



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19721

Proposed No. 2023-0451.1

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 rooms;
 8 establishing a work plan; and declaring an emergency.

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 **SECTION 1. Findings:**

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

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

18 C. Ordinance 19030 was challenged on State Environmental Policy Act, chapter
 19 43.21C RCW ("SEPA") and GMA grounds by Friends of Sammamish Valley, a
 20 Washington nonprofit corporation, A Farm in the Sammamish Valley, LLC, Marshal

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21 Leroy d/b/a Alki Market Garden, Eunomia Farms LLC, Olympic Nursery Inc., C-T
22 Corp., Roots of Our Times Cooperative, Regeneration Farms LLC, Hollywood Hill
23 Association, Terry and David R. Orkiolla, Judith Allen, and Futurewise to the Growth
24 Management Hearings Board ("board") and designated as case number 20-3-0004c. On
25 May 26, 2020, the board, in its Order on Dispositive Motions for Case No. 20-3-0004c
26 ("the board's May 2020 order"), invalidated most of the substantive sections of Ordinance
27 19030, including Sections 12 through 29, Section 31, and Map Amendments 1 and 2.
28 Ordinance 19030, Sections 12 through 29, and Section 31 include definitions, zoning
29 conditions, parking restrictions, temporary use permit clarifications, home occupation and
30 home industry limitations, and a 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
36 tasting rooms that seek to locate or be established on a property as a primary or accessory
37 use; wineries, breweries, distilleries, and remote tasting room home occupation and home
38 industry; and wineries, breweries, distilleries, and remote tasting rooms that seek to apply
39 for temporary use permits allowed by the King County Code.

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

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44 established in unincorporated King County, while the council and executive determined
45 and carried out the next steps in responding to the board's May 2020 order. The
46 moratorium was declared by Ordinance 19122, and was extended twice, with Ordinances
47 19217 and 19290, as a result of ongoing litigation related to the board's May 2020 order.
48 Ordinance 19290 expired December 23, 2021.

49 F. As part of a partial litigation settlement associated with the board's May 2020
50 order, the county agreed to a new one-year moratorium. Ordinance 19309 adopted a one-
51 year moratorium that commenced on December 23, 2021, and expired on December 23,
52 2022.

53 G. After litigation related to the board's May 2020 order was remanded to the
54 board for additional review, the board issued its Final Decision and Order on January 3,
55 2022, and again invalidated Ordinance 19030, Sections 12 through 29, Section 31, and
56 Map Amendments 1 and 2. The county 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.

60 H. The county adopted a new one-year moratorium with Ordinance 19550, that
61 commenced on December 23, 2022, and expires on December 23, 2023. Ordinance
62 19550 was adopted to prevent vesting of applications for winery, brewery, distillery uses
63 during the Court of Appeals review of the litigation.

64 I. The Court of Appeals published an opinion on February 27, 2023, reversing the
65 board's January 2022 order, and remanding it to the board with instructions to reinstate
66 the SEPA determination of nonsignificance ("DNS") and enter a finding of GMA and

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67 SEPA compliance. The Friends of Sammamish Valley et al. and Futurewise filed a
68 Motion for Reconsideration on March 20, 2023. The Court of Appeals published a new
69 opinion on June 12, 2023, responding to the Motion for Reconsideration, again reversing
70 the board's January 2022 order, and remanding it to the board with instructions to
71 reinstate the DNS and enter a finding of GMA and SEPA compliance.

72 J. On September 8, 2022, following a compliance hearing, the board issued its
73 Order Finding Continuing Noncompliance and Denying Motion to Rescind Invalidity.
74 The September 8, 2022, order established a new compliance deadline of March 6, 2023.
75 The county filed an appeal of the board's September 8, 2022, order to superior court,
76 which was certified for direct review by the Court of Appeals in October 2022, and the
77 Court of Appeals issued a stay on May 4, 2023, pending issuance of a mandate on the
78 primary litigation. Until the Petitions for Review are acted on by the Washington state
79 Supreme Court, the May 2023 Court of Appeals stay on the follow up appeal will remain
80 in place; on April 20, 2023, the board, as part of a Second Order Finding Continuing
81 Noncompliance and Order Granting Partial Stay, granted a stay holding the compliance
82 calendar in abeyance until such time as the pending appeals are resolved or the board
83 rescinds the board's April 2023 stay order.

84 K. On July 11 and 12, 2023, Futurewise and Friends of Sammamish Valley and
85 affiliated groups, respectively, filed Petitions for Review with the Washington state
86 Supreme Court. On December 5, 2023, the Washington state Supreme Court accepted
87 review and will consider the case. The timing for a decision by the Washington state
88 Supreme Court is unknown, but is likely to be up to twelve months and possibly longer.

89 L. It is in the public interest, and is the intent of the county, to declare and

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90 establish a moratorium on acceptance of applications for the establishment of new or
91 expansion of existing wineries, breweries, distilleries, and remote tasting rooms for a
92 one-year period in order to prevent unregulated development while substantive issues
93 before the board and the Washington state Supreme Court are still unresolved.

94 M. It is necessary that this ordinance take effect immediately in order to avoid a
95 rush of applications for wineries, breweries, distilleries, and remote tasting rooms, due to
96 a lack of clarity over what regulations would apply.

97 SECTION 2. A. A one-year moratorium, commencing on December 23, 2023, is
98 declared on the acceptance of applications for the establishment of those that are new, or
99 expansion of those that are existing, including applications increasing their size or scope,
100 for the following in unincorporated King County:

- 101 1. Wineries, breweries, distilleries;
- 102 2. Remote tasting rooms;
- 103 3. Winery, brewery, distillery, and remote tasting room home occupations and
104 home industries; and
- 105 4. Temporary use permits for wineries, breweries, distilleries, and remote
106 tasting room uses.

107 B. An application shall not be accepted and a building permit, occupancy permit,
108 department of public health approval, and other development permits or approvals of any
109 kind shall not be issued for any of the purposes or activities prohibited by the
110 moratorium. Any applications for land use approvals or other permits that are accepted
111 as a result of error or by use of vague or deceptive descriptions during the moratorium are
112 null and void and without legal force or effect. All vested and otherwise lawfully

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113 established uses, structures, or other developments may continue to be maintained,
114 repaired, and redeveloped consistent with K.C.C. 21A.32.020 through 21A.32.055, so
115 long as the use is not expanded, under the terms of the land use regulations in place at the
116 time the use was established.

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

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

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

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

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

129 a. growing grapes or fruit and manufacturing wine, cider, or brandies;
130 b. manufacturing wine, cider, or brandies from grapes and other fruits grown
131 elsewhere; and

132 c. blending wines, cider, or brandies;

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

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

135 D. "Winery, brewery, distillery, and remote tasting room home occupation and

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136 home industry" means a winery, brewery, distillery, or remote tasting room, or
137 combination thereof, that is located in a dwelling unit or residential accessory building
138 and meets the definition of home occupation in K.C.C. 21A.06.610 or the definition of
139 home industry in K.C.C. 21A.06.605.

140 SECTION 4. During the moratorium under this ordinance, the executive shall
141 complete a work plan for winery, brewery, distillery facility uses subject to this
142 moratorium, and:

143 A. Brief the local services and land use committee or its successor, on the
144 following topics, during a July 2024 committee meeting:

145 1. the current status of the litigation before the Washington state Supreme
146 Court;

147 2. the current status of any existing code enforcement cases related to any use
148 subject to this moratorium;

149 3. an evaluation of the efficacy of the increased penalty provisions adopted by
150 Ordinance 19030 for uses subject to this moratorium; and

151 4. a recommendation on whether to extend the moratorium declared under this
152 ordinance; and

153 B. If recommended under subsection A.4. of this section, transmit a proposed
154 ordinance that extends the moratorium declared under this ordinance. The executive
155 shall electronically file, no later than August 1, 2024, any transmittal required by this
156 ordinance with the clerk of the council, who shall retain an electronic copy and provide
157 an electronic copy to all councilmembers, the council chief of staff, and the lead staff for
158 the local services and land use committee or its successor.

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159 **SECTION 5. Severability.** If any provision of this ordinance or its application to
160 any person or circumstance is held invalid, the remainder of the ordinance or the
161 application of the provision to other persons or circumstances is not affected.

162 **SECTION 6.**

163 A. The county finds as a fact and declares that an emergency exists and that this
164 ordinance is necessary for the immediate preservation of public peace, health, or safety,
165 or for the support of county government and its existing public institutions.

166 B. Enactment of this temporary moratorium as an emergency under Section
167 230.30 of the King County Charter waives certain procedural requirements, including

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- 168 State Environmental Policy Act review under chapter 43.21C RCW and K.C.C. chapter
169 20.44, notice to the state under RCW 36.70A.106, and published notice under K.C.C.
170 20.18.110.

Ordinance 19721 was introduced on 12/12/2023 and passed by the Metropolitan King County Council on 12/12/2023, by the following vote:

Yes: 9 - Balducci, Dembowski, Dunn, Kohl-Welles, McDermott, Perry, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:



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Dave Upthegrove, Chair

ATTEST:

DocuSigned by:



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Melani Hay, Clerk of the Council

Attachments: None

Certificate Of Completion

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Source Envelope:	
Document Pages: 9	Signatures: 2
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AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Cherie Camp
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	401 5TH AVE
	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

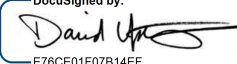
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Signer Events

Dave Upthegrove
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Chair
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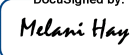
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Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps

Envelope Summary Events	Status	Timestamps
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Payment Events	Status	Timestamps
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