# CITY OF BURIEN, WASHINGTON

## ORDINANCE NO. 590

---

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, INCREASING SURFACE WATER MANAGEMENT SERVICE CHARGES AND AMENDING CHAPTER 13.10 OF THE BURIEN MUNICIPAL CODE**

---

WHEREAS, effective January 1, 2013, the City Council approved Ordinance 574, implementing the Storm Drainage Master Plan and amending Ch. 13.10 BMC by increasing surface water management service charges 12% in 2013 as necessary to fund the requirements of the City's 2013 National Pollution Discharge Elimination System (NPDES) permit; and

WHEREAS, on June 3, 2013, the City Council approved Ordinance 582 retroactively applying the discount rates that are available to property owners in specified circumstances commensurate to the 12% increase in the service charge; and

WHEREAS, in November, 2007, City Council adopted policy that increases the Surface Water Management Service Charges annually commensurate with the increase in the Seattle-Tacoma-Bremerton Consumer Price Index (CPI) for Urban Consumers; and

WHEREAS, the current rates need to be amended to account for the 2013 CPI of 1.37%;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.10.350 of the Burien Municipal Code, Rate structure, is hereby amended to read as follows:

**13.10.350 Rate structure.**

(1) The service charges shall be based on the relative contribution of increased surface and surface water runoff from a given parcel to the surface and surface water management system. The percentage of impervious surfaces on the parcel, the total parcel acreage and any mitigating factors as provided in this chapter will be used to indicate the relative contribution of increased surface and surface water runoff from the parcel to the surface and surface water management system. The relative contribution of increased surface and surface water runoff from each parcel will determine that parcel's share of the service charge revenue needs. The service charge revenue needs of the program are based upon all or any part, as determined by the council, of the cost of surface and surface water management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for that purpose.

(2) The department shall determine the service charge for each parcel within the service area by the following methodology:

(a) Residential and very lightly developed nonresidential parcels shall receive a flat rate service charge for the reasons set forth in this chapter.

(b) Light to very heavily developed parcels shall be classified into the appropriate rate category by their percentage of impervious surface coverage. Land use codes or data collected from parcel investigations, or both, will be used to determine each parcel's percentage of impervious surface coverage.

After a parcel has been assigned to the appropriate rate category, the service charge for the parcel will be calculated by multiplying the total acreage of the parcel times the rate for that category.

(3) There are hereby imposed upon all developed properties in the service area annual service charges as follows:

**Surface Water Management Service Charges**

| Class | Impervious Surface % | Rate |
|---|---|---|
| Residential | N/A | ~~$135.16~~$137.01/parcel/year |
| Very Light | 0 to 10% | ~~$135.16~~$137.01/parcel/year |
| Light | greater than 10% to 20% | ~~$337.76~~$342.39/acre/year |
| Moderate | greater than 20% to 45% | ~~$727.96~~$737.93/acre/year |
| Moderately Heavy | greater than 45% to 65% | ~~$1,224.51~~$1,241.29/acre/year |
| Heavy | greater than 65% to 85% | ~~$1,660.52~~$1,683.27/acre/year |
| Very Heavy | greater than 85% to 100% | ~~$2,115.88~~$2,144.87/acre/year |
| City Roads | N/A | Exempt |
| State Highways | N/A | Exempt |

The minimum service charge in any class shall be ~~$135.16~~$137.01 per parcel per year. Mobile home parks' maximum annual service charges in any class shall be ~~$135.16~~$137.01 times the number of mobile home spaces.

(4) The city council will review the surface water management service charges annually to ensure the long-term fiscal viability of the program and to guarantee that debt covenants are met. The program will use equitable and efficient methods to determine service charges. [Ord. 489 § 2, 2008]

Section 2. Section 13.10.360 of the Burien Municipal Code, Rate adjustments and appeals, is hereby amended to read as follows:

**13.10.360 Rate adjustments and appeals.**

(1) Any person billed for service charges may file a request for rate adjustment with the department 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.

(2) Requests for rate adjustment may be granted or approved by the director only when one of the following conditions exists:

(a) 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 (2)(a) shall be exempt from all charges imposed in this chapter;

(b) The acreage of the parcel charged is in error;

(c) 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 department;

(d) The parcel is nonresidential and the parcel meets the definition of open space in this chapter. Parcels qualifying under this subsection (2)(d) will be charged only for the area of impervious surface and at the rate which the parcel is classified under using the total parcel acreage;

(e) The parcel is served by one or more flow control or water quality treatment facilities required under this chapter, 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 this chapter, and any such facility is maintained at the expense of the parcel owner to the standards required by the department. Nonresidential 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. Nonresidential parcels in the light rate category qualifying under this subsection shall be charged at the rate of ~~$135.16~~$137.01 per parcel per year. Residential parcels and parcels in the very light category qualifying under this subsection shall be charged $~~67.58~~68.51 per parcel per year; or

(f) The service charge bill was otherwise not calculated in accordance with this chapter.

(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.

(4) At the director's discretion, before a rate adjustment will be granted, the property owner may be required to grant permission for city staff to inspect the property to determine if the applicable requirements in subsection (2) of this section have been met. If the property owner refuses to grant access for an inspection, the director may not grant the rate adjustment.

(5) Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and the results of the inspection, if applicable. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which 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.

(6) If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under this chapter. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

(7) Decisions of the director on requests for rate adjustments shall be final unless, within 20 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 hearing examiner. The examiner's decision shall be a final decision pursuant to Chapter 2.15 BMC. [Ord. 489 § 2, 2008]

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall take effect January 1, 2014.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF NOVEMBER, 2013, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 18th DAY OF NOVEMBER, 2013.

CITY OF BURIEN

Brian Bennett

Brian Bennett, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Ann Marie Soto, Acting City Attorney

Filed with the City Clerk: November 18, 2013
Passed by the City Council: November 18, 2013
Ordinance No. 590
Date of Publication: November 21, 2013