



Legislation Text

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Clerk 09/19/2023

AN ORDINANCE related to the establishment and administration of the forest carbon program; amending Ordinance 17022, Section 2, and K.C.C. 4.56.250 and Ordinance 17527 Section 150, as amended, and K.C.C. 4A.200.155 and adding a new chapter to K.C.C. Title 18.

STATEMENT OF FACTS:

1. For decades, King County has demonstrated leadership in protecting open space. The long legacy of open space conservation has made King County one of the most livable areas in the country and a sought-after place to live, work and do business.
2. An advisory group of regional leaders helped shape the Land Conservation Initiative, providing a final report in December 2017. The report notes that, "Open spaces, such as those being protected by this Initiative, provide a wide range of ecosystem services to our communities and economy, ranging from purifying our water, to sequestering carbon, to mitigating floods, and many more." It also recommends, "[p]roceeding with a sense of urgency, as development pressures continue to grow."
3. The advisory group recommended the county, "should allocate the necessary resources as quickly as possible to complete assessments of viability for private funding streams based on carbon credits (both rural and urban)" and "[p]resuming no adverse findings in the completion of these assessments, the County should move forward with urgency in creating the necessary policies and programs."

4. In May 2019, the executive launched a pilot forest carbon program. As part of that program, the department of natural resources and parks developed and has been refining a carbon credit program, which involves voluntary payments to King County for carbon credits generated by preserving forests so they can continue to store carbon.

5. King County has long been a leader in climate action. The county, as the steward of the thousands of acres of open space in King County, holds itself to a high standard of protecting the natural environment. That standard extends to the forest carbon program. Selling or transferring carbon credits to entities known for causing significant, chronic, and continuing climate damage, such as the fossil fuel industry, would be counter to the purpose of the program and harm the county's standing as a leader in addressing climate change. Therefore, restrictions or conditions related to what entities carbon credits may be sold or transferred are necessary to prevent entities whose products have historically substantially contributed to climate change from using the program.

6. Western Washington is home to forests that are highly productive, with large quantities of carbon stored in their biomass, making conservation of forests in this region particularly valuable. The forest carbon program was developed to contribute to accelerated protection of high-conservation-value forestland. Revenue generated through the sale of carbon credits supports acquisition and management of lands that are among the most critical conservation priorities in the region. Their protection stores carbon and provides benefits for water quality and quantity, fish and wildlife habitat, human health, and recreation.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 4 of this ordinance should constitute a new chapter in K.C.C. Title 18.

NEW SECTION. SECTION 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Additional" means a carbon project creates greenhouse gas reductions or removals over and above those that would have arisen in the absence of a given activity and does not result from actions required by law or regulation.

B. "Carbon credit" means the reduction, avoidance, or sequestration of one metric ton of carbon dioxide equivalent.

C.1. "Carbon project" means a set of actions, measures, and outcomes specified in the applied protocol or methodology that results in additional greenhouse gas reductions or removals. Carbon projects are limited to the following:

a. Projects in the forestry sector, such as avoided forest conversion, improved forest management, afforestation, or reforestation;

b. Projects in the agricultural sector, such as avoided grassland conversion or improved agricultural land management;

c. Other projects that reduce or remove greenhouse gas emissions using elements of the natural environment, such as the preservation, enhancement, or improved management of wetlands, grasslands, or other terrestrial or aquatic ecosystems.

2. "Carbon project" does not include projects that reduce or remove greenhouse gas emissions associated with waste management processes, through artificial carbon capture and storage technologies, or through shifts to renewable energy or different fuel sources.

D. "Forest carbon program" means the program administered within the water and land resources division of the department of natural resources and parks that manages the processes by which carbon credits are created, verified, held, and sold or transferred.

E. "Protocol or methodology" means a specific set of criteria and procedures used to create a specific type of carbon project, quantify greenhouse gas emission reductions or removals, and monitor the project.

F. "Retirement" or "retire" means the permanent removal of an issued carbon credit from circulation.

Once a carbon credit is retired, it can no longer be sold or transferred.

G. "Verified carbon credits" are those carbon credits that have undergone an independent third-party assessment of greenhouse gas emission reductions or removals that have occurred as a result of the carbon project.

NEW SECTION. SECTION 3.

A. The forest carbon program shall create verified carbon credits through development of one or more carbon projects. Each carbon project shall follow the selected carbon crediting program or greenhouse gas registry's established protocol or methodology.

B. The department of natural resources and parks shall establish and maintain a system for tracking carbon credits that clearly shows the quantity and date of carbon credits issued to a carbon project and any sale, transfer, or retirement of carbon credits, including the name and contact information of the recipient or recipients of the carbon credits.

C.1. At the start of each verification of carbon credits, and before the sale or transfer of carbon credits from the carbon project, the executive shall transmit to the council a forest carbon credit approval report and a proposed motion approving the report. The report shall provide details on the carbon project, including but not limited to:

- a. its location;
- b. the type of project as described in section 2.C.1. of this ordinance;
- c. the protocol or methodology used to verify the carbon credits; and
- d. the number of verified credits created.

2. The report may include information on multiple carbon projects.

3. The executive shall electronically file the report and the proposed motion required by this section with the clerk of the council. The clerk shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff for the transportation, economy and environment

committee or its successor.

4. Carbon credits from projects described in the report shall not be sold or transferred until a motion accepting a report is passed.

D. The department of natural resources and parks, subject to the requirements of this chapter and K.C.C. 4.56.250, may sell or otherwise transfer carbon credits to any public or private party through the forest carbon program. Sales or transfers may be done directly with the buyer or recipient, or may occur through an intermediary, such as a broker or retailer.

E. Any credits that are sold or transferred externally shall not be used to meet the county's operational targets or commitments.

F. The department of natural resources and parks shall establish prices for carbon credits. Factors used to set the price may include, but shall not be limited to:

1. Local, state, national, or international carbon credit prices;
2. Demand for carbon credits;
3. The cost to create the carbon credits; and
4. Willingness to pay among potential buyers of the carbon credits.

G. The executive shall transmit by December 31, 2025, and every two years thereafter, a forest carbon credit sales summary report. The report shall provide information on carbon credits sold or transferred in the previous two years, including but not limited to:

1. The total revenue gained from carbon credit sales in the two-year period;
2. For each carbon project, the number of carbon credits sold or transferred, as well as the number of unsold carbon credits remaining;
3. Information on each carbon credit sale or transfer, including:
 - a. all of the project-specific information listed in subsection C.1 of this section;
 - b. the purchaser;

- c. the purchase price per carbon credit;
 - d. the documentation of the factors used by the department of natural resources and parks to establish the sale price;
 - e. the number of credits sold; and
 - f. whether the sale or transfer agreement was subject to council approval, or was executed under one of the exceptions in section 4 of this ordinance;
4. A breakdown of the percentage of carbon credit revenues that have been used in each of the three authorized expenditure categories in K.C.C. 4A.200.455.E.4.; and
5. If known, the specific projects or programs that carbon credit revenues have funded.

NEW SECTION. SECTION 4. After the council has passed a motion approving a forest carbon credit approval report in accordance with section 3.C of this ordinance, council authorization of individual sales or transfers of carbon credits included on an approved carbon credit approval report is not required if:

- A. The sale or transfer is executed using an agreement approved by the council; or
- B. The sale or transfer is executed using an agreement provided by an intermediary or a buyer and meets the following minimum requirements:
 - 1. The sale price of the carbon credits reflects fair market value, as established and documented by department of natural resources and parks at the time of sale and using the pricing factors in section 3.F. of this ordinance;
 - 2. The agreement requires that the department of natural resources and parks has final approval of the specific entity to which carbon credits are being sold or transferred; and
 - 3. In advance of execution, the agreement has been approved as to form by the prosecuting attorney's office.

SECTION 5. Ordinance 17022, Section 2, and K.C.C. 4.56.250 are each hereby amended as follows:

~~((Sales of rights, title or interests in emissions credits, offsets or allowances or renewable energy~~

~~certificates, credits, benefits, environmental air quality credits and any similar rights, title or interests held by the county are exempt from the real and personal property requirements of this chapter when unique circumstances are present. Such sales may be made in the best interests of the public to a person or entity through a direct agreement negotiated by the county executive and approved by the county council.))~~

A. The provisions of this chapter related to sale of real or personal property are waived for sales or transfers of ownership, rights, title, or interests held by the county in assets consisting of:

1. Carbon credits under K.C.C. 18.xx (the new chapter created by section 1 of this ordinance);
2. Other emissions credits, offsets, or allowances;
3. Renewable energy certificates, credits, or benefits;
4. Environmental air quality credits; or
5. Any similar rights, title, or interests.

B. Sales or transfers of any such asset under subsection A of this section must be in the best interests of the public and must be authorized by the council, except as provided in section 4 of this ordinance.

SECTION 6. Ordinance 17527, Section 150, as amended, and K.C.C. 4A.200.455 are each hereby amended as follows:

- A. There is hereby created a natural resources mitigation fund.
- B. The fund is a first tier fund. The fund is a capital projects fund.
- C. The director of natural resources and parks shall be the manager of the fund.
- D. Moneys received from the following sources for capital projects to be administered by the water and land resources division shall be deposited in the fund:

1. Moneys received as mitigation payments through King County's in-lieu fee mitigation program;
2. Moneys received as a result of a directive from local, state, or federal regulatory agencies or resource management entities for the purpose of implementing acquisitions or other capital projects that will enhance or improve the environment to offset environmental impacts as directed by the local, state, or federal

regulatory agencies or resource management entities;

3. Moneys received as an offset or mitigation payment through a voluntary program intended to create natural resources or environmental benefits; ~~((and))~~

4. Moneys received as an offset or mitigation payment through a voluntary program intended to protect natural resources or provide environmental benefits; ~~((and))~~

5. Moneys received from the sale or transfer of carbon credits under K.C.C. 18.xx (the new chapter created by section 1 of this ordinance); and

6. Moneys received from the entry of consent decrees, court orders, court-approved settlement agreements, and decisions or orders arising out of administrative proceedings.

E. Moneys in the fund are to be held and disbursed as follows:

1. Moneys collected as mitigation payments through King County's in-lieu fee program shall be used for acquisitions or other capital projects in King County's in-lieu fee program;

2. Moneys received as a result of a directive from local, state, or federal regulatory agencies or resource management entities under subsection D.2. of this section ~~((, must))~~ shall be used for acquisitions or other capital projects that will enhance or improve the environment to offset impacts to the environment in accordance with the terms of any directive to pay the moneys into the fund;

3. Moneys received under a voluntary program under subsection D.3. and 4. of this section shall be used for acquisitions or other capital projects to enhance or improve the environment to offset impacts to the environment in accordance with the requirements of the voluntary program as agreed to by the county; ~~((and))~~

4. Moneys received from the sale or transfer of carbon credits under subsection D.5. of this section shall be used for any or all of the following, in proportions determined by the department of natural resources and parks:

a. acquisitions and management of real property to enhance or improve the environment;

b. administration of the forest carbon program; or

c. activities to increase ecosystem resilience to disturbances such as future climate conditions; and

5. Moneys received from the entry of consent decrees, court orders, court-approved settlement agreements, and decisions or orders arising out of administrative proceedings under subsection D.~~((5-))~~6. of this section shall be used in a manner consistent with the terms of the originating source."

SECTION 7. In an effort to improve operational efficiencies and reduce the need for the council review and approval of each individual sale, the template agreement forms attached to this ordinance as Attachments A and B to this ordinance are approved, and the executive is authorized to execute a sales agreement substantially in conformance with either of the approved templates without further council authorization.