## REVISED STAFF REPORT

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| **Agenda Item:** | 17 | **Name:** | Andy Micklow |
| **Proposed No**.: | 2021-0451 | **Date:** | June 21, 2022 |

**COMMITTEE ACTION**

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| ***Proposed Substitute Ordinance 2021-0451.2 modifying the public benefit rating system for open space and the agricultural current use assessment provisions, passed out of committee on June 21, 2022 with a “Do Pass” recommendation. The Ordinance was amended in committee with Striking Amendment S1 which made technical changes.*** |

**SUBJECT**

An ordinance modifying the public benefit rating system for open space and the agricultural current use assessment provisions.

**SUMMARY**

Proposed Ordinance 2021-0451 would change the approval process for public benefit rating system (PBRS) applications in incorporated areas of King County by requiring that the hearing examiner make recommendations on all PBRS applications, and changing the County body that approves PBRS applications in incorporated areas from the Transportation, Economy, and Environment committee to the full County Council. It would add an ecological enhancement PBRS category that would further encourage the protection of important salmonid and wildlife habitats. The proposed ordinance would make additional changes to provide clarity and consistency in program implementation.

There is a striking amendment, S1, which would make technical changes and retain adopted language relating to program regulations and criteria.

**BACKGROUND**

The PBRS program, established in 1992, is intended to preserve and conserve privately held open space, farmland, or forestland through a property tax reduction. Property owners may enroll their property or a portion of their property in the voluntary program for preservation. In exchange, the qualifying portion of the property is assessed at the “current use” value rather than the full market value. Whereas full market value considers the highest and best use of the property, current use is only the value of the existing land and improvements. Under the current PBRS program, the reduction in taxable value is 50 to 90 percent for the portion of the property placed in current use status.

Any property owner within King County may submit a PBRS application for review. Most commonly, the properties enrolling in the program are located in unincorporated King County and are heard by the King County Hearing Examiner prior to Council approval. If a property is located within city boundaries, the application currently requires a hearing by both the Council committee and the city’s legislative body (K.C.C. 20.36.090). Approval of this application by the Transportation, Economy, and Environment committee is the final County legislative action.

A property must contain one or more qualifying open space resources and score at least five points to be eligible for the PBRS program. Water and Land Resources Division (WLRD) staff review applications to establish site characteristics, qualifying land areas, and eligible open space resources. The PBRS program covers 19 types of open space resources ranging in eligible points (K.C.C. 20.36.100.B):

1. Public recreation area: five points
2. Aquifer protection area: five points
3. Buffer to public or current use classified land: three points
4. Equestrian-pedestrian-bicycle trail linkage, providing public access: thirty-five points
5. Active trail linkage, providing public access
   1. Twenty-five points: property owner enters into an agreement regarding improvement of the trail, including trail pavement and maintenance.
   2. Fifteen points: the property owner allows a soft-surface, nonpaved trail.
6. Farm and agricultural conservation land: five points
7. Forest stewardship land, not enrolled in the timberland program: five points
8. Historic landmark or archeological site - buffer to a designated site: three points
9. Historic landmark or archeological site - designated site: five points
10. Historic landmark or archeological site - eligible site: three points
11. Rural open space, 10 or more acres: five points
12. Rural stewardship land: five points
13. Scenic resource, viewpoint or view corridor: five points
14. Significant plant or ecological site: five points
15. Significant wildlife or salmonid habitat: five points
16. Special animal site: three points
17. Surface water quality buffer: five points
18. Urban open space: five points
19. Watershed protection area: five points

Bonus points may be awarded on top of the points above if properties qualifying for an open space category provide additional benefits such as resource restoration, additional surface water qualify buffers, contiguity to other enrolled parcels under separate ownership, a conservation or historic preservation easement, or public access.

The PBRS program uses the total number of awarded points to determine the property’s current use value. This current use value is based on a percentage of the land’s assessed fair market value. For enrolled properties, current use values are calculated as between 10 and 50 percent of the market value:

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| **Public Benefit Rating** | **Current Use Value** |
| 0-4 points | 100% of market value |
| 5-10 points | 50% of market value |
| 11-15 points | 40% of market value |
| 16-20 points | 30% of market value |
| 21-34 points | 20% of market value |
| 35-52 points | 10% of market value |

**ANALYSIS**

The proposed ordinance would modify the public benefit rating system for open space current use assessment provisions by streamlining the process for applications in incorporated areas of King County by requiring all applications to be heard by the Hearing Examiner, implementing a new ecological enhancement PBRS category, making other technical changes to provide clarity and consistency in program implementation.

**Role of the Hearing Examiner.** PBRS open space applications, except for applications in incorporated areas, are subject to review and recommendation by the Hearing Examiner.[[1]](#footnote-1) Section 1 of the proposed ordinance would amend the list of the types of cases where the Hearing Examiner issues recommendations to remove the exception for incorporated areas. This change would require that all PBRS applications be reviewed by the Hearing Examiner prior to legislative action. This change is consistent with the current process for applications in unincorporated King County.

Consistent with the change proposed in Section 1, Section 4 of the proposed ordinance would remove language from K.C.C. 20.36.020 stating that the Hearing Examiner’s Office only reviews PBRS applications from unincorporated areas. Section 11 of the proposed ordinance would change the County body that acts on incorporated area applications from the Council's Transportation, Economy, and Environment committee to the full County Council. A public hearing and ten days public notice would still be required.

**Ecological Enhancement Category**. Section 12 of the proposed ordinance would an ecological enhancement category as one of the fee-exempt PBRS categories. Ecological enhancement land is defined in the proposed ordinance as "open space lands undergoing recovery of significantly degraded or lost ecological function or processes."

According to the Executive, the ecological enhancement category would encourage resource recovery efforts on properties with critical fish and wildlife habitat resources. The category would offer tax savings for landowners committed to taking on enhancement projects that are more costly, labor-intensive, and ecologically significant (such as a bulkhead, culvert, or road removal). The ecological enhancement category is different from the existing resource restoration category, which typically consists of restoring native vegetation rather than a more intensive/costly restoration project that could qualify for the ecological enhancement category.

A property under the ecological enhancement could qualify for 18 awarded points if it meets the following requirements:

* A jurisdiction, natural resource agency or appropriate organization has committed to sponsoring the ecological enhancement project, with secured funding in place before the application's public hearing;
* The ecological enhancement project must include removing significant human-made structures, alterations, or impediments;
* The owner must provide and implement an ecological enhancement plan;
* The owner shall annually provide to the department a monitoring report detailing the enhancement efforts' success for five years following enrollment;

**Surface Water Quality Buffer.** According to the Executive's transmittal, "the Executive, with input from the Hearing Examiner, has determined it would be more concise and less confusing to the public to have one tiered surface water quality buffer category, instead of a base category and a bonus category." The proposed ordinance would change points for surface water quality buffer in the open space resource category to incorporate additional points from the additional surface water quality buffer bonus category. The total possible points available to an applicant and category criteria for this open space resource would remain unchanged. This change would eliminate the stand-alone additional surface water quality bonus category.

**Conservation Easement Bonus Category.** The proposed ordinance would increase the point total for the conservation easement bonus category from 15 to 18. According to the Executive's transmittal, the change "encourages more interest in resource conservation easements by offering more potential tax savings."

**Point System.** The proposed ordinance would remove the cap on the total points that can be awarded for reductions to the appraised land value, and associated tax savings, of the portion of the property enrolled in the program. According to the Executive's transmittal, the proposed change "eliminates potential confusion as to savings level attained if awarded more than 52 points." The percent reductions remain unchanged. Thirty-five points or more would result in a 90 percent reduction of appraised value.

The proposed ordinance would also change the term “market” to “appraised” in this section to match the current terminology used by other departments.

**Lands Already Encumbered.** The proposed ordinance would allow areas of property entirely protected or encumbered by covenants or land use regulations to be eligible for program enrollment without an additional 10 percent land requirement if a corresponding stewardship plan is implemented. Under the existing program regulations, lands already restricted by existing covenants or land use regulations and that are proposed for program enrollment must provide a minimum of 10 percent additional, unrestricted land to be eligible.

The proposed change would allow a property to qualify for three stewardship plan-related open space categories (forest stewardship, ecological enhancement, or rural stewardship) or the three trail/recreation-related open space categories (public recreation area, active trail linkage, or equestrian-pedestrian-bicycle trail linkage) without requiring an additional 10 percent of land.

**Process and Timeline.** The PO is subject to the State Environmental Policy Act (SEPA) and requires environmental review and public notice. If the PO is voted out of committee, SEPA review and noticing would occur prior to the ordinance being taken up by the full Council. Councilmembers would need to inform council staff of any amendment concepts no later than one week following committee action so that these concepts can be included and considered during the SEPA review. Amendment concepts that are not initially included in the scope of the SEPA review may result in additional environmental review that may delay Council action. The ordinance may be taken up by full Council when the SEPA public comment period is concluded and a threshold determination is issued.

**AMENDMENT**

Striking amendment S1 would make technical changes and retain adopted language relating to program regulations and criteria.

1. K.C.C. 20.36.090 [↑](#footnote-ref-1)