



**CLARK COUNTY
STAFF REPORT**

DEPARTMENT/DIVISION: Environmental Services / Policy & Planning / Clean Water Program

DATE: May 19, 2014

REQUEST: Approve an ordinance amending Chapter 30A of Title 13 of the Clark County Code to adjust the rate structure for stormwater service charges and establish a new polluter fee. Authorize the Director of Environmental Services to create, for future consideration by the Board of County Commissioners, stormwater charges for developments requesting county maintenance of stormwater facilities.

CHECK ONE: Hearing Consent Chief Administrative Officer

BACKGROUND: The Clean Water Program needs sufficient and reliable funding to implement ongoing capital, maintenance, and program operations. This need is driven in large part by increasing regulatory requirements of the NPDES Municipal Stormwater Permit authorizing the discharge of runoff from the county's storm system. The funding also provides drainage services that minimize flooding of roadways and property. The Clean Water program performs a variety of stormwater services including regulatory compliance, pollution prevention, facility maintenance, capital construction, education, and water quality monitoring. The need is also driven in part by the loss of a lawsuit brought against the county for non-compliance with the federal Clean Water Law and Clark County is now obligated by the lawsuit settlement to fund supplemental environmental projects from 2015 to 2020. There are not sufficient Clean Water Fund reserves for ongoing operational costs, to settle the law suit or for emergency/unforeseen expenses.

The amendments to the rate structure for stormwater service charges and the establishment of a 1 cent per paper polluter fee will provide funding for the legal settlement and ongoing Clean Water Program compliance activities. A new surcharge of \$5 per base unit is proposed for the period from 2015 through 2019 to fund legal settlement obligations, including attorneys' fees and annual payments to a third party for supplemental environmental projects. An increase of \$2 per base unit on all properties, plus a charge of \$12 per base unit on properties within urban growth areas, is proposed to fund ongoing Clean Water Program activities. A new charge of one cent per copy is proposed for the cleanup efforts associated with the distribution of newspapers, both paid and unpaid, and commercial compilations of ads to sell cars and other personal property available for free or at a cost that are distributed on newsprint.

Clark County's current policy is to accept for public ownership and maintenance stormwater facilities constructed during residential subdivision development. The rising cost of maintenance activities, in part due to these facility dedications, depletes the funds available for other critical stormwater services. In order to address this funding need the Department of Environmental services will create for consideration by the Board of County Commissioners stormwater charges for developments requesting county maintenance of stormwater facilities. Funds generated by this charge on developments may be used for system-wide facility maintenance and capital needs.

COMMUNITY OUTREACH: Funding for the Clean Water Program comes from the Clean Water Fee paid by real property owners in unincorporated Clark County. Adjustments to the rate structure will affect all property owners who currently pay the fee. The proposal preserves the current discounts for single-family residential large lots, as well as reduced service charges for residential properties qualifying for hardship status or low-income senior citizen property tax exemptions. A higher service charge is proposed for property owners inside urban growth areas where the majority of program funds are expended. The Board of County Commissioners held a work session

on the Clean Water Funding options in March 2014. The Clean Water Commission voted to recommend approval of the rate structure changes included in this staff report at the May 2014 meeting.

BUDGET AND POLICY IMPLICATIONS:

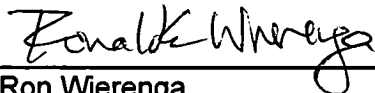
Clean Water Program service levels have been reduced to minimum permit compliance levels, however, even with these reductions there is currently a \$1.6 million dollar shortfall given existing annual revenue. New revenue must be generated by the Clean Water Fee to continue existing service levels and to fund future temporary legal obligations. Staff estimates a total program budget of about \$6.8 million is necessary to comply with stormwater permit obligations, and an additional \$720,000 is necessary over the next 5 years to fund legal obligations. Revenue generated by the rate adjustment and/or new fees will be used solely to fund these program activities. Additionally, directing the Department of Environmental Services to explore stormwater charges for developments requesting county maintenance of stormwater facilities may result in policy recommendations to the Board of County Commissioners in the future.

FISCAL IMPACTS:

Yes (see Fiscal Impacts Attachment) No

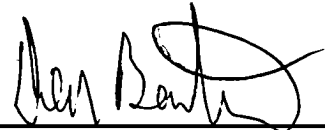
ACTION REQUESTED: Approve an ordinance amending Chapter 30A of Title 13 of the Clark County Code to adjust the rate structure for stormwater service charges and establish a new polluter fee. Authorize the Director of Environmental Services to create, for future consideration by the Board of County Commissioners, stormwater charges for developments requesting county maintenance of stormwater facilities.

DISTRIBUTION: Please return original copies of the signed ordinance and the approved staff report to Environmental Services Administration.



Ron Wierenga
Policy & Planning Manager

APPROVED: July 8, 2014
CLARK COUNTY, WASHINGTON
BOARD OF COMMISSIONERS



Don Benton
Environmental Services Director

RW/RWDB/rw
c: Ron Wierenga, Don Benton, Administration

FISCAL IMPACT ATTACHMENT

Part I: Narrative Explanation

I.A - Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information.

The request asks the Board to approve an ordinance amending Chapter 30A of Title 13 of the Clark County Code to adjust the rate structure for stormwater service charges and establish a new polluter fee. If approved the adjusted rate structure for stormwater service charges alone generates an additional \$1.6 million in revenue for Clean Water Program operations, facility maintenance, and capital construction projects. The polluter fee revenue would be variable. In addition to current fee revenue of roughly \$5.2 million the additional fee revenue would support the projected annual program expense of \$6.8 million to comply with state and federal mandates.

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
4420/Clean Water				\$13,600,000		
Total:	\$0.00	\$0.00	\$0.00	\$13,600,000	\$0.00	\$0.00

II.A - Describe the type of revenue (grant, fees, etc.)

Funding for the Clean Water Program comes from the Clean Water Fee paid by property owners in unincorporated Clark County.

Part III: Estimated Expenditures

III.A - Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
4420/Clean Water					\$13,600,000		
Total:		\$0.00	\$0.00	\$0.00	\$13,600,000	\$0.00	\$0.00

III.B = Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits				\$3,700,000		
Contractual				\$5,600,000		
Supplies				\$200,000		
Travel						
Other controllables						
Capital Outlays				\$3,400,000		
Inter-fund Transfers				\$650,000		
Debt Service				\$50,000		
Total:	\$0.00	\$0.00	\$0.00	\$13,600,000	\$0.00	\$0.00

27 and new watershed studies, to make significant changes to manuals and codes for
28 development, and to implement new requirements for Low Impact Development (LID); and

29 WHEREAS, the fee charged by Clark County for implementing the state and federal
30 mandates has remained the same for fourteen years; and

31 WHEREAS, the costs and requirements associated with maintaining compliance state
32 and federal mandates have continued to rise; and

33 WHEREAS, the current revenue generated by fees for supporting and assuring
34 compliance with the state and federal mandates are insufficient; and

35 WHEREAS, the Board of County Commissioners has considered this matter at a duly-
36 advertised public work session on March 19, 2014 and a duly-advertised public hearing dated
37 July 8, 2014, and finds that adoption will further the public health, safety and welfare; now,
38 therefore,

39 IT IS HEREBY ORDAINED BY THE CLARK COUNTY BOARD OF COMMISSIONERS
40 AS FOLLOWS:

41

42 **Section 1. Amendment.** Section 13.30A. of Ordinance No. 1999-11-09, and codified as Clark
43 County Code Section 13.30A.050, are each hereby amended as follows:

44 **13.30A.050 Rate Structure and Fees.**

45 A. The service charges shall be based upon the relative contribution to increased surface and
46 stormwater runoff from developed parcels and based upon the land use of the parcel. The
47 service charge shall be imposed on all developed parcels within the unincorporated areas of the
48 county with improvements having a value of ten thousand dollars (\$10,000) or more. Land uses
49 are categorized as single-family residential lots, single-family residential large lots, multifamily
50 residential lots, commercial, industrial and other nonresidential lots, and undeveloped lots. A
51 base unit is used to calculate the service charge for each commercial, industrial or other

52 nonresidential lot. The service charge for single-family residential lots of 0.5 acres or less shall
 53 be calculated as a single base unit. Larger single-family residential lots shall be charged an
 54 amount less than the full annual service charge as set forth in this section. The annual service
 55 charge rate for multifamily residential lots shall be thirty-five ~~three~~ dollars (~~\$35.00~~ ~~33.00~~)
 56 multiplied times the number of residential units located on the lot. The base unit is three
 57 thousand five hundred (3,500) square feet of impervious surface area, which is the average
 58 impervious surface area for single-family residential lots within the urban growth area of the
 59 county. The annual service charge imposed for each base unit of impervious surface area within
 60 the urban growth area is forty-seven ~~thirty-three~~ dollars (\$47.00 ~~33.00~~). The annual service
 61 charge imposed for each base unit of impervious surface outside the urban growth area is thirty-
 62 five dollars (\$35.00 ~~33.00~~).

B. Land Use Category

Annual Service Charge Rate

No. 1 Single-family residential detached	\$33.00/single-family residence
No. 2 Single-family residential large lots:	
More than 0.5 acre to 1 acre	\$29.70
More than 1 acre to 5 acres	\$26.40
More than 5 acres to 20 acres	\$23.10
More than 20 acres	\$19.80
No. 3 Multi-Family Residential Lots	\$33.00 X number of residential units
No. 4 Retail, commercial, offices, churches, hospitals, airports, public or private utility installations, public or private schools, golf courses, government structures, other public facilities, subject to RCW 90.03.525, industrial, manufacturing and railroad right-of-way, county road and street right-of-way	\$33.00 X number of base units or portion thereof
No. 5 State highway	\$9.90 X number of base units or portion thereof subject to RCW 90.03.525

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<u>B. Land Use Category</u>	<u>Annual Service Charge Rate Inside the Urban</u>	<u>Annual Service Charge Rate Outside</u>
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	<u>Growth Area</u>	<u>the Urban Growth Area</u>
<u>No. 1 Single-family residential detached</u>	<u>\$47.00/single-family residence</u>	<u>\$35.00/single-family residence</u>
<u>No. 2 Single-family residential large lots:</u>		
<u>More than 0.5 acre to 1 acre</u>	<u>\$43.70</u>	<u>\$31.70</u>
<u>More than 1 acre to 5 acres</u>	<u>\$40.40</u>	<u>\$28.40</u>
<u>More than 5 acres to 20 acres</u>	<u>\$37.10</u>	<u>\$25.10</u>
<u>More than 20 acres</u>	<u>\$33.80</u>	<u>\$21.80</u>
 <u>No. 3 Multi-Family Residential Lots</u>	 <u>\$47.00 X number of residential units</u>	 <u>\$47.00 X number of residential units</u>
 <u>No. 4 Retail, commercial, offices, churches, hospitals, airports, public or private utility installations, public or private schools, golf courses, government structures, other public facilities, subject to RCW 90.03.525, industrial, manufacturing and railroad right-of-way, county road and street right-of-way</u>	 <u>\$47.00 X number of base units or portion thereof</u>	 <u>\$35.00 X number of base units or portion thereof</u>
 <u>No. 5 State highway</u>	 <u>\$14.10 X number of base units or portion thereof subject to RCW 90.03.525</u>	 <u>\$10.50 X number of base units or portion thereof subject to RCW 90.03.525</u>

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65 C. For the purpose of defining total land area of properties in land use category numbers 4 and
66 5 above, the storm and surface water program shall use the county assessor's current records
67 and such other records as necessary to measure the property to within one hundred (100)
68 square feet.

69 D. The board of county commissioners further finds that many of the difficulties in managing of
70 surface and stormwater problems result in part from the general lack of public knowledge about
71 the relationship between human actions and surface and stormwater management. In order to
72 achieve a comprehensive approach to surface and stormwater management, the county should
73 provide general information to the public about land use and human activities that affect surface

74 and stormwater management. Pursuant to RCW 36.89.085, the board of county commissioners
75 further finds that public and private schools can provide significant benefits to the county
76 regarding surface and stormwater management through educational programs, on-site facilities,
77 and community activities related to protection and enhancement of the surface and stormwater
78 management system. These programs, facilities and activities can provide students with an
79 understanding of human activities and land use practices that create surface and stormwater
80 problems by providing students firsthand exposure to the difficulties of such problems after they
81 occur. Public and private schools providing such programs, and complying with best
82 management practices for their facilities and activities as set forth in the county's best
83 management practices manual, may apply to the county director of environmental services for a
84 reduction of the applicable service charge. The reduction shall be based on the nature and
85 extent of the programs, facilities and activities provided, the extent to which the programs,
86 services and facilities mitigate the impacts of surface and stormwater runoff and any other
87 matters that are relevant to managing surface and stormwater. (Sec. 3 of Ord. 1999-11-09;
88 amended by Sec. 1 of Ord. 2000-04-08; amended by Sec. 2 of Ord. 2001-08-20; amended by
89 Sec. 1 (Att. A) of Ord. 2009-07-01; amended by Sec. 1 (Att. A § 2) of Ord. 2011-08-08)

90 E. For the purpose of establishing a fund and providing revenue to pay a settlement of
91 previous non-compliance with the NPDES Phase 1 Municipal Stormwater Permit, a surcharge of
92 five dollars (\$5.00) shall apply to each base unit during the years 2015, 2016, 2017, 2018, and
93 2019. This charge will be removed in the year 2020 and will not apply to the 2020 clean water
94 rate.

95 F. The Board of County Commissioners finds that it is crucial to reevaluate the current
96 methodology of assessing the Clean Water Fee. The Department of Environmental Services
97 shall prepare a study and report back to the Board of County Commissioners within one year of
98 the adoption of the changes to this section, with an examination of alternative methods for

99 collecting the clean water fee. The focus of the study shall be an examination of the allocation
100 of the fee to those whose behaviors and or conduct generate higher pollutant impacts on the
101 surface and ground water of Clark County. The Board of County Commissioners shall
102 acknowledge receiving the study through a public resolution and or reaffirmation of this section.
103 If no resolution is put forward by the Board of County Commissioners within thirty days of the
104 scheduled receipt of the fee study the changes to the fee schedule in this section shall sunset,
105 and the previously adopted version of this section shall apply; provided, that the surcharge
106 authorized by Section E is not subject to the sunset provisions of this clause and shall remain in
107 effect until it expires in 2020.

108 **Section 2. Instructions to Clerk.**

109 The Clerk to the Board shall:

- 110 1. Transmit a copy of this ordinance to the Clark County Assessor and the Clark County
111 Treasurer, the Environmental Services Department Director, and the Budget Office
112 Director.
113 2. Transmit a copy of this ordinance to Code Publishing, Inc. forthwith to update the
114 electronic version of the Clark County Code.
115 3. Record a copy of this ordinance with the Clark County Auditor.
116

117 ADOPTED this 8th day of July, 2014.

118 Attest:
119

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON


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122 
123 _____
124 Clerk to the Board

By: 

Tom Mielke, Chair

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126
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128 Approved as to Form Only:
129 Anthony F. Golik
130 Prosecuting Attorney

By: _____
David Madore, Commissioner

131
132
133 By: 
134 Christine Cook
135 Deputy Prosecuting Attorney

By: _____
Edward L. Barnes, Commissioner