

1 September 11, 1978

Introduced by: Bernice Stern

2
3 ORDINANCE NO. 3872

4 AN ORDINANCE relating to the protection and retention
5 of farm and open space lands in King County and
6 authorizing the King County Executive, with the
7 approval of the Council, to acquire development
8 rights for the purpose of permanently retaining
9 such land.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. Findings and Declaration of Purpose.

11 The Council affirms and adopts findings and declaration
12 of purpose set forth in section 1 of Ordinance 3064, KCC section
13 20.54.010. In addition the Council finds that:

14 (1) King County is a desirable place to live and
15 visit because of the quantity, variety and natural beauty of its
16 open space which contributes a vital ingredient to the quality of
17 life in the County. The open space resources of King County
18 presently include over fifty-thousand acres of land suitable for
19 farming. Such land is an important resource which provides
20 aesthetic, economic and educational benefits to the citizens of
21 King County and is a significant part of our heritage.

22 (2) Land suitable for agricultural uses is a
23 unique and irreplaceable environment with soil and topographic
24 characteristics which have been developed over generations of
25 agricultural use. When such land is converted to uses which do
26 not require those special fertility and landscape characteristics,
27 an important natural resource and the farmer's investment in its
28 development are lost to the citizens of King County.

29 (3) The viability of the agricultural industry in
30 King County is threatened by uncertainty regarding potential
31 changes in values and in the land use classification of land
32 suitable for agricultural uses.
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2 (9) While current use taxation for agricultural
3 uses such as that authorized by RCW Ch. 84.34 and KCC Ch. 20.36
4 will continue to be available for farm and open space land, the
5 current use taxation program has proven insufficient to halt the
6 trend toward rapid conversion of King County's agricultural lands
7 to nonagricultural uses.

8 (10) The acquisition by King County of a fee
9 simple or some lesser interest in eligible agricultural land is
10 authorized by the Washington State Constitution and statutes and
11 by the King County Charter and ordinances.

12 The Council concludes that:

13 (1) King County should afford permanent protection
14 to open space land suitable for agricultural uses by acquiring
15 interests in such land and in adjacent properties sufficient to
16 encourage the use of those lands for agricultural and open space
17 purposes and to prevent the development of such land for other
18 purposes.

19 (2) Acquisition by King County of a fee simple or
20 some lesser interest in agricultural land and open space land
21 suitable for agricultural uses will ensure the protection of such
22 lands in perpetuity. Acquisition by the County from their owners
23 of the right to use such lands for non-agricultural purposes will
24 permit the County to restrict the future use of such lands and
25 encourage the continued viability of agriculture and farming in
26 King County.

27 (3) The Council declares that by authorizing
28 acquisition of a fee simple or some lesser interest in certain
29 lands suitable for agricultural uses, it is the purpose of this
30 ordinance to:

31 (a) Maintain the open and undeveloped character
32 of lands suitable for agricultural uses;
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1 (b) Maintain the aesthetic, scenic and educational
2 qualities of agricultural land for the citizens of King County;

3 (c) Alleviate the demand for the publicly-financed
4 urban services and flood control projects which are often necessary
5 for more intensive development of agricultural land;

6 (d) Facilitate the continuation of productive
7 agriculture as a viable industry in King County;

8 (e) Reduce the pressure for conversion of
9 agricultural land to nonagricultural uses; and

10 (f) Provide for the citizens of King County the
11 opportunity to continue purchasing fresh, locally-grown food
12 products.

13 SECTION 2. Definitions.

14 1. "Eligible agricultural land" means land designated
15 in section 6 of Ord. 3064, KCC 20.54.060, as it may be hereafter
16 amended, as agricultural lands of county significance and which
17 also constitutes "open space land", "farm and agricultural land",
18 or both, as defined in RCW 84.34.020(1) and (2).

19 2. "Agricultural rights" means a fee interest in real
20 property and the right to use eligible agricultural land for
21 purposes and activities related to horticultural, livestock,
22 dairy and other agricultural and open space uses, all as specified
23 in the instruments described in regulations promulgated pursuant
24 to this ordinance.

25 3. "Development rights" means an interest in real
26 property and the right to use eligible agricultural land for
27 any and all residential, commercial and industrial purposes
28 and activities of a non-agricultural nature, all as specified
29 in the instruments described in regulations promulgated pursuant
30 to this ordinance.

1 4. "Value of development rights" means the difference
2 between the fair market value of property and the fair market
3 value of the agricultural rights to that property.

4 5. "Executive" means the King County Executive or
5 the Director of the Office of Agriculture for functions delegated
6 to the Director by regulation or Executive Order.

7 6. "Owner" means the party or parties having the
8 fee interest, a real estate contract vendor's or vendee's
9 interest, or a mortgator's or grantor of a deed of trust's
10 interest in land.

11 7. "Food-producing horticultural land" means land
12 used for the commercial, soil-dependent cultivation of plants
13 for food, including vegetables, small fruits, large fruits, cereal
14 grains and silage corn.

15 8. "Food-producing livestock land" means open land
16 used for the growing, keeping and feeding of animals for the
17 commercial production of food for human consumption, and includes
18 the cultivation of pasture, grass and other field crops for
19 consumption by such animals.

20 SECTION 3. Authorization to Acquire; Options; Method
21 of Payment.

22 1. The Executive is hereby authorized, pursuant to the
23 provisions of this ordinance, to acquire and offer to acquire
24 by purchase, gift, grant, bequest, devise, lease, covenant,
25 contract or otherwise the fee simple or any lesser interest,
26 development right, easement, covenant or other contractual right
27 in eligible agricultural lands in incorporated and unincorporated
28 King County in order to carry out the purposes of this ordinance.
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1 2. The Executive is also authorized to obtain options
2 to acquire a fee simple or any lesser interest in eligible
3 agricultural lands in incorporated and unincorporated King
4 County. The value of the interest to be acquired through the
5 option shall be determined in accordance with section 4 of this
6 ordinance.

7 3. To the greatest extent practicable, the Executive
8 shall acquire only the development rights or some less than fee
9 interest in eligible agricultural lands. Acquisition of the fee
10 simple interest is authorized in any case determined appropriate
11 by the Executive because of one of the following factors: (a) the
12 value of the development rights is nearly equivalent to the fair
13 market value of the property; (b) fee simple acquisition is deemed
14 necessary to maintain agricultural uses of the property through
15 reconveyance or lease of the agricultural rights by the County;
16 (c) fee simple acquisition is necessary in order to acquire any
17 interest in the subject property.

18 4. The Executive is authorized to pay the purchase
19 price in a lump sum single payment at time of closing or
20 to enter into executory conditional sales contracts for the
21 making of installment payments against the purchase price. When
22 installment purchases are made, the Executive is authorized to pay
23 interest on the declining unpaid principal balance at a legal rate
24 of interest consistent with prevailing market conditions at the
25 time of execution of the installment contract and adjusted for
26 the tax exempt status of such interest.

27 SECTION 4. Determination of Value.

28 1. The Executive shall conduct two appraisals of eligible
29 agricultural land in order to determine the fair market value of
30 the property and the fair market value of the agricultural rights
31 only. The Executive may utilize county appraisers and, as
32 determined necessary, private MAI or SREA appraisers. The offering
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1 owner of agricultural land may also, at his or her own expense,
2 submit to King County one or more appraisals conducted by the owner
3 or by an appraiser selected by the owner.

4 2. All appraisals for the property, whether conducted
5 by the County or a private appraiser, shall be reviewed by the
6 Real Property Division and the Office of Agriculture. Based upon
7 said appraisals, the Real Property Division and the Office of
8 Agriculture shall recommend to the Executive a value for the
9 interest to be acquired by King County. The Executive shall then
10 determine the value of the interest to be acquired by King County.

11 SECTION 5. Process for Approval and Consummation of
12 Acquisition.

13 1. The Executive may approve, subject also to the
14 approval of the Council, the acquisition of agricultural land or
15 of an interest in agricultural land only upon making the following
16 determinations:

17 (a) The land is eligible agricultural land;

18 (b) The ownership of the property has been verified
19 by a title search;

20 (c) The acquisition price is consistent with
21 the Executive's determination of the value of the interest
22 being purchased;

23 (d) Adequate funds have been appropriated to
24 pay the acquisition price;

25 (e) The acquisition is consistent with all
26 other applicable provisions of the ordinance and any rules or
27 regulations promulgated by the Executive.

28 2. The Executive may determine that a portion of the
29 land offered by a single owner is suitable for acquisition by
30 the county while the remainder of the offered land is unsuitable.

1 In such cases the Executive shall reject the offer and may offer
2 to acquire only that portion deemed suitable for acquisition by
3 the County. The Executive may reject any and all offers for the
4 sale to the County of development rights or other interests in
5 eligible agricultural land.

6 3. Acquisition by King County of interests in eligible
7 agricultural land shall be accomplished by the owner's execution
8 of an instrument of conveyance or by King County and the owner's
9 execution of a covenant or executory conditional sales contract
10 to purchase in a form approved by the Executive and after the
11 approval by the King County Council.

12 4. Upon closing of the acquisition transaction, the
13 Executive shall cause the instrument of conveyance, covenant or
14 contract to be recorded with the King County Records and Elections
15 Division.

16 SECTION 6. Purchase of Remaining Agricultural Rights.

17 1. After King County has acquired the development
18 rights to eligible agricultural land, the Executive is authorized
19 to purchase the remaining agricultural rights in such land subject
20 to the provisions of this section if the Executive determines
21 that such land cannot reasonably be used for its intended agri-
22 cultural use.

23 2. Upon application by the owner for purchase of
24 the remaining agricultural rights in the land, the Executive
25 shall determine the value of such rights pursuant to the method
26 described in section 4 of this ordinance. The Executive may,
27 when appropriate, use the appraisal or appraisals previously
28 prepared for the property to assist in determining the value
29 of the agricultural rights.
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1 3. Prior to approving the acquisition of the remaining
2 agricultural rights, the Executive may also require the owner
3 to offer the agricultural rights for sale or lease to private
4 parties at the fair market value of the agricultural rights
5 determined pursuant to section 4 of this ordinance. Such offers
6 shall be made and advertised in accordance with rules and regu-
7 lations adopted by the Executive.

8 4. Upon making the determinations set out in section
9 5 of this ordinance, the Executive may approve the acquisition
10 of the agricultural rights in land to which the County has pre-
11 viously acquired the development rights. The Executive may
12 reject any and all offers for the sale to the County of
13 remaining agricultural rights.

14 5. The remaining agricultural rights shall be
15 conveyed to King County by means of the owner's execution of an
16 instrument of conveyance or by King County's and the owner's
17 execution of an executory conditional sales contract to purchase
18 in a form approved by the Executive.

19 6. Upon closing of the acquisition transaction, the
20 Executive shall cause the instrument of conveyance or contract
21 to be recorded with the King County Records and Elections Division.

22 SECTION 7. Lease or Conveyance by King County of the
23 Agricultural Rights.

24 1. For the purpose of implementing the policies of this
25 ordinance, the Executive is authorized to lease or convey the
26 agricultural rights to which King County has acquired ownership
27 pursuant to this ordinance: Provided that, no action to carry out
28 the provisions of this section is authorized until a specific plan
29 to manage these lands is prepared by the County executive and
30 approved by the County Council. Said plan should include the
31 formation of a farm advisory board to set standards for financial
32 responsibility and farm production for prospective lessees.
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1 2. The use of all properties leased or conveyed
2 pursuant to this section shall be restricted to the agricultural
3 rights uses permitted under the terms of the instrument, if any,
4 by which the development rights in the land were originally
5 conveyed to King County.

6 3. Each sale or lease of property shall be made pursuant
7 to the procedures in KCC Chapter 4.56, as it may be hereafter
8 amended. Where the express provisions of this ordinance conflict
9 with KCC Ch. 4.56, this ordinance shall govern.

10 SECTION 8. Reconveyance of Development Rights
11 Prohibited; Condemnation Proceeds.

12 The Executive shall not reconvey the development rights
13 to eligible agricultural land acquired by King County pursuant to
14 this ordinance. All development rights so acquired are to be
15 held by King County for the benefit of its citizens in perpetuity.
16 The proceeds received by King County from any award in condemnation
17 of the County's interest in eligible agricultural land shall be
18 used for the acquisition of other eligible lands.

19 SECTION 9. Rules and Regulations.

20 1. The Executive shall have the power in accordance
21 with the provisions of KCC Chapter 2.98 to adopt, amend or
22 repeal any rule or regulation deemed necessary to implement
23 the provisions of this ordinance: Provided, That the Council
24 shall approve such regulations by motion.

25 2. The Executive shall adopt rules or regulations
26 concerning all matters necessary to implement this ordinance,
27 including:

28 (a) detailed criteria for the acquisition of
29 eligible lands consistent with the following priorities:
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1 First Priority - food-producing horticultural
2 lands threatened by urban development;

3 Second Priority - food-producing livestock
4 lands threatened by urban development;

5 Third Priority - all other food-producing
6 horticultural lands;

7 Fourth Priority - lands capable of horticultural
8 food production and threatened by urban development;

9 Fifth Priority - then, if bond funds remain
10 available after the Council determines that 60% of the lands
11 eligible for acquisition by priorities 1, 2, 3 and 4 have been
12 acquired or found impractical to acquire, all other food producing
13 livestock lands and other eligible lands.

14 Criteria for selection of lands to be acquired within
15 each priority level may include but not be limited to current use,
16 pressure for development to nonagricultural uses, parcel size,
17 topography, soil classification, type of agricultural products for
18 which the property is suitable, current zoning classification,
19 availability of urban services, proximity to other eligible
20 agricultural lands, and such other criteria as the Executive deems
21 appropriate.

22 (b) the development of covenants, instruments
23 of conveyance to King County and contracts for the purchase of
24 the development rights, remaining agricultural rights, fee simple
25 or other interests in eligible agricultural lands acquired pursuant
26 to this ordinance.

27 (c) allocation of selling costs, such as for title
28 search, appraisals, recording, taxes and other items, between
29 the owner and King County.

SECTION 10. Resubmission to Voters.

If the Council should find after retirement of any bond issued in furtherance of this program that the public purposes described in section 1 of this ordinance can no longer reasonably be fulfilled, the Council shall submit to the voters of King County a proposition to approve of the disposition of the interests acquired pursuant to this program.

SECTION 11. Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, that determination shall not affect the validity of the remaining portions of this ordinance.

INTRODUCED AND READ for the first time this 26th day of June, 1978.

PASSED this 11th day of September, 1978.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Bernice Stern
Chairman

ATTEST:

Deborah H. Lawrence
Deputy Clerk of the Council

APPROVED this 12th day of September, 1978.

[Signature]
King County Executive