



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19865

Proposed No. 2024-0254.2

Sponsors Balducci

1 AN ORDINANCE extending an existing moratorium by
 2 six months, prohibiting the acceptance of applications for
 3 the 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 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 **SECTION 1. Findings:**

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

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

17 C. Ordinance 19030 was challenged on State Environmental Policy Act,
 18 chapter 43.21C RCW ("SEPA") and GMA grounds by Friends of Sammamish
 19 Valley, a Washington nonprofit corporation, A Farm in the Sammamish Valley,
 20 LLC, Marshal Leroy d/b/a Alki Market Garden, Eunomia Farms LLC, Olympic

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21 Nursery Inc., C-T Corp., Roots of Our Times Cooperative, Regeneration Farms
22 LLC, Hollywood Hill Association, Terry and David R. Orkiolla, Judith Allen, and
23 Futurewise to the Growth Management Hearings Board ("board") and designated
24 as case number 20-3-0004c. On May 26, 2020, the board, in its Order on
25 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
27 Sections 12 through 29, Section 31, and Map Amendments 1 and 2. Ordinance
28 19030, Sections 12 through 29, and Section 31 include definitions, zoning
29 conditions, parking restrictions, temporary use permit clarifications, home
30 occupation and home industry limitations, and a demonstration project.

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

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

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

51 F. As part of a partial litigation settlement associated with the board's
52 May 2020 order, the county agreed to a new one-year moratorium. Ordinance
53 19309 adopted a one-year moratorium that commenced on December 23, 2021,
54 and expired on December 23, 2022.

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

62 H. The county adopted a new one-year moratorium with Ordinance
63 19550, that commenced on December 23, 2022, and expired on December 23,
64 2023. Ordinance 19550 was adopted to prevent vesting of applications for
65 winery, brewery, distillery uses during the Court of Appeals review of the
66 litigation.

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67 I. The Court of Appeals published an opinion on February 27, 2023,
68 reversing the board's January 2022 order, and remanding it to the board with
69 instructions to reinstate the SEPA determination of nonsignificance ("DNS") and
70 enter a finding of GMA and SEPA compliance. The Friends of Sammamish
71 Valley et al. and Futurewise filed a Motion for Reconsideration on March 20,
72 2023. The Court of Appeals published a new opinion on June 12, 2023,
73 responding to the Motion for Reconsideration, again reversing the board's January
74 2022 order, and remanding it to the board with instructions to reinstate the DNS
75 and enter a finding of GMA and SEPA compliance.

76 J. On September 8, 2022, following a compliance hearing, the board
77 issued its Order Finding Continuing Noncompliance and Denying Motion to
78 Rescind Invalidity. The September 8, 2022, order established a new compliance
79 deadline of March 6, 2023. The county filed an appeal of the board's September
80 8, 2022, order to superior court, which was certified for direct review by the Court
81 of Appeals in October 2022, and the Court of Appeals issued a stay on May 4,
82 2023.

83 K. On July 11 and 12, 2023, Futurewise and Friends of Sammamish
84 Valley and affiliated groups, respectively, filed Petitions for Review with the
85 Washington state Supreme Court.

86 L. The county adopted another one-year moratorium with Ordinance
87 19721, which commenced on December 23, 2023 and expires on December 23,
88 2024.

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89 M. On September 19, 2024, the Washington state Supreme Court, in a 5-4
90 decision, published an opinion reversing the Court of Appeals and reinstating the board's
91 January 2022 order.

92 N. The council intends to comply with the decision of the Washington state
93 Supreme Court. A proposed ordinance that would comply with the Supreme Court's
94 decision is expected to be introduced in October 2024, and then procedural requirements
95 will take a minimum of three months to complete.

96 O. It is in the public interest, and is the intent of the county, to extend the
97 moratorium on acceptance of applications for the establishment of new or expansion of
98 existing wineries, breweries, distilleries, and remote tasting rooms for a six-month period
99 in order to allow the council enough time to deliberate on a proposed ordinance
100 complying with the Supreme Court's decision and for any ordinance to become effective
101 before the end of the moratorium's extension to June 23, 2025.

102 SECTION 2. A. A six-month extension commencing on December 23,
103 2024 of the one-year moratorium that commenced on December 23, 2023 and will
104 expire on December 23, 2024 is declared on the acceptance of applications for the
105 establishment of those that are new, or expansion of those that are existing,
106 including applications increasing their size or scope, for the following in
107 unincorporated King County:

- 108 1. Wineries, breweries, distilleries;
- 109 2. Remote tasting rooms;
- 110 3. Winery, brewery, distillery, and remote tasting room home
111 occupations and home industries; and

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112 4. Temporary use permits for wineries, breweries, distilleries, and
113 remote tasting room uses.

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

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

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

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

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

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

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

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

140 c. blending wines, cider, or brandies;

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

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

143 D. "Winery, brewery, distillery, and remote tasting room home occupation and
144 home industry" means a winery, brewery, distillery, or remote tasting room, or
145 combination thereof, that is located in a dwelling unit or residential accessory building
146 and meets the definition of home occupation in K.C.C. 21A.06.610 or the definition of
147 home industry in K.C.C. 21A.06.605.

148 SECTION 4. Severability. If any provision of this ordinance or its application to

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

Ordinance 19865 was introduced on 10/15/2024 and passed by the Metropolitan King County Council on 11/26/2024, by the following vote:


Yes: 9 - Balducci, Barón, Dembowski, Dunn, Mosqueda, Perry, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Signed by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

8DE1BB375AD3422...
Melani Hay, Clerk of the Council

APPROVED this _____ day of 12/9/2024, _____.

Signed by:

4FBCAB8196AE4C6...
Dow Constantine, County Executive

Attachments: None

Certificate Of Completion

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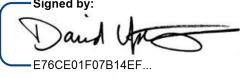
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Dave Upthegrove
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 Chair
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Signature


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Melani Hay
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 Clerk of the Council
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 King County Executive
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