



## Legislation Text

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Clerk 10/22/2020

AN ORDINANCE renewing and extending a six-month moratorium prohibiting the 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.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings.**

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

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

C. Ordinance 19030 was challenged on State Environmental Policy Act ("SEPA") and GMA grounds by Futurewise and a neighborhood group to the Central Puget Sound Growth Management Hearings Board ("the 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 ("the order"), which granted the petitioners' summary judgment and invalidated most of the substantive sections of the ordinance. Ordinance 19030,

Sections 12 through 31, 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 31, include definitions, zoning conditions, parking restrictions, temporary use permit clarifications, home occupation and home industry limitations and a demonstration project.

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

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

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

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

H. It is in the public interest that any development regulations are consistent with the King County Comprehensive Plan and the GMA. The executive is in the process of ensuring regulatory compliance.

I. On June 23, 2020, in accordance with RCW 36.70A.390, the county council adopted Ordinance 19122 as an emergency, declaring a six-month moratorium: prohibiting the 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.

J. Following the adoption of the moratorium, and concurrent with transmittal of this ordinance, the executive transmitted the required report addressing the plan for bringing King County into compliance with the board's order.

K. RCW 36.70A.390 authorizes a moratorium to be renewed for one or more six-month periods if a subsequent public hearing is held and findings are made before each renewal. This ordinance is the first renewal of the moratorium: prohibiting the 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.

L. In order to continue to fully understand and to comply with board's order, it is in the public interest to renew the moratorium: prohibiting the 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.

SECTION 2. Commencing on December 23, 2020, the moratorium declared under Ordinance 19122 prohibiting the 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 is hereby renewed and extended for an additional six months.

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

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

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

C. "Winery, brewery, distillery" means:

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

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

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

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

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

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