



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19122

Proposed No. 2020-0226.1

Sponsors Dembowski, Lambert and Balducci

1 AN ORDINANCE declaring a six-month moratorium
 2 prohibiting the establishment of new or expansion of
 3 existing wineries, breweries, distilleries and remote tasting
 4 rooms, as primary uses or as home occupations or home
 5 industries; prohibiting temporary use permits for wineries,
 6 breweries, distilleries and remote tasting room uses under
 7 the King County Code; directing the executive to evaluate
 8 the necessary steps to comply with the Central Puget Sound
 9 Washington State Growth Management Hearings Board's
 10 Order regarding Ordinance 19030; and reporting to the
 11 council on the evaluation of compliance and status of
 12 compliance; and declaring an emergency.

13 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

14 SECTION 1. Findings.

15 A. King County has authority, pursuant to constitutional police powers, home
 16 rule authority and the Washington state Growth Management Act, including chapter
 17 36.70A RCW ("the GMA"), to establish a moratorium to preclude the acceptance of
 18 certain new development applications and preclude the establishment of otherwise
 19 allowed uses while the county studies related land use issues.

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20 B. Ordinance 19030 established updated regulations for winery, brewery,
21 distillery facilities and remote tasting rooms, in unincorporated King County.

22 C. Ordinance 19030 was challenged on State Environmental Policy Act
23 ("SEPA") and GMA grounds by Futurewise and a neighborhood group to the Central
24 Puget Sound Growth Management Hearings Board ("the board"). The petitioners filed a
25 summary judgment motion with the board, claiming the SEPA process undertaken by the
26 county before adoption of the ordinance had been insufficient. On May 26, 2020, the
27 board issued its Order on Dispositive Motions for Case No. 20-3-0004c ("the order"),
28 which granted the petitioners' summary judgment and invalidated most of the substantive
29 sections of the ordinance. Ordinance 19030, Sections 12 through 31, and map
30 amendments 1 and 2, which were Attachments A and B to Ordinance 19030, were
31 invalidated by the board. Ordinance 19030, Sections 12 through 31, include definitions,
32 zoning conditions, parking restrictions, temporary use permit clarifications, home
33 occupation and home industry limitations and a demonstration project.

34 D. The board's order also remanded the ordinance to the county to take actions to
35 bring the ordinance into compliance.

36 E. The board's order was primarily focused on SEPA. The board concluded that
37 the analysis contained in the SEPA checklist was insufficient to support the SEPA
38 determination of nonsignificance. The board set a compliance schedule requiring
39 additional action by the county with a November 2020 deadline.

40 F. With the board's invalidation of parts of Ordinance 19030, the uses that were
41 defined and regulated as part of that ordinance, including winery, brewery, distillery
42 facilities and remote tasting rooms, do not have clear regulations for residents and

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43 business owners to comply with, and the county does not have clear regulations to
44 enforce. That lack of clarity exists for: wineries, breweries, distilleries and remote
45 tasting rooms that seek to locate or be established on a property as a primary use;
46 wineries, breweries, distilleries and remote tasting rooms that seek to locate or be
47 established as a home occupation or home industry; and wineries, breweries, distilleries
48 and remote tasting rooms that seek to apply for temporary use permits allowed by the
49 King County Code.

50 G. In order to provide clarity to residents, business owners and county permit
51 review and code enforcement staff, the council is establishing a moratorium that prevents
52 new wineries, breweries, distilleries and remote tasting rooms as primary uses, as home
53 occupations and as home industries from locating or being established in unincorporated
54 King County, while the council and executive determine and carry out the next steps in
55 responding to the board's order.

56 H. It is in the public interest that any development regulations are consistent with
57 the King County Comprehensive Plan and the GMA. This ordinance also requires the
58 executive to begin the process of complying with the board's order, and complete
59 additional actions "to come into compliance with RCW 43.21C.030 and chapter 197-11
60 WAC."

61 I. It is in the public interest to establish a moratorium on acceptance of
62 applications for development of wineries, breweries, distilleries and remote tasting rooms
63 for a six-month period in order to pause unregulated development.

64 J. It is necessary that this ordinance take effect immediately in order to avoid a
65 rush of applications for new or expanded development of wineries, breweries, distilleries

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66 and remote tasting rooms on properties in unincorporated King County.

67 SECTION 2. A.1. A six-month moratorium commencing upon the effective date
68 of this ordinance is declared on the acceptance of applications for the establishment of
69 new or the expansion of existing, including applications increasing the size or scope of,
70 the following in unincorporated King County:

71 a. wineries, breweries, and distilleries;

72 b. remote tasting rooms;

73 c. winery, brewery, distillery and remote tasting room home occupations and
74 home industries; and

75 d. temporary use permits for wineries, breweries, distilleries and remote tasting
76 room uses.

77 2. An application shall not be accepted and a building permit, occupancy permit,
78 department of public health approval, other development permits or approval of any kind
79 shall not be issued for any of the purposes or activities prohibited by the moratorium
80 Any applications for land use approvals or other permits that are accepted as a result of
81 error or by use of vague or deceptive descriptions during the moratorium are null and
82 void and without legal force or effect. All vested and otherwise lawfully established
83 uses, structures or other developments may continue to be maintained, repaired and
84 redeveloped consistent with K.C.C. 21A.32.020 through 21A.32.055, so long as the use is
85 not expanded, under the terms of the land use regulations in place at the time the use was
86 established.

87 3. Within sixty days of the effective date of this ordinance, the council shall
88 hold a public hearing on the moratorium.

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89 B. During the moratorium, the executive shall evaluate and provide a plan for
90 how to comply with the remand requirements of the Central Puget Sound Growth
91 Management Hearings Board's Order on Dispositive Motions for Case No. 20-3-0004c
92 ("the board's order"). The evaluation and plan, and either a motion approving the
93 evaluation and plan or an ordinance that extends the moratorium to reflect the
94 recommendations in the evaluation and plan, shall be transmitted to the council at least
95 sixty days before the expiration of the moratorium. The evaluation and plan shall include
96 recommendations on:

- 97 1. The steps that are necessary to come into compliance with the board's order;
- 98 2. The existing or supplemental resources the executive would need to comply
99 with the board's order; and
- 100 3. A timeline for compliance with the board's order.

101 C. All required reports shall be transmitted in the form of a paper original and an
102 electronic copy filed with the clerk of the council, who shall retain the original and
103 provide an electronic copy to all councilmembers, the council chief of staff, the chief
104 policy officer and the lead staff for the local services committee, or its successor.

105 SECTION 3. The definitions in this section apply throughout this ordinance
106 unless the context clearly requires otherwise.

107 A. "Remote tasting room" means a facility that is required to be licensed by the
108 Washington state Liquor and Cannabis Board including, but not limited to, the following
109 non-retail liquor licenses: a craft distillery; a tasting room - additional location for a
110 winery licensed as a domestic winery; or a microbrewery, including, but not limited to, a
111 microbrewery operating in accordance with an off-site tavern license subject to the retail

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112 sale limitations for a microbrewery in WAC 314-20-015(1).

113 B. "Temporary use permit" is as defined in K.C.C. 21A.06.1275.

114 C. "Winery, brewery, distillery" means:

115 1. "winery" means an establishment primarily engaged in one or more of the
116 following:

117 a. growing grapes or fruit and manufacturing wine, cider or brandies;

118 b. manufacturing wine, cider or brandies from grapes and other fruits grown
119 elsewhere; and

120 c. blending wines, cider or brandies;

121 2. "brewery" is as defined by SIC Industry No. 2082; and

122 3. "distillery" is as defined by SIC Industry No. 2085.

123 D. "Winery, brewery, distillery and remote tasting room home occupation and
124 home industry" means a winery, brewery, distillery or remote tasting room, or
125 combination thereof, that is located in a dwelling unit or residential accessory building,
126 and meets the definition of home occupation in K.C.C. 21A.06.610 or the definition of
127 home industry in KC.C. 21A.06.605.

128 **SECTION 4. Severability.** If any provision of this ordinance or its application to
129 any person or circumstance is held invalid, the remainder of the ordinance or the
130 application of the provision to other persons or circumstances is not affected.

131 **SECTION 5.** A. The county council finds as a fact and declares that an
132 emergency exists and that this ordinance is necessary for the immediate preservation of
133 public peace, health or safety or for the support of county government and its existing
134 public institutions.

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135 B. Enactment of this temporary moratorium as an emergency under Section
136 230.30 of the King County Charter waives certain procedural requirements, including
137 SEPA review under chapter. 43.21C RCW and K.C.C. chapter 20.44, notice to the state
138 under RCW 36.70A.106 and published notice under K.C.C. 20.18.110.
139

Ordinance 19122 was introduced on 6/23/2020 and passed by the Metropolitan King County Council on 6/23/2020, by the following vote:

Yes: 9 - Ms. Balducci, Mr. Dembowski, Mr. Dunn, Ms. Kohl-Welles, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, Mr. von Reichbauer and Mr. Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:
Claudia Balducci
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Claudia Balducci, Chair

ATTEST:

DocuSigned by:
Melani Pedroza
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Melani Pedroza, Clerk of the Council

Attachments: None