## STAFF REPORT

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| **Agenda Item:** | 7 | **Name:** | Erin Auzins |
| **Proposed No**.: | 2020-0395 | **Date:** | November 3, 2020 |

**SUBJECT**

Proposed Ordinance 2020-0395 would renew and extend an existing moratorium on wineries, breweries, distilleries, and remote tasting rooms for an additional six months.

**SUMMARY**

The Council adopted Ordinance 19122 in June 2020, establishing a moratorium regarding wineries, breweries, distilleries and remote tasting rooms. Proposed Ordinance 2020-0395 would renew and extend the moratorium for an additional six months, through June 2021.

**BACKGROUND**

In December 2019, the Council adopted Ordinance 19030, which established updated regulations for winery, brewery, distillery facilities and remote tasting rooms in unincorporated King County.

Ordinance 19030 was challenged on State Environmental Policy Act (SEPA) and Growth Management Act (GMA) grounds by Futurewise and a neighborhood group to the Central Puget Sound Growth Management Hearings Board (Board).  The petitioners filed a summary judgment motion with the Board, claiming the SEPA process undertaken by the County before adoption of the ordinance had been insufficient.

On May 26, 2020, the Board issued its Order on Dispositive Motions for Case No. 20-3-0004c (Order), which granted the petitioners' summary judgment motion and invalidated most of the substantive sections of the Ordinance.  Ordinance 19030, Sections 12 through 30, and map amendments 1 and 2, which were Attachments A and B to Ordinance 19030, were invalidated by the Board.  Ordinance 19030, Sections 12 through 30, include definitions, zoning conditions, parking restrictions, temporary use permit clarifications, home occupation and home industry limitations and a demonstration project for remote tasting rooms.

On June 23, 2020, the Council adopted Ordinance 19122, declaring a six-month moratorium prohibiting the acceptance of applications for or establishment of new or expansion of existing wineries, breweries, distilleries and remote tasting rooms, as primary uses or as home occupations or home industries; and prohibiting temporary use permits for wineries, breweries, distilleries and remote tasting room uses under the King County Code. The same day, Motion 15649 was adopted, requesting that the Executive complete a new environmental checklist addressing the zoning changes contemplated by Ordinance 19030 and any likely alternatives and in compliance with state law and County Code, and to issue a new threshold determination based on that new checklist.

Ordinance 19122 also required the Executive to evaluate the necessary steps to comply with the Board's Order regarding Ordinance 19030 and provide a report to the Council on the evaluation and status of compliance.  The Executive transmitted a responsive report in October 2020.[[1]](#footnote-1)

Next Steps

The County continues to be under an Order of Invalidity from the Board for Ordinance 19030, and continues with an appeal of that Order in King County Superior Court. The Superior Court litigation will likely continue into, and potentially be resolved in, 2021.

Concurrently, the work requested under Motion 15649, calling for the Executive to complete a new SEPA checklist for Ordinance 19030, continues. That new SEPA checklist should be completed by a consultant hired jointly by the Executive and Council in early November 2020. A new SEPA threshold determination will follow. The SEPA Responsible Official could find that the legislation has a likely significant adverse environmental impact(s) and require an Environmental Impact Statement through a Determination of Significance; or could find that there is not a likely significant adverse environmental impact(s) and issue a Determination of Nonsignificance. In either case, there may be additional work for the Council to complete, such as considering revised legislation or completing additional environmental review.

**ANALYSIS**

The current moratorium expires on December 23, 2020. RCW 36.70A.390 authorizes local governments to renew a moratorium, subject to certain criteria including holding a public hearing and adopting findings of fact.

Proposed Ordinance 2020-0395 would renew and extend the existing moratorium for an additional six months, from December 23, 2020 through June 23, 2020.

**ATTACHMENTS**

1. Proposed Ordinance 2020-0395
1. 2020-RPT0150 [↑](#footnote-ref-1)