



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19550

Proposed No. 2022-0412.1

Sponsors Perry

1 AN ORDINANCE declaring a one-year moratorium
 2 prohibiting the acceptance of applications for the
 3 establishment of new or expansion of existing wineries,
 4 breweries, distilleries and remote tasting rooms, as primary
 5 or accessory uses or as home occupations or home
 6 industries; and prohibiting temporary use permits for
 7 wineries, breweries, distilleries and remote tasting room;
 8 and establishing a work plan to evaluate the next steps for
 9 the regulations regarding these uses.

10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 **SECTION 1. Findings:**

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

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

19 C. Ordinance 19030 was challenged on SEPA and GMA grounds by Friends of
 20 Sammamish Valley, a Washington nonprofit corporation, A Farm in the Sammamish

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21 Valley, LLC, Marshal Leroy d/b/a Alki Market Garden, Eunomia Farms LLC, Olympic
22 Nursery Inc., C-T Corp., Roots of Our Times Cooperative, Regeneration Farms LLC,
23 Hollywood Hill Association, Terry and David R. Orkiolla, Judith Allen and Futurewise to
24 the board and designated as case number 20-3-0004c. On May 26, 2020, the board, in its
25 Order on Dispositive Motions for Case No. 20-3-0004c ("the board's May 2020 order"),
26 invalidated most of the substantive sections of Ordinance 19030, including Sections 12
27 through 29, Section 31 and Map Amendments 1 and 2. Ordinance 19030, Sections 12
28 through 29 and Section 31 include definitions, zoning conditions, parking restrictions,
29 temporary use permit clarifications, home occupation and home industry limitations and a
30 demonstration project.

31 D. With the board's invalidation of parts of Ordinance 19030, the uses that were
32 defined and regulated as part of that ordinance, including winery, brewery, distillery
33 facilities and remote tasting rooms, do not have clear regulations for residents and
34 business owners to comply with, and the county does not have clear regulations to
35 enforce. That lack of clarity exists for: wineries, breweries, distilleries and remote tasting
36 rooms that seek to locate or be established on a property as a primary or accessory use;
37 wineries, breweries, distilleries and remote tasting rooms that seek to locate or be
38 established as a home occupation or home industry; and wineries, breweries, distilleries
39 and remote tasting rooms that seek to apply for temporary use permits allowed by the
40 King County Code.

41 E. In order to provide clarity to residents, business owners, and county permit
42 review and code enforcement staff, the county declared a moratorium that prevents new
43 or expansion of wineries, breweries, distilleries and remote tasting rooms as primary or

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44 accessory uses, as home occupations and as home industries from locating or being
45 established in unincorporated King County, while the council and executive determine
46 and carry out the next steps in responding to the board's May 2020 order. The
47 moratorium was declared by Ordinance 19122, and was extended twice, with Ordinances
48 19217 and 19290, as a result of ongoing litigation related to the board's May 2020 order.
49 Ordinance 19290 expired December 23, 2021.

50 F. As part of a partial litigation settlement associated with the board's May 2020
51 order, the county agreed to a new one-year moratorium. Ordinance 19309 adopted a one-
52 year moratorium that commenced on December 23, 2021.

53 G. After litigation related to the board's May 2020 order was remanded for
54 additional review, the board issued its Final Decision and Order on January 3, 2022, and
55 again invalidated Ordinance 19030, Sections 12 through 29, Section 31 and Map
56 Amendments 1 and 2. The county has appealed the board's January 3, 2022 .Final
57 Decision and Order, and the board's January 27, 2022, Order Nunc Pro Tunc Correcting
58 Scrivener's Errors in Final Decision and Order, to Division I of the Washington state
59 Court of Appeals. A hearing on this appeal was held by the Court of Appeals on
60 September 21, 2022, and the timing for a decision by the Court of Appeals litigation is
61 unknown.

62 H. On September 8, 2022, following a compliance hearing, the board issued its
63 Order Finding Continuing noncompliance and Denying Motion to Rescind Invalidity.
64 The September 8, 2022, order established a new compliance deadline of March 6, 2023.
65 The county filed an appeal of the board's September 8, 2022, order to superior court; the
66 appeal is pending.

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67 I. The council is considering two proposed ordinances, Proposed Ordinances
68 2022-0147 and 2022-0148, that would modify regulations for wineries, breweries,
69 distilleries. It is uncertain if or when Proposed Ordinances 2022-0147 and 2022-0148
70 will be adopted by the council.

71 J. RCW 36.70A.390 authorizes a moratorium to be declared for one year if a
72 "work plan is developed for related studies providing for such a longer period." This
73 ordinance establishes such a work plan.

74 K. It is in the public interest, and is the intent of the county, to declare and
75 establish a one-year moratorium on acceptance of applications for the establishment of
76 new or expansion of existing wineries, breweries, distilleries and remote tasting rooms in
77 order to prevent unregulated development while substantive issues before the board and
78 the Court of Appeals are still unresolved, and the council continues to deliberate on
79 winery, brewery, distillery facility regulations as a result.

80 SECTION 2. A. Commencing on December 23, 2022, a moratorium is hereby
81 declared for one year, on the acceptance of applications for the establishment of those
82 that are new or expansion of those that are existing, including applications increasing
83 their size or scope, for the following in unincorporated King County:

- 84 1. Wineries, breweries, and distilleries;
- 85 2. Remote tasting rooms;
- 86 3. Winery, brewery, distillery and remote tasting room home occupations and
87 home industries; and
- 88 4. Temporary use permits for wineries, breweries, distilleries and remote tasting
89 room uses.

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90 B. An application shall not be accepted and a building permit, occupancy permit,
91 department of public health approval, other development permits or approvals of any
92 kind shall not be issued for any of the purposes or activities prohibited by the
93 moratorium. Any applications for land use approvals or other permits that are accepted
94 as a result of error or by use of vague or deceptive descriptions during the moratorium are
95 null and void and without legal force or effect. All vested and otherwise lawfully
96 established uses, structures, or other developments may continue to be maintained,
97 repaired and redeveloped consistent with K.C.C. 21A.32.020 through 21A.32.055, so
98 long as the use is not expanded, under the terms of the land use regulations in place at the
99 time the use was established.

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

102 A. "Board, the" means the Central Puget Sound Growth Management Hearings
103 Board.

104 B. "Remote tasting room" means a facility that is required to be licensed by the
105 Washington state Liquor and Cannabis Board including, but not limited to, the following
106 non-retail liquor licenses: a craft distillery; a tasting room - additional location for a
107 winery licensed as a domestic winery; or a microbrewery, including, but not limited to, a
108 microbrewery operating in accordance with an off-site tavern license subject to the retail
109 sale limitations for a microbrewery in WAC 314-20-015(1).

110 C. "SEPA" means the State Environmental Policy Act.

111 D. "Temporary use permit" is as defined in K.C.C. 21A.06.1275.

112 E. "Winery, brewery, distillery" means:

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113 1. "Winery" means an establishment primarily engaged in one or more of the
114 following:

- 115 a. growing grapes or fruit and manufacturing wine, cider, or brandies;
- 116 b. manufacturing wine, cider or brandies from grapes and other fruits grown
117 elsewhere; and
- 118 c. blending wines, cider or brandies;

119 2. "Brewery" is as defined by SIC Industry No. 2082; and

120 3. "Distillery" is as defined by SIC Industry No. 2085.

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

126 SECTION 4. During the moratorium under this ordinance, the county shall
127 complete the following work plan:

128 A.1. For the purposes of the work plan, the decision on the county's appeal in the
129 is anticipated to be issued in early 2023. If the decision from the court of appeals is later,
130 the executive is authorized, with consultation and collaboration with the council, to adjust
131 the work plan according to the terms of the decision, any appeals of the decision, and any
132 further action by the board.

133 2. The work plan in this section is also anticipated to include future work by the
134 county, if required in response to the terms of the court of appeal's decision or any further
135 appeals, and to include any further action required by the board. If no legislative work is

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136 needed, then only the portions of the work plan described in subsections C. and G.2. of
137 this section, and the associated report for that work described in subsection D. of this
138 section will be completed. This work plan should not be interpreted to assume any
139 specific action or outcome by the SEPA review process or legislative review process.

140 B.1. Council staff will complete a SEPA checklist for the provisions in Proposed
141 Ordinances 2022-0147 and 2022-0148, including any known amendment concepts known
142 by council staff and any recommendations shared by the executive that is required by this
143 section.

144 2. Council staff will request environmental review required under K.C.C.
145 20.44.020.B. based on the SEPA checklist developed under this subsection B. no later
146 than June 30, 2023.

147 3. The executive's SEPA Responsible Official will complete the SEPA review
148 process, including issuing a threshold determination. The work plan assumes an
149 environmental impact statement is not required, additional time may be needed if an
150 environmental impact statement is required. In that case, the work plan after this point
151 would be on-hold until the environmental impact statement is complete. The SEPA
152 Responsible Official expects to complete the SEPA review process based on the June
153 2023 SEPA checklist and issue the threshold determination by the end of September
154 2023.

155 C. The executive shall, in collaboration and coordination with the council,
156 develop a winery, brewery, distillery environmental evaluation report which includes the
157 following topics, at a minimum:

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158 1. Interior lot line setback requirements for winery, brewery, distillery facilities,
159 including likely environmental impacts of interior lot line setbacks and associated
160 impervious surface limits on critical areas, surface water management, and other natural
161 environment elements. The evaluation should include a comparison analysis of other
162 similar uses allowed in K.C.C. Title 21A in the RA zone and the setbacks required for them,
163 evaluation of the setbacks for the uses and activities regulated by the code in place prior to
164 Ordinance 19030, by Ordinance 19030 and by Proposed Ordinances 2022-0147 and 2022-
165 0148, comparison of various proposed setbacks, including seventy-five, fifty and twenty-
166 five feet, and evaluation of the winery, brewery, distillery interior lot line setback necessary
167 to implement the policies of the Comprehensive Plan regarding preservation of rural
168 character, protection of farmland, protection of critical areas and water quality, and support
169 of rural economic development. The executive shall develop recommended changes needed
170 to address any identified likely impacts related to the uses and activities regulated in
171 Ordinance 19030 or Proposed Ordinances 2022-0147 and 2022-0148;

172 2. Functions and events for winery, brewery, distillery facilities, including the
173 criteria for obtaining a temporary use permit, the requirements for functions and events
174 that are proposed for the uses and activities regulated in Proposed Ordinances 2022-0147
175 and 2022-0148, and the intensity of likely impacts based on the types of functions and
176 events held by wineries, breweries, distilleries, including mitigation measures or
177 prohibitions for those more intense likely impacts. The executive shall recommend any
178 changes needed to address any identified likely impacts related to the uses and activities
179 regulated in Ordinance 19030 or Proposed Ordinances 2022-0147 and 2022-0148; and

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180 3. Based on available data, a qualitative analysis on the likely impacts of winery,
181 brewery, distillery uses on the county's obligation to protect threatened and endangered
182 salmonid species. Recommend any changes needed to address any likely impacts related to
183 the uses and activities regulated in Ordinance 19030 or Proposed Ordinances 2022-0147 and
184 2022-0148.

185 D. The executive shall electronically file a winery, brewery, distillery moratorium
186 work plan report that includes the winery, brewery, distillery environmental evaluation
187 report required in subsection C. of this section, and the analysis of resources needed to
188 implement the adopted winery, brewery, distillery regulations required in subsection G.2. of
189 this section, no later than June 1, 2023, with the clerk of the council, who shall retain the
190 original and provide an electronic copy to all councilmembers, the council chief of staff, and
191 the lead staff for the local services and land use committee or its successor.

192 E. The local services and land use committee or its successor will deliberate on the
193 proposals in Proposed Ordinances 2022-0147 and 2022-0148, and the report described in
194 subsection D. of this section, and make a recommendation to the council at the committee's
195 September 2023 meeting.

196 F. Council staff will issue a public hearing notice, and executive and council staff
197 will coordinate on whether any additional SEPA review is needed, and if so, complete it,
198 between the committee recommendation and council public hearing, which will be
199 scheduled for the second week in November 2023.

200 G.1. The council will take action on the proposals in Proposed Ordinances 2022-
201 0147 and 2022-0148 no later than the fourth week of November 2023. The new winery,
202 brewery, distillery facility regulations will take effect no later than December 23, 2023.

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203 2.a. The executive shall prepare technical assistance materials for winery, brewery,
204 distillery businesses in time to use them once the new regulations take effect.

205 b. The executive shall develop a winery, brewery, distillery administration plan
206 that shall include draft technical assistance materials that the permitting division will use to
207 administer the adopted winery, brewery, distillery regulations, which may be the winery,
208 brewery, distillery regulations adopted in Ordinance 19030, the proposals in Proposed
209 Ordinances 2022-0147 and 2022-0148, some combination of winery, brewery, distillery
210 regulations in these ordinances, or other regulations that are developed through the council's
211 deliberations on Proposed Ordinances 2022-0147 and 2022-0148. The plan shall also
212 include an analysis of what resources will be used to administer the winery, brewery,
213 distillery regulations, including staffing, consultant, technological or other resources. If
214 additional resources are necessary, the analysis shall include the rationale and proposed use
215 of the additional resources, and the executive may transmit an appropriations ordinance that
216 requests those additional resources.

217 SECTION 5. Severability. If any provision of this ordinance or its application to

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- 218 any person or circumstance is held invalid, the remainder of the ordinance or the
- 219 application of the provision to other persons or circumstances is not affected.

Ordinance 19550 was introduced on 10/11/2022 and passed by the Metropolitan King County Council on 11/22/2022, by the following vote:

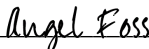
Yes: 8 - Balducci, Dembowski, Dunn, Kohl-Welles, Perry,
 McDermott, Upthegrove and Zahilay
 Excused: 1 - von Reichbauer

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

 F8830816F1C4427...
 Claudia Balducci, Chair

ATTEST:

DocuSigned by:

 C267B914088E4A0...
 Melani Pedroza, Clerk of the Council

APPROVED this ____ day of 12/12/2022, _____.

DocuSigned by:

 4FBCAB8196AE4C6...
 Dow Constantine, County Executive

Attachments: None

Certificate Of Completion

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Document Pages: 11	Signatures: 3
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Cherie Camp
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	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
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Claudia Balducci
 claudia.balducci@kingcounty.gov
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 Deputy Clerk of the Council
 King County Council
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 Dow.Constantine@kingcounty.gov
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Kaitlyn Wiggins kwwiggins@kingcounty.gov Executive Legislative Coordinator King County Executive Office Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/2/2022 9:48:50 AM Viewed: 12/2/2022 9:58:46 AM
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Envelope Summary Events	Status	Timestamps
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Completed	Security Checked	12/12/2022 3:18:50 PM

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