



Legislation Text

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AN ORDINANCE requiring public benefits, such as affordable housing, related to the sale of real property to governmental agencies; and amending Ordinance 12045, Section 5, as amended, and K.C.C. 4.56.070 and Ordinance 12045, Section 10, as amended, and K.C.C.4.56.100 and declaring an emergency.

STATEMENT OF FACTS:

1. King County is in the midst of a housing crisis driven by the increasing costs of housing far outpacing the growth in personal disposable incomes.
2. On May 4, 2017, the Seattle Times reported that the median home prices in the Eastside of the county was \$880,000, in Seattle was \$722,250, in North King County was \$582,550, in Southeast King County was \$410,000 and in Southeast King County was \$386,500.
3. These increases represent between a 12.4 percent and 20.6 percent increases above the housing market prices from just one year before.
4. With a very robust local employment situation and a desirable region in which to live, these pressures do not seem likely to diminish in the short-run.
5. The current county code does not regularly result in county real property, which is surplus to its foreseeable needs and suitable for housing, to be used for affordable housing. While the county code surplus provisions for real property require the executive to first make available such real property for use as affordable housing, it has not resulted in a prioritization of that public benefit in the sale of the real property.

6. This ordinance will require public benefits, such as affordable housing, when the county engages in direct sales of surplus real property to another government. In addition to the county receiving compensation for the real property, in order to qualify for a direct sale, public benefits, such as affordable housing, must also be received.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12045, Section 5, as amended, and K.C.C. 4.56.070 are each hereby amended to read as follows:

A. The facilities management division shall, no later than the end of the first quarter of the calendar year, maintain and update a current inventory of all county titled real property with detailed information as to current departmental custodianship and as to the characteristics that determine its economic value and potential uses. However, all county roads shall be excluded from this section.

B. No later than April 1 of each calendar year, each department shall submit a report to the facilities management division on the status of all real property for which the department is the custodian and include in the report any change in use or status since the previous year's report.

C. County departments shall be required to report no later than April 1 of every year to justify departmental retention of all real property for which the department is the custodian to the facilities management division.

1. If in the judgment of the facilities management division a county department cannot justify the retention of real property for which it is the custodian or if a department determines that real property is surplus to its needs, the facilities management division shall determine whether any other county department has a need for the property that is related to the provision of essential government services, including, but not limited to, services for the public health, public safety or services related to transportation, water quality, surface water or other utilities. If the property is not needed for the provision of essential government services, the facilities management division shall, except if the property is sold under K.C.C. 4.56.100.A.12., then determine if the

parcel is suitable for affordable housing. If it is deemed suitable for affordable housing the county shall first attempt to make it available or use it for affordable housing in accordance with K.C.C. 4.56.085 or 4.56.100. "Suitable for affordable housing" for the purpose of this section means the parcel is located within the Urban Growth Area, zoned residential and the housing development is compatible with the neighborhood. If the property is not deemed suitable for the purposes described in this subsection C.1., then it shall be determined whether any other department has a need for the parcel.

2. If another department can demonstrate a need for the real property, custodianship of the real property shall be transferred to that department without any financial transaction between present and future custodial organizations, except as required by RCW 43.09.210, as amended, or under grants.

3. If another department cannot demonstrate a need for the real property, the real property shall be declared surplus to the future foreseeable needs of the county and may be disposed of as set forth in this chapter.

D. The facilities management division shall review and make recommendations to the executive for uses other than the sale of surplus real property before a decision by the executive to dispose of such properties through sale. Other possible uses that shall be considered by the division in accordance with this chapter are:

1. Exchanges for other privately or publicly owned lands that meet the county's land needs;
2. Lease with necessary restrictive covenants;
3. Use by other governmental agencies;
4. Retention by the county if the parcel is classified as floodplain or slide hazard property;
5. Use by nonprofit organizations for public purposes; ~~((and))~~
6. Long-term lease or sale for on-site development of affordable housing; and
7. A sale under K.C.C. 4.56.100.A.12.

E. The facilities management division in consultation with the department of community and human services shall, no later than July 1 of each year, submit a report to the council identifying surplus county real

property suitable for the development of affordable housing. "Affordable housing" for the purpose of this chapter means residential housing that is rented or owned by a person:

1. Who is from a special needs population and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income; or
2. Who qualifies as a very low-income, low-income or moderate-income household as those terms are defined in RCW 43.63A.510.

F. A park or recreational facility located in a potential annexation area may be transferred to the city designated to annex the area in which the park or recreational facility is located without being subject to this section, but any such a transfer must require that the park or recreational facility shall be used in perpetuity for park or recreation purposes unless other equivalent lands or facilities within the county or the city are received in exchange therefore and the replacement lands or facilities are used in perpetuity for park or recreation purposes.

G. The facilities management division shall review and make recommendations to the county executive regarding the surplus of any property, property rights and rights in property that are acquired by the department of natural resources and parks in accordance with Ordinance 14699, Section 2, Ordinance 14699, Section 4, or ((7)) K.C.C. 4.56.080, no more than thirty days after receiving a written notice from the department of natural resources and parks that the property is surplus to the needs of siting or constructing the Brightwater wastewater treatment plant. Upon approval by the council of an ordinance authorizing the disposal of property acquired in accordance with Ordinance 14699, Section 2, Ordinance 14699, Section 4, or ((7)) K.C.C. 4.56.080, the facilities management division shall consult with the department of natural resources and parks to determine the timing for disposal of this property.

SECTION 2. Ordinance 12045, Section 10, as amended, and K.C.C.4.56.100 are each hereby amended to read as follows:

- A. All sales of real and personal property shall be made to the highest responsible bidder at

public auction or by sealed bid except when:

1. County property is sold to a governmental agency;
2. The county executive has determined an emergency to exist; or the county council, by ordinance, has determined that unique circumstances make a negotiated direct sale in the best interests of the public;
3. County real property is traded for real property of similar value, or when county personal property is traded for personal property of similar value;
4. The facilities management division has determined that the county will receive a greater return on real property when it is listed and sold through a residential or commercial real estate listing service;
5. County personal property is traded in on the purchase of another article;
6. Property has been obtained by the county through the proceeds of grants or other special purpose funding from the federal or state government, wherein a specific public purpose or purposes are set forth as a condition of use for the property, that purpose or purposes to be limited to the provision of social and health services or social and health service facilities as defined in chapter 43.83D RCW, and it is deemed to be in the best interest of the county, in each instance, upon recommendation by the county executive and approval by the county council, that in order to fulfill the condition of use, the county may sell or otherwise convey the property in some other manner consistent with the condition of use; however, the county may only convey the property to private, nonprofit corporations duly organized according to the laws of the state of Washington, which nonprofit corporations are exempt from taxation under 26 U.S.C. Sec. 501(c) as amended, and which nonprofit corporations are organized for the purpose of operating social and health service facilities as defined by chapter 43.83D RCW;
7. The county property is sold for on-site development of affordable housing which provides a public benefit, provided that the developer has been selected through a request for proposals;
8. It is deemed to be in the public interest to restrict the use of the project for provision of social or health services or such other public purposes as the county deems appropriate;

9. The facilities management division for real property and the fleet administration division for personal property, in consultation with the county executive and the county council, may, in the best interests of the county, donate or negotiate the sale of either county surplus personal property or real property, or both, with bona fide nonprofit organizations wherein the nonprofit organizations provide services to the poor and infirm or with other governmental agencies with whom reciprocal agreements exist. Such transactions shall be exempt from the requirements of fair market value, appraisal, and public notice. Where a department has identified personal property that is appropriate for surplusing to nonprofit organizations, the department shall utilize the fleet administration division to manage the surplusing process, and fleet administration shall ensure that the personal property is in good working order, that county data and inventory tags are removed and that consistent records of donations and sales are retained. The facilities management division or fleet administration division, as applicable, also may, in the best interest of the county, procure services to support King County in lieu of payment with nonprofit organizations who provide services that will benefit the public. Such transactions are based upon the recommendation of the facilities management division or fleet administration division, as applicable, and the department having custodianship of the property. The facilities management division or fleet administration division, as applicable, shall maintain a file of appropriate correspondence or such information ((which)) that leads to a recommendation by the division to the county executive and the county council to undertake such transactions, and such information shall be available for public inspection at the facilities management division or fleet administration division, as applicable. The facilities management division or fleet administration division, as applicable, may also seek reimbursement from the benefiting organization for the administrative costs of processing the surplus property;

10. The county property is a retired passenger van being made available in accordance with subsection D. of this section; ((or))

11. The county property is located in a historic preservation district within the Urban Growth Area and is sold to a nonprofit corporation or governmental entity for one-site mixed use development consistent with

historic preservation requirements, which includes affordable housing and which may also include market rate housing, retail or other uses, and which is selected after a competitive request for proposal process; or

12.a. The county property is declared surplus to the future foreseeable needs of the county and sold to a governmental agency that will, consistent with Section 230.10.10 of the King County Charter, other applicable laws, regulations and contract restrictions, such as grant funding requirements, compensate the county for the real property as well as provide public benefits. For the purposes of this subsection, "public benefits" means benefits to the public that are in addition to the public benefit that may arise from the primary intended use of the property by the purchasing governmental agency and which may include, but are not limited to, the provision of affordable housing, open space or park land, child care facilities, public art beyond what is required under applicable law, or monetary contribution toward such benefits.

b. A sale shall not qualify under the exception in K.C.C. 4.56.100.A.12.a. unless:

(1) before declaring the property surplus to the future foreseeable needs of the county under K.C.C. 4.56.070, because the property is neither necessary for the essential government services of any other county department nor needed by any other county department, the facilities management division must have recommended to the executive that engaging in a negotiated direct sale with that governmental agency would be in the best interests of the public; and

(2) within sixty days of the facilities management division making its recommendation, the executive shall report by letter the executive's intent to engage in the direct negotiation for the conveyance of the real property. The letter shall describe the proposed terms of the sale, including, but not limited to, the primary intended use of the property proposed by the governmental agency and the public benefits expected to be provided by the governmental agency. The letter shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and the lead staff to the budget and fiscal management committee or its successor.

c. Subsection A.12.b. of this section shall apply beginning January 1, 2018.

B. The county may, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale. The county may then renegotiate the sale of withdrawn property, providing the negotiated price is higher than the highest rejected bid.

C. In any conveyance of real property that requires construction of affordable housing in development of the property, the executive shall include covenants so that:

1. At least with respect to that construction, the prevailing rate of wage, as defined in RCW 39.12.010, shall be required to be paid to all worker classifications for which the state Department of Labor and Industries has established a prevailing rate of wage; and

2. At least with respect to that construction, state-certified apprentices for construction shall be required to be used across the trades, including women, at-risk youth or people of color, with a fifteen percent apprentice utilization goal.

D. Whenever the procedures of a grant agency having an interest in real or personal property requires disposition in a manner different from the procedures set forth in this chapter, the property shall be disposed of in accordance with the procedures required by this chapter unless the grant agency specifically requires otherwise.

E. Each year, the transit division shall make available retired passenger vans for exclusive use by nonprofit organizations or local governments that are able to address the mobility needs of low-income, elderly or young people or people with disabilities. Each agency selected to receive a van must enter into an agreement with King County that provides that the agency will accept the van "as is" without guarantee or warranty expressed or implied and shall transfer title as prescribed by law before use. The council shall allocate the vans by motion to nonprofit organizations or local governments based upon the following criteria:

1. Demonstrated capacity to support ongoing van operation, including assured funding for licensing, insuring, fueling and maintaining the van;

2. Ability to provide qualified and trained drivers;

3. Specific plans for use of the van to transport low-income, elderly or young people or people with disabilities, and assurance that the use shall be available to those persons without regard to affiliation with any particular organization;

4. Geographic distribution of the van allocations in order to address the mobility needs of low-income, elderly or young people or people with disabilities countywide; and

5. Ability to support county's public transportation function by reducing single occupancy vehicle trips, pollution and traffic congestion; supplementing services provided by the county's paratransit system and increasing the mobility for the transit- dependent for whom regular transit might not always be a convenient option.

SECTION 3. The county council finds as a fact that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.