Legislation Details (With Text)

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Enactment date:	7/20/2023	**Enactment #:**	19647
Title:	AN ORDINANCE relating to the conservation futures program; and amending Ordinance 13717, Section 1, as amended, and K.C.C. 26.12.003 and Ordinance 8867, Section 1, as amended, and K.C.C. 26.12.010.		
Sponsors:	Rod Dembowski		
Indexes:	Conservation Futures		
Code sections:	26.12.003 -, 26.12.010 -		
Attachments:	1. Ordinance 19647, 2. 2023-0183 Legislative Review Form - Conservation Futures Ordinance, 3. 2023-0183 LCI Transmittal Letter, 4. 2023-0183 Copy of Fiscal Note - Conservation Futures, 5. 2023-0183 S1, 6. 2023-0182_0183_0184_CFT_SR, 7. 2023-0182_0183_0184_Revised_SR_CFT		

Date	Ver.	Action By	Action	Result
7/11/2023	2	Metropolitan King County Council	Passed	Pass
6/20/2023	1	Transportation, Economy, and Environment Committee	Recommended Do Pass Substitute Consent	Pass
5/16/2023	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to the conservation futures program; and amending Ordinance 13717, Section 1, as amended, and K.C.C. 26.12.003 and Ordinance 8867, Section 1, as amended, and K.C.C. 26.12.010.

STATEMENT OF FACTS:

1. Adoption of Ordinance 18774 in 2018 set in motion King County's Land Conservation Initiative with the goal of protecting the last remaining high conservation value lands throughout King County within thirty years, while closing the gaps in equitable access, to support a high quality of life, livability, and regional economic strength.

2. For decades, King County has demonstrated leadership in protecting open space. In 1982, King County initiated its conservation futures tax levy program, which has successfully protected more than one hundred thousand acres of valuable forestlands, farmlands, open spaces,

natural lands, and urban greenspaces.

3. This 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.

4. An advisory group of regional leaders helped shape the Land Conservation Initiative, providing a final report in December 2017. The report recommends, "[p]roceeding with a sense of urgency, as development pressures continue to grow" and observes that the "…rapid rate at which land prices rise emphasizes the need to move with urgency."

5. The advisory group recommended the county restore the conservation futures rate to 6.25 cents per $1,000 assessed value as set in state law.

6. In November 2022, King County voters approved Proposition 1 to restore conservation futures to its statutory maximum to help sustain the accelerated pace of land protection envisioned by the Land Conservation Initiative. The resulting increase in conservation futures collections and bonding represent approximately seventy-five percent of conservation funding modeled in the Land Conservation Initiative.

7. K.C.C. 26.12.010.E, related to the conservation futures grant program, requires a fifty percent match on all conservation futures funded acquisitions, except for projects in opportunity areas. King County is one of only three counties state-wide that require a fifty percent match for conservation futures grants and program partners have long maintained that the match requirement creates barriers for projects.

8. The revisions to K.C.C. chapter 26.12 to clarify policies and practices, eliminate outdated sections of the code, implement tools to protect acquired properties, and support more-efficient management of the conservation futures grant program are necessary to improve the effectiveness of the program and advance Land Conservation Initiative goals.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 13717, Section 1, as amended, and K.C.C. 26.12.003 are hereby amended to read as follows:

The definitions in this section apply throughout K.C.C. 26.12.003 through 26.12.100 unless the context clearly requires otherwise.

A. "Advisory committee" means the conservation futures advisory committee, established under K.C.C. 2.36.070.

B. "Agency" means King County or any city, town, or metropolitan park district within King County.

C. "Annual allocation" means the allocation of conservation futures tax levy proceeds collected in the ensuing budget year and other moneys deposited in the conservation futures fund.

D. "Conservation futures fund" means the King County conservation futures fund established under K.C.C. 4A.200.210.

E. "Conservation futures tax levy proceeds" means moneys collected through the tax levy upon all taxable property in King County authorized by RCW 84.34.230.

F. "Equity" means all people have full and equal access to opportunities that enable them to attain their full potential.

G. "Nongovernmental organization" means any group of two or more persons that is not an agency as defined by this chapter.

H. "Nonprofit organization" means nonprofit historic preservation corporation as defined in RCW 64.04.130 or nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

I. "Open space land" means the fee simple interest in open space land, farm and agricultural land, and ((~~timber land~~)) timberland, as those terms are defined in chapter 84.34 RCW, including urban greenspaces in dense urban environments, for public use or enjoyment, or any lesser interest in those lands, including development rights, conservation futures, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the land.

J. "Opportunity areas" means:

1. Areas within King County that:

a. are located in a census tract in which the median household income is in the lowest one-third for median household income for census tracts in King County;

b. are located in a ZIP code in which hospitalization rates for asthma, diabetes, and heart disease are in the highest one-third for ZIP codes in King County; and

c. are within the Urban Growth Boundary and do not have a publicly owned and accessible park or open space within one-quarter mile of a residence, or are outside the Urban Growth Boundary and do not have a publicly owned and accessible park or open space within two miles of a residence; or

2. Areas where the project proponent or proponents can demonstrate, and the advisory committee determines, that residents living in the area, or the populations the project is intended to serve, disproportionately experience limited access to public open spaces and experience demonstrated hardships including, but not limited to, low income, poor health, and social and environmental factors that reflect a lack of one or more conditions for a fair and just society as defined as "determinants of equity" in K.C.C. 2.10.210.

K. "Project" means open space land to which conservation futures tax levy proceeds are allocated for acquisition and other eligible costs under the processes under K.C.C. 26.12.010.

L. "Reviewed appraisal" means a property appraisal performed within two years of the application deadline set in K.C.C. 26.12.010.A. by an independent state-certified real estate appraiser with a current general real estate appraiser license and reviewed by an independent state-certified general real estate appraiser.

M. "Social justice" means all aspects of justice, including legal, political, and economic, and requires the fair distribution of public goods, institutional resources, and life opportunities for all people.

N. "Total project costs" means the total amount of eligible costs under K.C.C. 26.12.010 for a particular project, including the value of the matching contribution provided by the applicant.

SECTION 2. Ordinance 8867, Section 1, as amended, and K.C.C. 26.12.010 are hereby amended to

read as follows:

A process is hereby established for the annual allocation of the conservation futures tax levy proceeds to acquire open space lands, including greenspaces, greenbelts, wildlife habitat, and trail rights-of-way proposed for preservation for public use by either agencies or nonprofit organizations within the county. Agencies, nonprofit organizations, nongovernmental organizations, and individuals may make application for proceeds in this allocation process. In accordance with chapter 84.34 RCW, only agencies and nonprofit organizations are eligible to receive conservation futures funding to acquire property.

A. The department of natural resources and parks shall determine ((~~a date, no later than April 1, as a~~)) the deadline for submission of applications for use of conservation futures tax levy proceeds. At least one month before the application submission deadline date, the department shall provide notice on the King County website of the opportunity to apply to the county for a share of the annual allocation of the conservation futures tax levy proceeds available for that year. The department shall also provide notice by email to all agencies, nonprofit organizations, nongovernmental organizations, and individuals anticipated to have potential interest in conservation futures funding. The department shall maintain and update a list of parties anticipated to be interested in conservation futures funding.

B. No later than March 1, the county council may adopt a motion that provides direction to the advisory committee on priorities for evaluating the applications within the open space criteria identified in K.C.C. 26.12.025.

C.1. ((~~By July 15, t~~))The advisory committee shall make project recommendations and recommend funding allocations for each project to the executive, including:

a. a description of each project including project location and acreage;

b. a report on how each project meets the county open space selection criteria, contained in K.C.C. 26.12.025;

c. the amount of funding requested in each project application;

d. any additional relevant criteria of the jurisdiction in which the potential acquisition is located; and

e. a description of how projects contain a demonstrable regional visibility, use, ecological, cultural, historical, or other natural resource significance.

2. The executive shall transmit the advisory committee's project and funding recommendations for the following year to the council ((~~no later than July 31~~)). The report shall be filed ((~~in the form of a paper original and an electronic copy~~)) electronically with the clerk of the council, who will retain ((~~the original~~)) an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff to the mobility and environment committee or its successor.

3. The committee's recommendations are solely advisory and either the executive ((~~and/~~))or the council, or both, may adopt, alter, add to, or decline to adopt all or part of the committee's recommendations in the budget process.

D. The executive's project and funding recommendation shall be transmitted with the applicable appropriation ordinance.

E. Except for acquisitions of property interests in opportunity areas, the agency or nonprofit organization receiving conservation futures tax levy proceeds shall commit to providing a matching contribution no less than ((~~the amount of conservation futures tax levy proceeds appropriated for the project~~)) twenty-five percent of the total project costs, and conservation futures shall represent no more than seventy-five percent of the total project costs. The matching contribution shall be provided before conservation futures tax levy proceeds are reimbursed to that agency or nonprofit organization. The contribution may consist of cash, land match with a valuation verified by a reviewed appraisal or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years from the date of the submittal of the application by the agency or nonprofit organization. Properties considered as land match or cash value of other open space acquisitions should be directly linked to the property under application.

F.1. If an application by an agency other than King County is funded by this process, the agency shall

enter into an interlocal agreement with the county.

2. If an application by a nonprofit organization is funded by this process, the organization shall enter into an agreement with the county. Before a funding award is paid to a nonprofit organization, the organization shall obtain a letter of intent from an agency or a separate nonprofit organization that indicates that if in the future the acquiring organization ceases to exist, the agency or the separate organization is willing to be identified on title to the acquired property as an owner. If the property is in the unincorporated area and the nonprofit organization seeks an agency letter, the organization shall request the letter from the King County department of natural resources and parks, or a metropolitan park district within the boundaries of which the property is located. If the property is in an incorporated area and the nonprofit organization seeks an agency letter, the organization shall request the letter from the agency of the jurisdiction in which the project is located, or a metropolitan park district within the boundaries of which the property is located. If the property is in an incorporated area, in the event that the legislative body of the agency of the incorporated area or the park district indicates in writing or through a formal vote that it is not willing to provide the letter, the nonprofit organization may request a letter from King County. For any acquisition by a nonprofit organization, King County shall ensure a restriction is recorded on the chain of title to preserve the conservation values of the property in perpetuity.

3. If an application by a nongovernmental organization or individual is funded by this process, the award shall be made either to a nonprofit organization or an agency. K.C.C. 26.12.010.F.1. applies to an award to an agency. K.C.C. 26.12.010.F.2. applies to an award to a nonprofit organization.

G. If the King County transfer of development rights program bank, as established by K.C.C. chapter 21A.37, is awarded conservation futures levy proceeds in order to purchase development rights and thereby preserve open space in accordance with purposes and provisions of this chapter, the bank is authorized to sell those development rights and to use the proceeds from that sale to acquire additional development rights, thereby preserving additional open space lands in accordance with the terms and provisions of this chapter.

When transferrable development rights are purchased by the bank in accordance with K.C.C. chapter 21A.37 using conservation futures tax levy proceeds allocated to a project under K.C.C. 26.12.003.I., and there are subsequent sales of the transferable development rights, the bank may use sale proceeds as a match to new projects.

H. Conservation futures tax levy proceeds shall be deposited in the conservation futures fund for the purpose of administering, disbursing, and accounting for conservation futures tax levy proceeds authorized by King County. Conservation futures tax levy proceeds shall be disbursed to projects previously approved by King County upon receipt and verification by King County of properly completed requests for payment of the proceeds. The office of performance, strategy and budget shall prescribe the form for the requests. The disbursement requests shall be made only for capital project expenditures that include all costs of acquiring real property, including interests in real property, and the following costs, though it shall not include the cost of preparing grant applications for conservation futures moneys: ((~~cost of related relocation of eligible occupants; cost of appraisal; cost of appraisal review; cost of title insurance; closing costs; pro rata real estate taxes; recording fees; compensating tax; hazardous waste substances reports; directly related staff costs; and related legal and administrative costs~~)) related relocation of eligible occupants; appraisal; appraisal review; title insurance; closing costs; pro rata real estate taxes; compensating tax; recording fees; environmental due diligence; survey; boundary line adjustment; and directly related staff, legal, and administrative costs. Requests may also include costs for initial site stabilization activities associated with acquisition, which are limited to signage, fencing, or demolition of structures necessary to secure real property interests acquired with conservation futures tax levy proceeds for public safety or resource protection purposes. Approved disbursements for site stabilization activities shall not exceed in any particular year twenty-five percent of the conservation futures tax levy moneys raised in the preceding year and shall not be used to supplant existing funding. The department shall annually review and determine the maximum allowable per-parcel award for site stabilization, taking inflation into consideration. The agency or nonprofit organization shall have the

property valued by a reviewed appraisal, except in situations where the department of natural resources and parks determines that an appraisal is unnecessary because the process for valuing the property is established by statute, code, or regulation. The agency or nonprofit organization is responsible for the accuracy of the payment requests and the propriety and timeliness of its disbursements following receipt of conservation futures tax levy proceeds. Conservation futures tax levy proceeds may not be used to acquire any property or interest therein through the exercise of the power of eminent domain.

I. Projects carried out in whole or part with conservation futures tax levy proceeds shall not be transferred or conveyed except to an agency or nonprofit organization by written agreement providing that the land or interest in land shall be continued to be used for the purposes of K.C.C. chapter 26.12 and in strict conformance with the uses authorized under chapter 84.34 RCW. The land or interest in land shall not be converted to a different use unless other equivalent lands within King County are received in exchange for the lands or interest in lands, or cash reimbursement is made, or a combination of land and cash reimbursement is provided. The land shall be valued in its changed status or use, and not based upon its value as open space, and the replacement land or payment amount must be acceptable to King County. Before the conversion of conservation futures land to another use, the department of natural resources and parks shall provide written notification to the council. If the proposal is to convert one-half acre or more of conservation futures land, or if the conservation futures land to be converted is valued at more than fifty thousand dollars, and the proposal is either for a cash reimbursement or for proposed equivalent lands that are not within the same jurisdiction as the conservation futures land proposed to be converted to another use, the executive shall, at least sixty days before taking action on the proposal, submit the written notification to the council. Unless the council passes a motion rejecting the proposal within sixty days of receiving the notification, the executive may proceed with the proposal. The sixty-day waiting period shall not apply when the conservation futures land proposed to be converted, as well as the proposed equivalent lands, are within the same trail corridor or part of the same contiguous open space area.

J. The written notification required by this section shall include, but not be limited to, the acreage and specific location of both the conservation futures land proposed to be converted and the proposed equivalent lands, if any, the reason for the conversion of land and, if cash reimbursement is proposed, a copy of the appraisal for the conservation futures land to be converted and the amount of the cash reimbursement proposed. The notification shall be filed ((~~in the form of a paper original and an electronic copy~~)) electronically with the clerk of the council, who will retain ((~~the original~~)) an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff to the mobility and environment committee or its successor. Information on conversions of properties to another use, including a description of the proposed replacement land or payment amount, shall be included with the advisory committee's project progress reporting to council as provided in K.C.C. 26.12.035.B. This section does not prevent the grant of easements or franchises or the making of joint use agreements or other operations compatible with the use of a project as provided for in this section and authorized under chapter 84.34 RCW.

K. The department of natural resources and parks shall identify and update opportunity areas as defined by K.C.C. 26.12.003.J.1. at least every three years.