



Legislation Text

File #: 2012-0389, **Version:** 2

AN ORDINANCE regarding surface water management; revising surface water management service charges; revising rate adjustments for non-residential parcels served by one or more flow control or water quality treatment facilities; and amending Ordinance 7590, Section 1, as amended, and K.C.C. 9.08.010, Ordinance 7590, Section 8, as amended, and K.C.C. 9.08.070, 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. King County works in partnership with property owners and state and federal agencies to minimize the impacts of storm and surface runoff on the water quantity and quality of the waters of the state.
2. King County charges property owners within its surface water management ("SWM") service area, which is unincorporated King County, a graduated fee based on six nonresidential rate classes tied to relative amount of impervious surface and one uniform rate class for all residential parcels.
3. In 1986, the King County council adopted Ordinance 7590, which established the SWM 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." In 1991, the council increased the services provided by the SWM program and set a rate structure and service charges by adopting Ordinance 10187. In 2001, the council passed

Ordinance 14261, acknowledging that the costs to provide SWM 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. In 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. In 2010, the council passed Ordinance 16958, acknowledging that costs had increased to comply with the stringent requirements of the NPDES permit and to meet the ordinary impacts of inflation.

4. Since establishment of the current SWM program in 1986, the requirements for proper management of surface water quality and quantity have continued to become more stringent. This is evidenced by the requirements in King County's 2007-2012 NPDES municipal stormwater permit, which was administratively extended by the Washington state Department of Ecology ("Ecology") for an additional year, expiring on July 31, 2013. The new NPDES municipal storm water permit requires King County's compliance with even more stringent requirements during the permit period, which will run from August 1, 2013, through July 31, 2018. 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 will result in escalating costs for each succeeding year of the permit term. These programs and actions must be reflected in and written into the King County's storm water management program ("SWMP"), as a matter of permit compliance, and must be updated and reported on to 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 law suits, seeking fines, penalties, or rulings directing the expenditure of county funds. Operations

impacted by this new NPDES permit will include King County roads, solid waste, transit, parks, airport, permitting and environmental review, as well as direct SWM services.

5. The King County SWM program has documented capital construction needs in the upcoming 2013-2014 biennium at a total cost of approximately \$16.41 million. The King County road services program has documented construction needs to mitigate stormwater impacts in the upcoming 2013-2014 biennium at a total cost of approximately \$3.16 million. These capital projects are necessary to protect life and property as well as to maintain or restore water quality and ecological functions in receiving waters.

6. The costs of NPDES permit compliance and of implementing the SWMP, including capital project costs, together with the ordinary impacts of inflation and revenue losses from recent and upcoming annexations of unincorporated county areas to cities, will necessitate an increase in the surface water management charges in order to meet King County's permit obligations and to provide SWM services to property owners within unincorporated King County.

7. The current one hundred and thirty-three dollars per residential parcel fee charged by King County is insufficient to meet the projected revenue requirement and continues to be well below the mean average of one hundred fifty-three dollars per residential parcel charged by comparable local jurisdictions.

8. An increase in the base amount of the SWM charge from one hundred thirty-three dollars to one hundred fifty-one dollars per residential parcel in 2013, a thirty-six-dollar increase over 2012, and to one hundred seventy-one dollars and fifty cents per residential parcel in 2014, a thirty-eight dollar and fifty cent increase over 2012, and corresponding adjustments in the rates for classes of nonresidential property are needed to meet the rising costs of permit compliance and for providing necessary surface water management services to protect public health and safety.

9. 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 SWM services continue to be funded and that such costs continue to be charged against those parcels benefitting from such services and/or contributing to the increase of surface water runoff, which the King County SWM program must address.

10. 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.

11. King County grants requests for rate adjustments based on demonstration that one or more of several conditions listed in K.C.C. 9.08.080 are met. A number of these rate adjustments function as discounts to the standard charge.

12. The current rate adjustment program can be improved by offering additional discounts to the existing discount program based on sound technical grounds.

13. In 2010, the King County council adopted and in 2011, amended, Ordinance 16958, which revised the SWM service charge and rate adjustment program for nonresidential parcels, pending the development of a program that would more comprehensively take into account the effectiveness of onsite management of storm and surface water runoff. The stormwater services section of the water and land resources division of the department of natural resources and parks undertook an effort to develop such a program and the outcome of this effort resulted in a number of guiding principles that became the foundation for evaluating changes to the existing program. They include:

a. The rate adjustment program will be, to the extent possible, linked to the effectiveness of facility or on-site practices that reduce storm water impacts. This means that, the more effective the facility is at reducing storm water impacts, the greater the discount;

- b. The rate adjustment program is, and will be, administratively feasible;
- c. The rate adjustment program will provide property owner incentives to improve on-site control of storm water; for example, via retrofitting existing facility, improved operations and maintenance and similar approaches;
- d. The rate adjustment program is to be consistent, that is, not in conflict, with other King County Code requirements; and
- e. The new rate adjustment program will be available to all nonresidential properties once adopted.

14. The guiding principles in subsection 13 of this Statement of Facts establish a reasonable basis for initiating changes to the existing rate adjustment program.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY

SECTION 1. Ordinance 7590, Section 1, as amended, and K.C.C. 9.08.010 are each hereby amended to read as follows:

The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to capital projects, public education activities, land use management regulations adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.

~~B. ("County" means King County.~~

~~C.))~~ "Department" means the department of natural resources and parks or its successor agency.

~~((D.))~~ C. "Developed parcel" means any parcel altered from the natural state by the construction, creation or addition of impervious surfaces.

~~((E.))~~ D. "Director" means the director of the department of natural resources and parks or its successor agency or the director's designee.

~~((F.))~~ E. "Division" means the department of natural resources and parks, water and land resources

division or its successor agency.

~~((G.))~~ F. "Effective impervious area" means the portion of actual impervious area that is connected, or has the effect of being connected as defined in the King County Surface Water Design Manual, directly to the storm water drainage system via surface flow or discrete conveyances such as pipes, gutters or ditches.

~~((H.))~~ G. "Flow control facility" means a drainage facility designed to mitigate the impacts of increased surface and storm water runoff generated by site development in accordance with the drainage requirements in this chapter. A flow control facility is designed either to hold water for a considerable length of time and then release it by any combination of evaporation, plant transpiration or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

H. "Flow control best management practice" means a method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and storm water runoff at, or near, the sources of those increases. "Flow control best management practice" includes the methods and designs specified in the Surface Water Design Manual.

I. "Lake management plan" means the plan, and supporting documents as appropriate, describing the lake management recommendations and requirements ~~((which))~~ that has been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. Adopted lake management plans are available from the division and the department of development and environmental services. A synopsis of adopted lake management plans ~~((will))~~ shall be distributed to all Surface Water Design Manual subscribers as part of the manual's routine update process.

J. "Drainage facility" means the system of collecting, conveying, and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, flow control facilities, erosion/sedimentation control facilities and other drainage structures and appurtenances, both natural and constructed.

K. "Impervious surface" means either a hard surface area (~~(which)~~) that either prevents or retards the entry of water into the soil mantle as it entered under natural conditions (~~(prior to)~~) before development, (~~(and/~~)
~~)~~ or a hard surface area (~~(which)~~) that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions (~~(prior to)~~) before development, or both. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas (~~(which)~~) that are paved, graveled or made of packed or oiled earthen materials or other surfaces (~~(which)~~) that similarly impede the natural infiltration of surface and storm water. Open, uncovered flow control facilities shall not be considered as impervious surfaces (~~(for the purpose of this chapter)~~).

L. "Land use code" means restrictions on the type of development for a specific parcel of land as identified by records maintained by the King County department of assessments as modified or supplemented by information resulting from investigation by the division. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.

M. "Maintenance" means the act or process of cleaning, repairing or preserving a system, unit, facility, structure or piece of equipment.

N. "Natural surface water drainage system" means such landscape features as rivers, streams, lakes and wetlands. This system circulates water in a complex hydrological cycle.

O. "National Pollutant Discharge Elimination System permit" means a permit issued by the Washington state Department of Ecology for discharges to waters of the United States under the Clean Water Act.

P. "Open space" means any parcel, property or portion thereof classified for current use taxation under K.C.C. chapter 20.36 and chapter 84.34 RCW, or for which the development rights have been sold to King County under K.C.C. chapter 26.04. This definition includes lands (~~(which)~~) that have been classified as open space, agricultural or timber lands under criteria contained in K.C.C. chapter 20.36 and chapter 84.34 RCW.

~~(P.)~~ Q. "Parcel" means the smallest separately segregated unit or plot of land having an identified

owner, boundaries and surface area (~~(which)~~) that is documented for property tax purposes and given a tax lot number by the King County assessor.

~~((Q-))~~ R. "Person" means any individual, firm, company, association, corporation or governmental agency.

~~((R-))~~ S. "Program" means the surface water management program as ~~((set forth))~~ created and established in this chapter.

~~((S-))~~ T. "Rate category" means the classification in this chapter given to a parcel in the service area based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

~~((T-))~~ U. "Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. ~~((The term))~~ "~~((the term))~~ Residence" includes ~~((the term))~~ "residential" or "residential unit" as referring to the type of or intended use of a building or structure.

~~((U-))~~ V. "Residential parcel" means any parcel (~~(which)~~) that contains no more than three residences or three residential units (~~(which are)~~) within a single structure and is used primarily for residential purposes.

~~((V-))~~ W. "Service area" means unincorporated King County.

~~((W-))~~ X. "Storm water plan" means a King County ordinance specifying the storm water control facilities that will be funded by a bond issue.

~~((X-))~~ Y. "Subbasin" means a drainage area that drains to a water course or water body named and noted on common maps and that is contained within a basin as defined in K.C.C. 9.04.020.

~~((Y-))~~ Z. "Surface and storm water management services" means the services provided by the surface water management program, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

~~((Z.))~~ AA. "Surface water management fee protocols" ~~((or "SWM fee protocols"))~~ means the surface water management fee standards and procedures that have been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. The ~~((SWM))~~ surface water management fee protocols are available from the department of natural resources and parks, water and land resources division, or ~~((their))~~ its successor ~~((agencies))~~ agency.

~~((AA.))~~ BB. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

~~((BB.))~~ CC. "Surface and storm water management system" means constructed drainage facilities and any natural surface water drainage features that do any combination of collection, storing, controlling, treating or conveying surface and storm water.

DD. "Surface Water Design Manual" means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and storm water design and analysis requirements, procedures and guidance that has been formally and most recently adopted by rule under the procedures in K.C.C. chapter 2.98. The Surface Water Design Manual is available from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division, or its successor agency.

~~((CC.))~~ EE. "Undeveloped parcel" means any parcel ~~((which))~~ that has not been altered from its natural state by the construction, creation or addition of impervious surface.

~~((DD.))~~ FF. "Water quality treatment facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water runoff. "Water quality treatment ~~((facilities are))~~ facility" means the structural component of best management practices. When used singly or in combination, a water quality treatment ~~((facilities))~~ facility reduces the potential for contamination of either surface or ground waters, or both.

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, the total parcel acreage and any mitigating factors as provided in KC.C 9.08.080 ~~((will))~~ shall 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))~~ determines 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 meeting stormwater permit obligations of state and federal law and the cost of surface and storm water management services ~~((or))~~ and 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 KC.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))~~ shall 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))~~ shall 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	((133.00))

		<u>\$151.00/parcel/year</u>	
Very Light	0 to less than or equal to 10%		(\$133.00)
		<u>\$151.00/parcel/year</u>	
Light	Greater than 10% to less than or equal to 20%		(\$320.61)
		<u>\$363.89/acre/year</u>	
Moderate	Greater than 20% to less than or equal to 45%		(\$702.61)
		<u>\$797.46/acre/year</u>	
Moderately Heavy	Greater than 45% to less than or equal to 65%		(\$1,199.36)
		<u>\$1,361.27/acre/year</u>	
Heavy	Greater than 65% to less than or equal to 85%		(\$1,641.53)
		<u>\$1,863.37/acre/year</u>	
Very Heavy	Greater than 85% to less than or equal to 100%		(\$2,046.72)
		<u>\$2,323.03/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 thirty three))~~ one hundred fifty-one dollars per parcel per year. Mobile home parks' maximum annual service charges in any class shall be ~~((one~~

~~hundred thirty-three~~) one hundred fifty-one dollars times the number of mobile home spaces.

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

E. When a parcel that has 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)~~) that 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)~~) is 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)~~) that the council deems to provide service or benefit the property owners of one or more basins or subbasins.

SECTION 3. Section 4 of this ordinance takes effect January 1, 2014.

SECTION 4. 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, the total parcel acreage and any mitigating factors as provided in KC.C 9.08.080 shall 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 determines 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

meeting stormwater permit obligations of state and federal law and the cost of surface and storm water management services and 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 in KC.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 shall 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 shall 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	(\$151.00) <u>\$171.50/parcel/year</u>
Very Light	0 to less than or equal to 10%	(\$151.00) <u>\$171.50/parcel/year</u>
Light	Greater than 10% to less than or equal to 20%	(\$363.89) <u>\$413.38/acre/year</u>
Moderate	Greater than 20% to less than or equal to 45%	(\$797.46) <u>\$905.91/acre/year</u>

Moderately Heavy Greater than 45% to less than or
equal to 65% ((\$1,361.27))
\$1,546.40/acre/year

Heavy Greater than 65% to less than or equal
to 85% ((\$1,863.37))
\$2,116.79/acre/year

Very Heavy Greater than 85% to less than or equal
to 100% ((\$2,323.03))
\$2,638.96/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 (~~one hundred fifty one~~) one hundred seventy-one dollars and fifty cents per parcel per year. Mobile home parks' maximum annual service charges in any class shall be (~~one hundred fifty one~~) one hundred seventy-one dollars and fifty cents times the number of mobile home spaces.

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

E. When a parcel that has 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 that 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 is 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 that the council deems to provide service or benefit the property owners of one or more basins or subbasins.

SECTION 5. 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))~~ shall be charged only for the area of impervious surface and at the rate ~~((which))~~ that the parcel is classified under using the total parcel acreage;
- 5.a. The parcel is nonresidential and 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,)) of the following types of controls used to mitigate the impacts of surface and storm water runoff from the impervious surfaces of the parcel, and any source control best management practices applicable to the facilities or activities occurring on the parcel must be implemented ((pursuant to)) in accordance with the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water(,) or ground water((- Non-residential 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. Non-residential parcels in the light rate category qualifying under this subsection shall be charged at the rate of one hundred thirty-three dollars per parcel per year. Residential parcels and parcels in the very light category qualifying under this subsection shall be charged sixty-six dollars and fifty cents per parcel per year)):~~

(1) one or more flow control facilities that are required under K.C.C. chapter 9.04, or that is demonstrated by the property owner to provide flow control of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(1) shall receive a twenty percent discount when runoff is controlled on fifty percent or more of the property's impervious surface by the single or multiple flow control facilities;

(2) one or more flow control facilities that are required under K.C.C. chapter 9.04 and designed to the standards in the 1990 or later editions of the Surface Water Design Manual, or that is demonstrated by the property owner to provide flow control of surface and storm water to the standards in the 1990 or later editions of the Surface Water Design Manual, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(2) shall receive a twenty percent discount when runoff is controlled on fifty percent or more of the property's impervious surface

by the qualifying single or multiple flow control facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

(3) one or more flow control best management practices or infiltration facilities that are either required under K.C.C. chapter 9.04, or is demonstrated by the property owner to provide absorption or dispersion of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a practice or facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(3) shall receive a twenty percent discount when runoff is absorbed or dispersed on fifty percent or more of the property's impervious surface by flow control best management practices or infiltration facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

(4) one or more water quality treatment facilities that are required under K.C.C. chapter 9.04, or that is demonstrated by the property owner to provide water quality treatment of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(4). shall receive a twenty percent discount when runoff is treated on fifty percent or more of the property's impervious surface by the single or multiple water quality treatment facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

(5) increased surface and storm water management activities conducted by the parcel owner as mandated by the state through a National Pollutant Discharge Elimination System permit for post construction stormwater discharges. The activities include, but are not limited to, frequent facility inspections, surface water monitoring, reporting of facility performance and prompt correction of identified surface water problems. Satisfactory compliance with the permit is required for this discount, as determined by the department. Parcels qualifying under this subsection B.5.a.(5) shall receive a ten percent discount in addition to other qualifying discounts in this subsection B.5.a.; and

(6) when the requirements of subsection B.5.a.(1) through (4) of this section stating the specified facilities must address the impacts of at least fifty percent of the impervious surfaces on-site cannot be met, the discounts provided in said subsections shall be prorated as follows:

- (a) forty to less than fifty percent of impervious surface: sixteen percent discount;
- (b) thirty to less than forty percent of impervious surface: twelve percent discount;
- (c) twenty to less than thirty percent of impervious surface: eight percent discount; and
- (d) four to less than twenty percent of impervious surface: four percent discount.

b. Applications for a two-rate discount on surface water management fees, as authorized in subsection B.5. of this section, as amended by Ordinance 16958 and Ordinance 17246, shall not be accepted after December 31, 2012;

6. The parcel is residential and is served by one or more flow control or water quality treatment facilities required under K.C.C. chapter 9.04, or is 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 a facility is maintained at the expense of the parcel owner to the standards required by the department. In addition 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. Residential parcels qualifying under this subsection B.6. shall receive a fifty percent discount;

7. 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 B.7. shall ((be charged at the rate of one lower rate category than as classified by its percentage of impervious surface coverage. Non-residential parcels in the light rate category qualifying under this subsection shall be charged at the rate of 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 [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. Non-residential 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;)) receive an eighty percent discount. Residential parcels qualifying under this subsection B.7. shall receive a fifty percent discount. The discounts in this subsection B.7 may be applied in lieu of but not in addition to other qualifying discounts in subsection B.5 and B.6;~~

8. The parcel is owned or leased by a public school district ~~((which))~~ that provides activities ~~((which))~~ that directly benefit the surface water management program. The activities may include, but are not limited to: 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))~~ According 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)~~) shall be made by the division. Reductions in surface water management service charges (~~(will)~~) may only be granted to school districts (~~(which)~~) that 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)~~) that is owned or operated by the school district;

9. The parcel is owned by a federally recognized tribe or member of such a 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 subsections 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)~~) under subsections B.1, 2., 3., and 4. of this section that 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. The adjustments provided for in subsection B.5., 6., and 7. of this section are prospective only from January 1, 2013. A reduction in charges for the billing years before January 1, 2013, shall not be granted under subsection B.5., 6., and 7. of this section.

F. If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued (~~(which)~~) that reflects the increase in the service charge or the undercharged amount (~~(will)~~) shall be added to the next year's bill. (~~(This)~~) The 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)~~) as authorized by K.C.C. 20.24.080.

SECTION 6. Sections 1, 2 and 5 of this ordinance take effect January 1, 2013.

10 days prior, official paper

10 days prior to hearing

Publish: Seattle Times

Publish: Wednesday, October 17, 2012

Public hearing: 11/5/12