

Legislation Text

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Clerk 11/26/2019

AN ORDINANCE relating to clarifying and streamlining county procedures in response to an emergency event; and amending Ordinance 3441, Section 5, as amended, and K.C.C. 2.93.080, Ordinance 9206, Section 7, as amended, and K.C.C. 3.24.070, Ordinance 12077, Section 9, as amended, and K.C.C. 3.24.080, 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.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings: Based on past experience in using the emergency waiver procedures in the King County Code to respond to various emergencies over the years, the department of executive services, in consultation with the prosecuting attorney and legal counsel for the council, has identified amendments to K.C.C. 2.93.080, K.C.C. 3.24.070, K.C.C. 3.24.080, K.C.C. 12.50.010 and K.C.C. 12.50.030 that will clarify and streamline the county executive's ability to timely and fully respond to future emergency events and ensure that the county council receives timely notice of emergent events and the need to take appropriate legislative action as authorized by the King County Code.

SECTION 2. Ordinance 3441, Section 5, as amended, and K.C.C. 2.93.080 are hereby amended to read as follows:

A. In the event of an emergency, as defined in RCW 39.04.280, now and as hereinafter amended, the executive may issue a ~~((determination))~~ declaration of emergency. In the event of an emergency, as defined in K.C.C. 12.52.010, the executive may proclaim an emergency in accordance with K.C.C. ~~((chapter 12.52))~~

12.52.030.B. In either the declaration or the proclamation, the executive shall recite the facts constituting the emergency. ~~((Upon issuance of such a determination))~~ As part of the declaration or proclamation, or by separate order made in accordance with K.C.C. 12.52.030.C., the executive may issue a waiver of the public advertising and competitive procurement requirements of state law and this chapter, ((K.C.C. 4A.100.070)) and the requirements of K.C.C. chapter((s)) ((12.16 and 12.18 with reference to any contract)) 12.19 relating to ((the county's lease or purchase of)) county contracts for the following purchases or leases:

1. ((t))Tangible personal property ((or services, contracts for));
2. ((p))Public works as defined by RCW 39.04.010((, or to the selection and award of either)); and
3. Services, including professional or technical services ((consultant contracts, or both. The waiver shall continue in force and effect until terminated by order of the executive or action by the council by ordinance. However, waivers for contracts entered into, that combined, encumber funds either in excess of two hundred fifty thousand dollars, or in excess of appropriation shall be subject to subsection B. of this section.

An emergency waiver of the requirements of K.C.C. chapter 12.16 and K.C.C. 12.18.095, under 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. A declaration, proclamation or order that includes a ((W))waiver((s for contracts that, combined for each emergency, exceed two hundred fifty thousand dollars, or are in excess of appropriation)) issued under this section shall be ((forwarded)) delivered to the clerk of the council no later than 10:00 a.m. the second business day after it is issued. A contract may not be entered into by the county under this section until the declaration, proclamation, or order including the waiver is delivered to the clerk of the council or sent by email to the clerk of the council and each councilmember. ((Such a)) The waiver shall continue to have force and effect until it expires, which shall be twenty-one calendar days after issuance, unless terminated sooner 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, combined, encumber funds either in excess of two hundred fifty thousand dollars or in excess of appropriation))~~ motion. The council, by motion, may extend a waiver beyond the ~~((ten))~~ twenty-one day period.

C. ~~((In the event))~~ If a waiver authorized under this section expires or is terminated, no further contracts or purchases may be made without complying with the nonemergency contracting provisions of state law, this chapter~~((;))~~ and K.C.C. chapter~~((s))~~ ~~((2.93, 12.16 and 12.18))~~ 12.19. Expiration or termination of a waiver shall not cancel any contract previously entered into under authority of the waiver, but ((A))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 before termination, together with costs necessarily incurred by the contractor in terminating the remaining portion of work, less any payments made before termination. ~~((Reasonably necessary expenditures to respond to 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.))~~

D. ~~((Reasonably necessary expenditures to respond to the emergency will not result in contracts or purchases being null and void, notwithstanding the lack of an appropriation.))~~ The executive is authorized to expend or contract to expend money or make purchases in excess of existing appropriations to respond to an emergency. If the responsible department director determines that the expenditures were made in excess of an appropriation, the executive ((will request an appropriation)) shall transmit a proposed appropriation ordinance to the council, specifying the reason for the expenditure, the appropriation amount and the source of funds.

E. The executive shall report, in detail, all expenditures to the county council made under authority of the waiver within forty-five days of issuing the waiver.

SECTION 3. Ordinance 9206, Section 7, as amended, and K.C.C. 3.24.070 are hereby amended to read as follows:

Lodging costs actually incurred are reimbursable only as follows:

A. Lodging costs will be reimbursed only if a person is in overnight travel status, except as provided in subsection D. of this section. Government rates must always be requested. Lodging receipts are required.

Lodging costs in the host city may be claimed from the night before the authorized event starts through the night before it ends, unless reasonably priced and timely return transportation is not available, thereby necessitating additional lodging costs.

B. The traveler shall be reimbursed for actual lodging costs incurred for single occupancy, to a maximum of the federal lodging limit for the host city plus taxes. If the lodging receipt indicates a charge for double occupancy and two persons are authorized to travel on behalf of the county, each traveler shall be allowed one-half the double occupancy charge. If one person is not authorized to travel on behalf of the county, the person authorized to travel shall be reimbursed at the single occupancy rate to a maximum of the federal lodging limit.

C. For seminars, conferences or conventions, costs for lodging at the event site may be authorized in excess of the federal lodging limit for the host city under one or more of the following conditions:

1. No alternate lodging is available within a reasonable distance of the event site which is within the federal lodging limit for the host city. The traveler must provide a signed statement of unavailability with the request for reimbursement;

2. The authorized means of transportation between the alternate lodging site and the event site would exceed the savings in lodging costs; or

3. The presiding elected official or designee has authorized the excess expenditure in writing and in advance for any exigent circumstances that might exist.

D. Employees who are not in overnight travel status may be provided either lodging paid directly by

the county or reimbursed by the county to the employ in the event of an emergency proclaimed by the county executive, but only if:

1. The employee who is provided lodging must remain close to the worksite in order to respond to the emergency;

2. The work being performed is critical or necessary to respond to the proclaimed emergency; and

3. During the first twenty-four hours, the lodging is approved by the presiding elected official or designee in writing; any extension beyond the first twenty-four hours must be approved in advance and by the presiding elected official or designee in writing.

E. First responders and essential employees, who are not in overnight travel status who must work extended hours during certain unanticipated events which is critical to or in response to a regulatory requirement may be provided either lodging paid by the county or reimbursed by the county to the employee, but only if:

1. The employee who is provided lodging must remain close to the worksite in order to respond to the event;

2. The event requires that the work being performed is critical or necessary to meet a regulatory requirement or to respond to a public health and safety situation not rising to the level of a proclaimed emergency; and

3. During the first twenty-four hours, the lodging is approved by the presiding elected official or designee in writing with a brief description of the event; any extension beyond the first twenty-four hours is approved in advance and by the presiding elected official or designee in writing with a brief description of the event.

((E.)) F. The department of finance shall distribute federal lodging limits, as published in the Code of Federal Regulations, 41 CFR Sec. 301, App. A, as rate changes occur.

SECTION 4. Ordinance 12077, Section 9, as amended, and K.C.C. 3.24.080 are hereby amended to read as follows:

A. For persons traveling on official county business, meal and incidental expenses are reimbursable at the per diem rates established by the federal travel regulations for the host city, published annually in the Code of Federal Regulations, 41 CFR Sec. 301, App. A. The per diem rates include fixed allowances for breakfast, lunch, dinner and incidental expenses, by city. The meal allowances include tips and gratuities. The incidental rates are calculated to allow for expenses such as fees and tips to baggage carriers, concierges, hotel staff and laundry. Reimbursement for incidentals is authorized only for overnight travel. Receipts are not required:

1. For day travel, the fixed allowance per meal, as established by the federal per diem rate, may be claimed if in travel status at the following times: 7:00 a.m. - breakfast, 12 noon - lunch, and 6:00 p.m. - dinner;
2. For overnight travel, the per diem meal and incidental rate may be claimed. On the first and last days of travel, meals shall be reimbursed at the rates established for day travel, plus incidentals; or
3. When the expense of a meal is included in a registration fee, air fare or other county expense, the per diem meal and incidental rate will be reduced by the fixed allowance for the respective meal.

B.1. Meal expenses incurred while a person is not in travel status are not normally reimbursable, except that meals may be reimbursed or paid directly by the county for official county business purposes as follows:

- a. for staff retreats lasting more than four hours in a single day, for either single or multiple days, not to exceed one retreat per quarter per county division or key subordinate unit as defined by K.C.C. 2.16.100;
- b. when an integral part of a job-related seminar, conference, convention or training occurs during the meal, but only if the meals are approved in advance, in writing, by the presiding elected official or designee;
- c. when a meeting subject to the Open Public Meetings Act, chapter 42.30 RCW, continues through the times listed in K.C.C. 3.24.080.A.1;
- d. for events authorized in advance and in writing by a presiding elected official or designee, but this authorization shall not be provided in circumstances that violate Article VIII, Section 7 of the state

Constitution, which prohibits gifts of public funds;((ø¶))

e. for events that rise to the level of an emergency declared or proclaimed by the executive, but only if:

(1) the work being performed by the employee is critical or necessary to respond to the emergency;
and

(2) during the first twenty-four hours, the meals are approved by the presiding elected official or designee in writing; and an extension beyond the first twenty-four hours must be approved in advance by the presiding elected official or designee; or

f. for unanticipated events that do not rise to the level of an emergency proclaimed by the executive,
but only if:

(1) the employee who is provided meals is a designated first responder or an essential employee;

(2) the event requires that the work being performed is critical or necessary to meet a regulatory requirement or to respond to a public safety and health situation not rising to a proclaimed emergency; and

(3) during the first twenty-four hours, the meals are approved by the presiding elected official or designee in writing with a brief description of the event; and an extension beyond the first twenty-four hours is approved in advance by the presiding elected official or designee in writing with a brief description of the event.

2. Reimbursable meals incurred while in nontravel status are limited to the fixed meal allowance established by the federal travel regulations for each participant.

C. Expenses for refreshments are not normally reimbursable, except that refreshment expenses may be reimbursed when an employee is not in travel status, under the conditions provided for in K.C.C. 3.24.080.B. Additionally, refreshments may be provided to employees by the county, at its option. Refreshment expenses, however, are limited to fifty percent of the fixed lunch meal allowance established by the federal travel regulations for each participant. Any purchase of refreshments that will cost more than fifty dollars in total per

function must be approved in advance and in writing by the presiding elected official or designee.

D. Meal and refreshment costs are neither reimbursable nor may they be paid by the county as a direct expenditure when:

1. They are included in another county expense, regardless of whether the person partakes in the meal or refreshment;
2. They are incurred for recreational or social events such as office parties, going away parties, retirement parties, or other personalized social events; or
3. It would violate the provisions of Article VIII, Section 7 of the state Constitution, which prohibits a gift of public funds.

E. Meal expenses may be incurred at a rate higher than that established by federal regulations when one or more of the following conditions apply:

1. The presiding elected official or designee approves the cost of the meal because a circumstance related to a particular meal results in exceeding the authorized meal rate. A receipt detailing the expense, accompanied by written justification, shall be submitted with the request to exceed the fixed meal allowance;
2. The meal expense is incurred on behalf of another agency that reimburses the county for the expense, in which case the expense shall be reimbursed according to the rules specified by the funding agency; or
3. When necessitated by special dietary needs.

F. The finance and business operations division shall distribute federal meal and incidental rates, as published in the Code of Federal Regulations, 41 CFR Sec. 301, App. A, as rate changes occur.

SECTION 5. Ordinance 12163, Section 3, as amended, and K.C.C. 12.52.010 are 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, 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 6. Ordinance 1058, Section 3, as amended, and K.C.C. 12.52.030 are hereby amended to read as follows:

A. The executive shall see that ~~((the))~~ Washington state ~~((laws and ordinances of))~~ and King County laws, ordinances, rules and regulations are enforced, shall direct and control all subordinate officers of the county, unless the enforcement, direction and control rests in some other officer or board by the King County Charter, and shall maintain the peace and order in King County.

~~((A-))~~ B. Whenever an emergency or disaster occurs or is at imminent risk of occurring in King County and ~~((results in the death or injury of persons or the destruction of property or involves the potential for flooding 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 are necessary to protect the public peace, safety and welfare, the executive may proclaim in writing the existence of such an emergency.

~~((B-))~~ C. 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 ~~((K.C.C. 4A.100.070, K.C.C. chapters 2.93 and 12.16 and K.C.C. 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. However, an emergency waiver under K.C.C. chapters 12.16 and 12.18 shall not amend the annual utilization goals, unless the emergency makes it impossible to achieve the annual utilization goals))~~ the public advertising and competitive procurement requirements of state law and K.C.C. chapter 2.93 and the requirements of K.C.C. chapter 2.93 relating to county contracts for the following purchases or leases:

a. tangible personal property;

b. public works as defined by RCW 39.04.010; and

c. services, including professional or technical services.

3. An order directing evacuation 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 any geographical area or areas of King County and during any hours, as the executive deems necessary. The executive may modify the hours curfew will be in effect and the area or areas to which it will apply at any time;

5. An order requiring any or all business establishments to close and remain closed until a 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, or the closure of any and all bars, taverns, liquor stores and other business establishments where alcoholic beverages are sold or otherwise dispensed. However, with respect to those business establishments that are not primarily devoted to the sale of alcoholic beverages and in which alcoholic beverages may be removed or made secure from possible seizure by the public, the portions of the business establishment 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 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 or for restoration of public facilities damaged as a result of the emergency. Any postponement under this subsection 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; and

10. Any other orders as are imminently necessary for the protection of life and property.

~~((C.))~~ D. Any executive order authorized by this section shall be ~~((filed with))~~ forwarded to 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 K.C.C. 4A.100.070 K.C.C. chapters 12.16 and 12.18))~~. A contract may not be entered into by the county under subsection C.2. of this section until the declaration, proclamation or order including the waiver is delivered to the clerk of the council or sent to the clerk of the council and each councilmember by email. 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 motion. However, orders ~~((waiving K.C.C. 4A.100.070 and K.C.C. chapters 12.16 and 12.18))~~ authorized under subsection C.2. of this section shall expire or terminate as provided for in K.C.C. 2.93.080, unless extended.

~~((D.))~~ E. 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 are necessary, in the executive's judgment, to give notice of such proclamation to the public.

~~((E.))~~ F. It shall be a misdemeanor for anyone to fail or refuse to obey any order proclaimed by the executive under this section. 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 fine and imprisonment.