



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.:	6	Date:	7 Nov 2011
Proposed Ordinance No.:	2011-0427	Prepared by:	Nick Wagner

SUMMARY

Proposed Ordinance 2011-0427 (pp. 5-8) concerns emergency repairs by the County to a collapsed stormwater conveyance pipe. In compliance with applicable laws creating exemptions from usual procurement rules and other requirements in emergency situations, the ordinance would certify (1) the damages to public facilities that required emergency repairs and (2) the costs incurred to make the repairs.

BACKGROUND

Applicable Law

The Revised Code of Washington and the King County Code provide for waiver of competitive bidding requirements for public works projects in the event of an emergency that threatens death, personal injury, or the destruction of property.¹ In addition, RCW 36.32.235(12) (p. 20 of these materials) provides in part:

[C]ounties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section [concerning competitive bids and other public works procedures]. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. *Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency.* [Emphasis added.]

Facts

Proposed Ordinance 2011-0427 (pp. 5-8 of these materials) concerns a collapsed stormwater conveyance pipe located in a privately owned parcel and maintained in an

¹ RCW 39.04.280 (pp. 19-20 of these materials), 36.32.270 (p.21 of these materials); KCC Chapter 12.52 (pp. 25-27 of these materials).

easement dedicated to King County. The pipe is an integral part of the King County stormwater conveyance system in the area, which is east of Renton in Council District 9.

On 26 September 2011 the Director of the County's Department of Natural Resources and Parks issued an Emergency Determination Regarding Collapsed Stormwater Pipe (pp. 9-10 of these materials), finding, among other things:

The collapsed pipe, if not repaired as soon as possible before the onset of the upcoming wet season, which generally extends from October 1 thru April 30, poses a substantial risk to the functioning of the stormwater collection and conveyance system in the area and thereby threatens human health and safety and both public and private property and infrastructure. If the stormwater pipe is left unrepaired, the sinkhole may grow significantly in magnitude and increase future repair costs accordingly.

The Director found that: (1) without a waiver of procurement procedures, it would take about six weeks to issue a notice to proceed for repair, which would extend "significantly beyond the onset of the wet season"; (2) the construction cost to repair would fall below \$250,000; and (3) failure to repair the collapsed pipe promptly "could exceed many times over the cost estimate for repair, as significant private and public property and infrastructure are put at risk." Total repair costs, including design, permitting, right-of-way, and construction inspection costs, as well as construction costs, were estimated to be about \$400,000.

The Director also determined that county Road Services Division employees had the capacity and capability make the repairs immediately, whereas a private contractor with similar capacity and capability was not available within the same time frame.

According to executive staff, the necessary repairs were begun on October 3 and were substantially completed by October 31.

Proposed Ordinance 2011-0427 was transmitted to the Council on October 20.

THE PROPOSED LEGISLATION

Proposed Ordinance 2011-0427 would certify the damage to public facilities and the \$400,000 cost incurred to correct the emergency, as provided in RCW 36.32.235(12).

FISCAL IMPACT AND RELATED LEGISLATION

As indicated in the Fiscal Note (p. 15 of these materials), the Executive has submitted a supplemental budget appropriation ordinance that requests funding to cover the cost of the repairs. That ordinance has been referred to the Council's Budget and Fiscal Management Committee. The Executive proposes that funding be reallocated from other

programs, as indicated in the Fiscal Note to this ordinance (Proposed Ordinance 2011-0427). This ordinance does not address the budget issues.

AMENDMENTS

Amendment 1 (p. 11 of these materials) would (1) correct a factual inaccuracy regarding the Department of Natural Resources and Parks’ initial estimate of the cost to repair and (2) delete the finding that an emergency continues to exist, since the necessary work has been completed.

Title Amendment T1 (p. 13 of these materials) would amend the title to conform to the second change made by Amendment 1.

INVITEES

Curt Crawford, Section Manager, Stormwater Services, Water and Land Resources
Division, Department of Natural Resources and Parks

ATTACHMENTS

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KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

November 4, 2011

Ordinance

Proposed No. 2011-0427.1

Sponsors Patterson and Dunn

1 AN ORDINANCE certifying damage to a collapsed
2 stormwater conveyance pipe on parcel no. 2473400710,
3 and the estimated cost relating to correcting the damage;
4 and declaring an emergency.

5 STATEMENT OF FACTS:

6 1. There is an underground stormwater conveyance pipe located in
7 Assessor Parcel No. 2473400710, owned by the Fairwood Crest
8 Homeowners Association and located on an easement dedicated to King
9 County.

10 2. The stormwater conveyance pipe is an integral part of the King County
11 stormwater conveyance system in the Fairwood Division 4 and Fairwood
12 Division 11 platted areas.

13 3. The stormwater conveyance pipe has collapsed inward by
14 approximately fifty percent, as verified by a video camera inserted into the
15 pipe.

16 4. The collapse has caused erosion and wash-out in the vicinity of the
17 collapse, and a two-foot-by-six-foot sinkhole has appeared over the
18 collapsed pipe area.

19 5. The collapsed pipe, if not repaired as soon as possible before the onset
20 of the upcoming wet season, which generally extends from October 1 thru
21 April 30, poses a substantial risk to the functioning of the stormwater
22 collection and conveyance system in the area and thereby threatens human
23 health and safety and both public and private property and infrastructure
24 from flooding and erosion.

25 6. If the stormwater pipe is left unrepaired, the sinkhole may grow
26 significantly in magnitude and increase future repair costs accordingly.

27 7. Based on the foregoing facts, on September 26, 2011, the director of
28 the department of natural resources and parks issued a determination of
29 emergency pursuant to K.C.C. chapter 12.52 and RCW 39.04.280, and a
30 waiver of procurement procedures to repair the collapsed stormwater
31 conveyance pipe.

32 8. King County road services division employees have both capacity and
33 capability to repair this failed stormwater conveyance system
34 immediately.

35 9. A contractor with similar capacity and capability is not available on the
36 same time schedule.

37 10. RCW 36.32.235(12) authorizes the county to use public employees
38 without any limitation for emergency work performed pursuant to a
39 declaration of emergency, but only if the county legislative authority
40 adopts a resolution certifying the damage to public facilities and the costs
41 incurred or anticipated relating to correcting the emergency.

42 11. The department of natural resources and parks initially estimated the
43 cost of repair to be \$250,000 or less, but with updated and more precise
44 information currently estimates that the anticipated cost relating to
45 repairing the stormwater conveyance pipe is \$400,000.

46 12. The King County executive has submitted a supplemental budget
47 appropriation ordinance that requests funding for costs relating to
48 performing emergency work to repair the stormwater conveyance pipe in
49 this amount.

50 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

51 SECTION 1. In accordance with RCW 36.32.235(12), the council hereby
52 certifies that the collapsed stormwater pipe on parcel no. 2473400710, a public facility, is
53 damaged and certifies the estimated cost relating to correcting the damaged pipe to be
54 \$400,000.

55 SECTION 2. The council hereby finds as a fact and declares that an emergency

56 exists and that this ordinance is necessary for immediate preservation of the public peace,
57 health or safety, or for the support of county government or its existing institutions.
58

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Emergency Determination Regarding Collapsed Stormwater Pipe on Parcel No. 2473400710



King County

**Department of
Natural Resources and Parks**
Director's Office
King Street Center
201 South Jackson Street, Suite 700
Seattle, WA 98104-3855

September 26, 2011

TO: Ken Guy, Division Director, Finance and Business Operations Division,
King County Department of Executive Services

FROM: Christie True, Director, King County Department of Natural Resources
and Parks (DNRP)

VIA: Mark Isaacson, Division Director, Water and Land Resources Division,
DNRP

RE: Emergency Determination Regarding Collapsed Stormwater Pipe on
Parcel No. 2473400710

With regard to the need to repair the collapsed stormwater conveyance pipe located in Assessor Parcel No. 2473400710, owned by the Fairwood Crest Homeowners Association and maintained in an easement dedicated to King County, I have made the following factual determinations:

1. The stormwater pipe is an integral part of the stormwater conveyance system in the Fairwood Division 4 and Fairwood Division 11 platted areas.
2. The stormwater pipe has collapsed, as verified by a video camera inserted into the pipe, and such collapse has caused erosion and wash-out in the vicinity of the collapse, and a sinkhole has appeared over the collapsed pipe area.
3. The collapsed pipe, if not repaired as soon as possible before the onset of the upcoming wet season, which generally extends from October 1 thru April 30, poses a substantial risk to the functioning of the stormwater collection and conveyance system in the area and thereby threatens human health and safety and both public and private property and infrastructure. If the stormwater pipe is left unrepaired, the sinkhole may grow significantly in magnitude and increase future repair costs accordingly.
4. The need to repair the collapsed pipe constitutes an emergency, pursuant to King County Code (K.C.C.) Chapter 12.52 and RCW 39.04.280.
5. This emergency requires the waiver of procurement procedures for emergency purchases under K.C.C. 12.52.030.B.2 and 4.16.050.

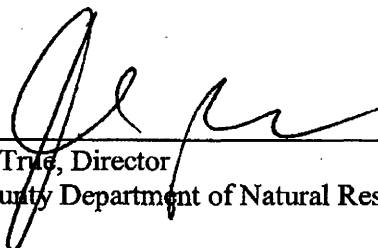
6. Without the waiver of procurement procedures, the estimated time to issue a notice to proceed for repair involves approximately 6 weeks, significantly beyond the onset of the wet season.

7. The cost estimate provided by the Water and Land Resources Division indicates that the cost of repair is below \$250,000, based upon the engineer's estimate dated September 1, 2011:

8. The financial impact of failure to repair the collapsed pipe could exceed many times over the cost estimate for repair, as significant private and public property and infrastructure are put at risk.

In light of the above factual determinations, I have determined that an emergency exists pursuant to K.C.C. Chapter 12.52 and RCW 39.04.280, for the repair of the collapsed stormwater pipe located in Assessor Parcel No. 2473400710, owned by the Fairwood Crest Homeowners Association and maintained in an easement dedicated to King County, and that in order to respond to such emergency, the requirements of K.C.C. 4.04, 4.16, 4.18, 12.16, and 12.18.095, and the requirements of competitive bidding and public notice are hereby waived 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.

I have further determined that, provided the processes mandated by RCW 36.32.235 (12) are observed, the limitations on use of day labor may be waived in undertaking such repair.



Christie Trigg, Director
King County Department of Natural Resources and Parks

9/29/2011

Date

Nov. 7, 2011

1

nw

Sponsor: _____

Proposed No.: 2011-0427

1 **AMENDMENT TO PROPOSED ORDINANCE 2011-0427, VERSION 1**

2 On page 3, beginning on line 42, delete lines 42 through 45, and insert:

3 “11. The department of natural resources and parks estimated the costs relating to
4 repair of the stormwater conveyance pipe to be \$400,000.”

5 On page 3, beginning on line 55, delete lines 55 through 57.

6 **EFFECT: The amendment:**

7 **1. Corrects a factual inaccuracy concerning the department’s cost estimate.**

8 **2. Deletes the finding that an emergency exists and that this ordinance is**
9 **necessary for immediate preservation of the public peace, health, or safety, or for**
10 **the support of county government or its existing institutions;**

11

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Nov. 7, 2011

T1

nw

Sponsor: _____

Proposed No.: 2011-0427

1 **AMENDMENT TO PROPOSED ORDINANCE 2011-0427, VERSION 1**

2 On page 1, beginning on line 3, delete “; and declaring an emergency”

3 **EFFECT: Deletes the declaration that there is an emergency.**

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FISCAL NOTE

Ordinance/Motion No. 2011-XXXX
 Title: Fairwood Emergency Ordinance
 Affected Agency and/or Agencies: Water and Land Resources Division
 Note Prepared By: Gary Imanishi, Water and Land Resources Division
 Note Reviewed By: Jennifer Lehman, Budget Analyst, PSB

Impact of the above legislation on the fiscal affairs of King County is estimated to be: \$ -

Revenue:

Fund/Agency	Fund Code	Revenue Source	2011	2012	2013	2014
TOTAL			\$ -	0	0	0

Expenditures:

Fund/Agency	Fund Code	Department Code	2011	2012	2013	2014
TOTAL			\$ -	0	0	0

Expenditures by Category:

	2011	2012	2013	2014
Salaries & Benefits	\$ -			
Supplies and Services	\$ -			
Capital Outlay	\$ -			
Debt Service	\$ -			
Acquisition	\$ -			
TOTAL	0	0	0	0

Notes:

The Fairwood 11 Conveyance Pipe Replacement is an emergency project to replace a failing surface water conveyance pipe. The pipe was field inspected and determined to be fifty percent collapsed which caused a sinkhole in June 2011. Therefore, WLRD is requesting to shift funding from existing projects so that construction can start by September 26th and be completed prior to November 30th, 2011. Appropriation for this project is in the 3rd omnibus supplemental ordinance for 2011.

Project cost is estimated to be \$400,000, which includes a 25% contingency. The project is funded by reducing 2011 appropriation for P20028 - Wilderness Rim Flood Improvement, P22000 - Agriculture Drainage Assistance, and P23017 - Lower Tolt River Phase II.

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October 14, 2011

The Honorable Larry Gossett
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Gossett:

Enclosed for the County Council's review and approval is an ordinance certifying damage to a collapsed stormwater conveyance pipe on parcel no. 2473400710 serving the Fairwood Division 4 and Fairwood Division 11 platted areas and declaring an emergency.

Pursuant to K.C.C. Chapter 4.16.086 and RCW 36.32.235, this ordinance will certify the damage to the pipe and the costs to repair the pipe and the associated sink hole, thereby recognizing that the use of public employees without any limitation for the emergency repair work is allowed. King County Roads Division employees have the immediate capacity and capability to repair this failed system. The conveyance pipe failure poses a substantial risk to the functioning of the stormwater collection and conveyance system in the area if not repaired before the upcoming wet season. Estimated costs associated with repairing this damage are included in the third omnibus supplemental ordinance for 2011 I recently transmitted.

I urge your rapid adoption of this emergency ordinance given the need to repair this failing system immediately.

The Honorable Larry Gossett

October 14, 2011

Page 2

Thank you for your review and approval of this ordinance. If you have any questions, please contact Mark Isaacson, Director of the Water and Land Resources Division in the Department of Natural Resources and Parks, at 206-296-6587.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
 ATTN: Cindy Domingo, Acting Chief of Staff
 Mark Melroy, Senior Principal Legislative Analyst, BFM Committee
 Anne Noris, Clerk of the Council
Dwight Dively, Director, Office of Performance, Strategy and Budget
Carrie Cihak, Director of Policy and Strategic Initiatives, King County Executive
 Office
Christie True, Director, Department of Natural Resources and Parks (DNRP)

RCW 39.04.280

Competitive bidding requirements — Exemptions.

This section provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases. The statutes governing a specific type of municipality may also include other exemptions from competitive bidding requirements. The purpose of this section is to supplement and not to limit the current powers of any municipality to provide exemptions from competitive bidding requirements.

- (1) Competitive bidding requirements may be waived by the governing body of the municipality for:
 - (a) Purchases that are clearly and legitimately limited to a single source of supply;
 - (b) Purchases involving special facilities or market conditions;
 - (c) Purchases in the event of an emergency;
 - (d) Purchases of insurance or bonds; and
 - (e) Public works in the event of an emergency.
- (2) (a) The waiver of competitive bidding requirements under subsection (1) of this section may be by resolution or by the terms of written policies adopted by the municipality, at the option of the governing body of the municipality. If the governing body elects to waive competitive bidding requirements by the terms of written policies adopted by the municipality, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection.

If a resolution is adopted by a governing body to waive competitive bidding requirements under (b) of this subsection, the resolution must recite the factual basis for the exception. This subsection (2)(a) does not apply in the event of an emergency.

(b) If an emergency exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract.

- (3) For purposes of this section "emergency" means unforeseen circumstances

beyond the control of the municipality that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

[1998 c 278 § 1.]

RCW 36.32.270

Competitive bids — Exemptions.

The county legislative authority may waive the competitive bidding requirements of this chapter pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

[1998 c 278 § 4; 1963 c 4 § 36.32.270. Prior: 1961 c 169 § 3; 1945 c 61 § 4; Rem. Supp. 1945 § 10322-18.]

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RCW 36.32.235

Competitive bids — Purchasing department — Counties with a population of four hundred thousand or more — Public works procedures — Exceptions.

(1) In each county with a population of four hundred thousand or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section, "public works" has the same definition as in RCW 39.04.010.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of four hundred thousand or more shall not have public employees perform a public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(17) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

[2009 c 229 § 6; 2000 c 138 § 206; 1997 c 220 § 401 (Referendum Bill No. 48, approved June 17, 1997); 1996 c 219 § 2.]

Notes:

Purpose -- Part headings not law -- 2000 c 138: See notes following RCW 39.04.155.

Referendum -- Other legislation limited -- Legislators' personal intent not indicated -- Reimbursements for election -- Voters' pamphlet, election requirements -- 1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law -- Severability -- 1997 c 220: See RCW 36.102.900 and 36.102.901.

Chapter 12.52 EMERGENCY POWERS

Sections:

- 12.52.010 Definitions.
- 12.52.020 Emergency powers conferred upon executive - Mutual aid - Compensation for emergency workers.
- 12.52.030 Powers delineated.

12.52.010 Definitions. 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. (Ord. 16639 § 2, 2009; Ord. 12163 § 3, 1996).

12.52.020 Emergency powers conferred upon executive - Mutual aid - Compensation for emergency workers.

A. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness, and in order to ensure that preparations of King County will be adequate to deal with such disasters, and further to ensure adequate support for search and rescue operations, to manage recovery from such disasters to generally protect the public peace, health, and safety, and to preserve the lives and property of the people of King County, it is hereby found and declared to be necessary:

1. To confer upon the executive the emergency powers provided herein pursuant to K.C.C. 2.56;
2. To provide for the rendering of mutual aid among the political subdivisions of King County and with other counties and to cooperate with state governments, the provinces of the Dominion of Canada and the federal government with respect to the carrying out of emergency management functions pursuant to K.C.C. 2.56 and chapter 38.52 RCW; and

3. To provide a means of compensating emergency workers who may suffer any injury as defined by chapter 38.52 RCW as a result of participation in emergency management service.

B. All emergency management functions of the county shall be coordinated to the maximum extent with the comparable functions of state governments, the federal government, and private agencies of every type, so that the most effective preparation and use may be made of county resources and facilities for addressing any disaster that may occur. (Ord. 12163 § 4, 1996: Ord. 1058 § 2, 1971).

12.52.030 Powers delineated. 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 [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 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. (Ord. 16639 § 3, 2009; Ord. 12163 § 5, 1996; Ord. 1058 § 3, 1971).