



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	\$((111.00))
109			<u>133.00/parcel/year</u>
110	Very Light	0 to less than or equal to 10%	\$((111.00))

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

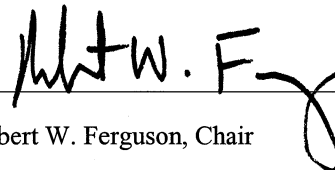
Ordinance 16958 was introduced on 10/4/2010 and passed by the Metropolitan King County Council on 11/15/2010, by the following vote:

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

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2010 NOV 22 PM 2:49
CLERK
KING COUNTY COUNCIL

APPROVED this 22 day of NOVEMBER 2010.



Dow Constantine, County Executive

Attachments: None