



## Legislation Details (With Text)

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**Title:** AN ORDINANCE relating to emergency declarations; amending Ordinance 3441, Section 5, as amended, and K.C.C. 4.16.050, Ordinance 12163, Section 3, and K.C.C. 12.52.010 and Ordinance 1058, Section 3, as amended, and K.C.C. 12.52.030; and declaring an emergency.

**Sponsors:** Julia Patterson

**Indexes:**

**Code sections:**

**Attachments:** 1. 16639.pdf, 2. 16639 AM Pkg 8-31-09.pdf, 3. 2009-0447 Fiscal Note.xls, 4. 2009-0447 Flood Emergency Staff Report.doc, 5. 2009-0447 Transmittal Letter.doc

Date	Ver.	Action By	Action	Result
8/31/2009	1	Metropolitan King County Council	Hearing Held	
8/31/2009	1	Metropolitan King County Council	Passed as Amended	Pass
8/26/2009	1	Committee of the Whole	Passed Out of Committee Without a Recommendation	
8/24/2009	1	Metropolitan King County Council	Re-referred	
7/20/2009	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to emergency declarations; amending Ordinance 3441, Section 5, as amended, and K.C.C. 4.16.050, Ordinance 12163, Section 3, and K.C.C. 12.52.010 and Ordinance 1058, Section 3, as amended, and K.C.C. 12.52.030; and declaring an emergency.

### STATEMENT OF FACTS:

1. After the flooding in January of this year, the United States Army Corps of Engineers ("the Corps") discovered two depressions on the right abutment adjacent to the Howard Hanson dam. The Howard Hanson dam, which is owned, operated and managed exclusively by the Corps, is the primary flood protection facility for all of the lower Green River valley.

2. The Corps is currently assessing the damage to the right abutment and has determined that

until the assessment can be completed, the Corps will reduce the amount of water that it will allow to be stored behind the dam in order to protect the integrity of the dam.

3. Reducing the amount of stored water means that during large rain events there is a higher risk of flooding in the Green River valley.

4. Public safety is the most fundamental purpose of government, and citizens rightfully expect government to respond rapidly in the face of significant threats to life and property.

5. Thousands of citizens live in the Green River valley, which is also a major high-tech manufacturing center and the largest warehouse and distribution center in the Pacific Northwest. An independent study by EcoNorthwest determined that a shutdown of the county's floodplains would result in lost economic output of at least forty-six million dollars per day.

6. The Corps has exclusive jurisdiction over the Howard Hanson dam, and levees and other flood protection facilities along the Green river were designed only to supplement - not replace - the flood protection provided by the dam. Nonetheless, King County and the King County Flood Control Zone District ("the district") want to ensure that they are doing everything within their authority to prepare for potential flooding.

7. The district is a local special-purpose government that provides funding and policy oversight for flood protection projects in King County. King County develops and implements the annual work program for the district.

8. The district and the county are working on emergency preparations to address the threat of flooding in the Green River valley. As a result, emergency supplies, materials and equipment need to be obtained and coordinated as soon as possible.

9. In addition to the importance of acting proactively to address significant threats of emergencies, the county needs to ensure that its code is updated to encompass new types of threats such as cyber attacks.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 3441, Section 5, as amended, and K.C.C. 4.16.050 are each hereby amended to read as follows:

A. In the event of an emergency (~~caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the immediate preservation of order or of public health or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed or where delay will result in financial loss to the county, or for the relief of a stricken community overtaken by such occurrences~~), as defined in K.C.C. 12.52.010, the executive may issue a determination of emergency or proclaim an emergency pursuant to K.C.C. chapter 12.52 reciting the facts constituting the same. Upon issuance of such a determination or proclamation the executive may issue a waiver of the requirements of K.C.C. chapters 4.04, 4.16, 4.18, 12.16 and 12.18 with reference to any contract relating to the county's lease or purchase of tangible personal property or services, contracts for public works as defined by RCW 39.04.010, or to the selection and award of professional and/or technical service consultant contracts. Such waiver shall continue in force and effect until terminated by order of the executive or action by the council by ordinance. (~~Provided, h~~)However, (~~that~~) waivers for contracts entered into, (~~which~~) that combined, encumber funds either in excess of two hundred fifty thousand dollars, or in excess of appropriation shall be subject to (~~the provisions of section~~) subsection B. (~~below~~) of this section.

An emergency waiver of the requirements of K.C.C. chapters 4.18(~~(7)~~) and 12.16 and K.C.C. 12.18.095, pursuant to this section, shall not amend the annual utilization goals unless the emergency makes it impossible to achieve the annual utilization goals. The executive shall report, in detail, such emergency expenditures to the county council within forty-five days of determining an emergency.

B. Waivers for contracts, which combined for each emergency, exceed two hundred fifty thousand dollars, or are in excess of appropriation shall be forwarded to the clerk of the council no later than 10:00 a.m. the second business day after it is issued. Such waiver shall continue to have force and effect until terminated

by order of the executive or action of the council by ordinance, or until it expires, which shall be ten calendar days after there have been contracts entered into, which combined, encumber funds either in excess of two hundred fifty thousand dollars, or in excess of appropriation. The council, by motion, may extend a waiver beyond the ten-day period above.

C. In the event a waiver authorized under this section expires or is terminated, no further contracts or purchases may be made without complying with the non-emergency contracting provisions of K.C.C. chapters 4.04, 4.16, 4.18, 12.16 and 12.18. Any contract entered into under the authority of this section shall contain provisions allowing the county to terminate the contract for convenience or as a result of the expiration or termination of an emergency waiver as provided in this section. Such contract termination provisions shall authorize the county to pay the contractor only that portion of the contract price corresponding to work completed to the county's satisfaction prior to termination, together with costs necessarily incurred by the contractor in terminating the remaining portion of work, less any payments made before termination.

D. Reasonably necessary expenditures to respond to the emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the immediate preservation of order or of public health or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed or where delay will result in financial loss to the county, or for the relief of a stricken community overtaken by such occurrences, that are directly associated and reasonably limited to stabilizing or repairing the public health, safety, interest, or property of the county that resulted in the emergency will not result in contracts or purchases being null and void, notwithstanding the lack of an appropriation. If the responsible director determines that the expenditures were made in excess of an appropriation, the executive will request an appropriation, specifying the source of funds.

SECTION 2. Ordinance 12163, Section 3, and K.C.C. 12.52.010 are each hereby amended to read as follows:

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

A. "Emergency" or "disaster" means an event or set of circumstances such as fire, flood, explosion, storm, earthquake, epidemic, riot or insurrection, ((which)) that demands the immediate preservation of order or of public health or the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed or where delay will result in financial loss to the county or for the relief of a stricken community overtaken by such occurrences or which reaches such a dimension or degree of destructiveness as to warrant the executive proclaiming a state of emergency pursuant to K.C.C. 12.52.030. "Emergency" or "disaster" also includes the potential for flooding arising out of the diminished capacity of the Howard Hanson dam.

B. "Emergency management" means the preparation for and carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to ((;)) and recover from emergencies and disasters((;)) and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or human-made, and to provide support for search and rescue operations for persons and property in distress pursuant to the provisions of chapter 38.52 RCW.

C. "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with the county or state of Washington and/or holds an identification card issued by the county or the state of Washington for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

D. "Injury" means and includes accidental injuries and/or occupational diseases arising out of emergency management activities.

E. "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a

natural or human-made disaster, including instances involving searches for downed aircraft when ground personnel are used.

SECTION 3. Ordinance 1058, Section 3, as amended, and K.C.C. 12.52.030 are each hereby amended to read as follows:

The executive shall see that the Washington State laws and ordinances of King County are enforced, and shall direct and control all subordinate officers of the county, except insofar as such enforcement, direction and control is by King County Charter reposed in some other officer or board, and shall maintain the peace and order in King County.

A. Whenever an emergency or disaster occurs in King County and results in the death or injury of persons or the destruction of property, or involves the potential for flowing arising out of the diminished capacity of the Howard Hanson dam, to such an extent as to require, in the judgment of the executive, extraordinary measures to protect the public peace, safety and welfare, the executive may forthwith proclaim in writing the existence of such an emergency.

B. Upon the proclamation of an emergency by the executive, and during the existence of such emergency, the executive may make and proclaim any or all of the following orders:

1. An order recalling King County employees from vacation, canceling days off, authorizing overtime, or recalling selected retired employees;

2. An order waiving the requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and 12.18.095 with reference to any contract relating to the county's lease or purchase of supplies, equipment, personal services or public works as defined by RCW 39.04.010, or to any contract for the selection and award of professional and/or technical consultant contracts. Provided, however, that an emergency waiver of the requirements under K.C.C. 4.18, 12.16 and 12.18 shall not amend the annual utilization goals unless the emergency makes it impossible to achieve the annual utilization goals.

3. An order directing evacuation and/or clearing of debris and wreckage caused by an emergency or

disaster from publicly and privately owned lands and waters;

4. An order imposing a general curfew applicable to King County as a whole, or to such geographical area or areas of King County and during such hours, as the executive deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply;

5. An order requiring any or all business establishments to close and remain closed until further order;

6. An order requiring discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of King County, and/or the closure of any and all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the executive, be allowed to remain open;

7. An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

8. An order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas and public buildings;

9. An order prohibiting the carrying or possession of firearms or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm; provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties;

10. An order granting emergency postponement of King County permit procedures for public work projects, as defined by RCW 39.04.010, responding to conditions of the emergency and/or for restoration of public facilities damaged as a result of the emergency. Such postponements shall be temporary. All projects

must comply with all applicable code requirements. A permit and inspection must be obtained as soon as possible after work has begun, but permit application shall be made no later than six months after the date of the emergency proclamation.

11. Such other orders as are imminently necessary for the protection of life and property.

C. Any executive order authorized by this section shall, be filed with the clerk of the council not later than 10:00 a.m. of the second business day after it is issued, except for orders waiving requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and 12.18. Executive orders issued under authority of this section shall continue in force and effect until terminated by order of the executive or action by the council by ordinance. Provided, however, that orders waiving the requirements of K.C.C. 4.04, 4.16, 4.18, 12.16 and 12.18 shall terminate as provided for in K.C.C. 4.16.050.

D. Any proclamation issued by the executive pursuant to the authority of this chapter shall be delivered to all news media within King County and shall utilize such other available means as shall be necessary, in the executive's judgment, to give notice of such proclamation to the public.

E. It shall be a misdemeanor for anyone to fail or refuse to obey any such order proclaimed by the executive. Anyone convicted of a violation of this section is punishable by a fine of not more than one thousand dollars or by imprisonment for not more than ninety days, or both such fine and imprisonment.

SECTION 4. For the reasons set forth in the statement of facts in this ordinance, the county council finds as fact and declares that an emergency exists and this ordinance

is necessary for the immediate preservation of the peace, health, safety and welfare of the public and delay would result in financial loss to the county.