia Patterson

Indexes: Budget, Fees, Surface Water

Code sections: 9.08.070 -, 9.08.080 -

Attachments: 1. 16958.pdf, 2. 2010-0532 transmittal letter.doc, 3. 2010-0532 Fiscal Note.xls, 4. 2010-0532 SWM Fee Regulatory Note.doc, 5. 2010-0529--0542 & 2010-0556 fee hearing notice.doc, 6. Staff Report 10-26-10, 7. Staff Report 10-26 Attachment 2, 8. Staff Report 11-2 & 11-3, 9. Staff Report 11-2 Attachment 1, 10. Staff Report 11-02 Attachment 6, 11. Staff Report 11-9, 11-11, 11-12

Date	Ver.	Action By	Action	Result
11/15/2010	2	Metropolitan King County Council	Hearing Held	
11/15/2010	2	Metropolitan King County Council	Passed	Pass
11/12/2010	1	Budget and Fiscal Management Committee		
11/11/2010	1	Budget and Fiscal Management Committee		
11/9/2010	1	Budget and Fiscal Management Committee		
11/8/2010	1	Metropolitan King County Council	Deferred	
11/8/2010	1	Metropolitan King County Council	Hearing Held	
11/3/2010	1	Budget and Fiscal Management Committee		
11/2/2010	1	Budget and Fiscal Management Committee		
10/27/2010	1	Budget and Fiscal Management Committee		
10/26/2010	1	Budget and Fiscal Management Committee		
10/4/2010	1	Metropolitan King County Council	Introduced and Referred	

Clerk 11/15/2010

AN ORDINANCE regarding surface water management; revising surface water management service charge; and amending Ordinance 7590, Section 8, as

amended, Ordinance 7590, Section 9, as amended, and K.C.C. 9.08.080 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 established 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. On November 13, 2006, the council passed Ordinance 15638, acknowledging that the soon to be effective new National Pollutant Discharge Elimination System ("NPDES") permit would require King County's compliance with more stringent requirements.

2. Since establishment of the surface water management program in 1986, the requirements for proper management of surface water quality and quantity have continued to become more stringent. The current NPDES municipal storm water permit requires King County's compliance with more stringent requirements during the permit period, which runs from January 2007 until February 2012. The permit mandates a wide variety of programs and actions to manage surface water and improve water quality. The permit's schedule for implementing such programs and actions has resulted in escalating costs for each succeeding year of the current permit term.

These programs and actions must be documented in the King County's storm water management program ("SWMP"), which the permit requires, as a matter of permit compliance, to be updated

and reported on to the Washington State Department of Ecology ("Ecology") each year. Future compliance will continue to be based on increasingly more stringent requirements for actions that must be performed as part of the SWMP. Noncompliance with the terms of the permit can result in enforcement actions both by Ecology and third party citizen suits, seeking fines, penalties or rulings directing the expenditure of county funds. King County's SWMP will be subject to a new NPDES permit and additional requirements that are scheduled to go into effect in 2012. Operations impacted by this new NPDES permit will include King County roads, solid waste, transit, parks, airport, development and environmental services, as well as surface water management services.

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

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

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

6. An increase in the base amount of the surface water management charge from one hundred and eleven dollars to one hundred forty-three dollars per residential parcel, a thirty-two dollar increase, and corresponding adjustments in the rates for classes of nonresidential property are needed to meet the rising costs for providing necessary surface water management services to

protect public health and safety.

7. 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 funded and that such costs continue to be charged against those parcels benefiting from such services and/or contributing to the increase of surface water runoff.

8. 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 Surface Water Management ("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 provides for 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	\$((111.00)) <u>133.00/parcel/year</u>
Very Light	0 to less than or equal to 10%	\$((111.00)) <u>133.00/parcel/year</u>
Light	greater than 10% to less than or equal to 20%	\$((277.39)) <u>320.61/acre/year</u>
Moderate	greater than 20% to less than or equal to 45%	\$((597.85)) <u>702.61/acre/year</u>
Moderately Heavy	greater than 45% to less than or equal to 65%	\$((1,005.67)) <u>1,199.36/acre/year</u>
Heavy	greater than 65% to less than or equal to 85%	\$((1,363.76)) <u>1,641.53/acre/year</u>
Very Heavy	greater than 85% to less than or equal to 100%	\$((1,737.74)) <u>2,046.72/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

The minimum service charge in any class shall be (~~one hundred eleven dollars~~) one hundred thirty-three dollars per parcel per year. Mobile home parks' maximum annual service charges in any class shall be (~~one hundred eleven dollars~~) one hundred thirty-three 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 provides for 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))~~ two 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 eleven dollars))~~ one hundred thirty-three dollars per ~~((acre))~~ parcel per year. Residential parcels and parcels in the very light category qualifying under this subsection shall be charged ~~((fifty-five dollars and fifty cents))~~ sixty-six 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 are of no more than ten percent for the entire parcel. In addition to the previous requirement, and 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 eleven dollars))~~ one hundred thirty-three dollars per acre per year. Residential parcels and parcels in the very light category qualifying under this subsection shall be charged ~~((fifty-five dollars and fifty cents))~~ sixty-six 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 36.89.10