

## Legislation Text

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Clerk 10/16/2019

AN ORDINANCE relating to the surface water management fees charged to unincorporated parcels; and amending Ordinance 7590, Section 9, as amended and K.C.C. 9.08.080.

### STATEMENT OF FACTS:

1. The water and land resources division of the department of natural resources and parks provides essential public services that protect human health, the environment and the quality of life in our region.
2. King County charges property owners within its surface water management service area, which is unincorporated King County, a graduated annual service charge based on six nonresidential rate classes tied to relative amount of impervious surface and one uniform rate class for all residential parcels. RCW 36.89.080 authorizes counties to impose surface water management service charges and sets forth factors that may be considered, including the income level of persons who own and reside at parcels to which the charges apply.
3. The service charge was established in 1986 by Ordinance 7590. Ordinance 7590 included an exemption from the charge for persons approved by the department of assessments for the senior citizen or disabled persons property tax exemption under RCW 84.36.381.
4. A new low-income discount program for the service charge would assist persons who have not been approved for the senior citizen or disabled persons exemption.
5. The 2019-2020 budget for the surface water management program assumes implementation

of a new low-income discount program.

6. The low-income discount program would establish a fifty percent discount based on income equal to or less than two hundred percent of the federal poverty level.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 7590, Section 9, as amended, and K.C.C. 9.08.080 are 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 by and is the personal residence of a person or persons (~~((determined))~~) who are:  
a. approved by the county assessor (~~((as-qualified))~~) for a (~~((low income))~~) senior citizen or disabled persons property tax exemption (~~((authorized))~~) under RCW 84.36.381. Parcels qualifying under this subsection B.1.a. shall be exempt from all charges imposed in K.C.C. 9.08.070; or

b. approved by the director for a low income discount based on income equal to or less than two hundred percent of the federal poverty level. Parcels qualifying under this subsection B.1.b. shall receive a fifty percent discount 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. shall be charged only for the area of impervious surface and at the rate that the parcel is classified under using the total parcel acreage;

5. The parcel is nonresidential and is served by one or more 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 in accordance with the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water or ground water:

a. 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. 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;

b. 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.b. 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.;

c. 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.c. 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.;

d. 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.d. 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.;

e. 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.e. shall receive a ten percent discount in addition to other qualifying discounts in this subsection B.5.; and

f. when the requirements of subsection B.5.a. through d. 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:

- (1) forty to less than fifty percent of impervious surface: sixteen percent discount;
- (2) thirty to less than forty percent of impervious surface: twelve percent discount;
- (3) twenty to less than thirty percent of impervious surface: eight percent discount; and
- (4) four to less than twenty percent of impervious surface: four percent discount;

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 qualifying under this subsection B.7. shall 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 that provides activities 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. 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 shall be made by the division. Reductions in surface water management service charges may only be granted to school districts 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 that is owned or operated by the school district;

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 under subsection 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 that reflects the increase in the service charge or the undercharged amount shall be added to the next year's bill. 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 the applicant files an appeal in accordance with K.C.C. 20.22.080. The examiner's decision shall be a final decision as authorized by K.C.C. 20.22.040.