



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19290

Proposed No. 2021-0134.2

Sponsors Dembowski

1 AN ORDINANCE renewing for six months an existing
 2 moratorium prohibiting the acceptance of applications for
 3 or establishment of new or expansion of existing wineries,
 4 breweries, distilleries and remote tasting rooms, as primary
 5 uses or as home occupations or home industries; and
 6 prohibiting temporary use permits for wineries, breweries,
 7 distilleries and remote tasting room uses under the King
 8 County Code.

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, including chapter
 13 36.70A RCW ("the GMA"), to establish a moratorium to preclude the acceptance of
 14 certain new development applications and preclude the establishment of otherwise
 15 allowed uses while the county studies related land use issues.

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
 19 ("SEPA") and GMA grounds by Futurewise and a neighborhood group to the Central

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20 Puget Sound Growth Management Hearings Board ("the board"). The petitioners filed a
21 summary judgment motion with the board, claiming the SEPA process undertaken by the
22 county before adoption of the ordinance had been insufficient. On May 26, 2020, the
23 board issued its Order on Dispositive Motions for Case No. 20-3-0004c ("the order"),
24 which granted the petitioners' summary judgment and invalidated most of the substantive
25 sections of the ordinance. Ordinance 19030, Sections 12 through 31, and map
26 amendments 1 and 2, which were Attachments A and B to Ordinance 19030, were
27 invalidated by the board. Ordinance 19030, Sections 12 through 30, include definitions,
28 zoning conditions, parking restrictions, temporary use permit clarifications, home
29 occupation and home industry limitations and a demonstration project.

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

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

36 F. With the board's invalidation of parts of Ordinance 19030, the uses that were
37 defined and regulated as part of that ordinance, including winery, brewery, distillery
38 facilities and remote tasting rooms, do not have clear regulations for residents and
39 business owners to comply with, and the county does not have clear regulations to
40 enforce. That lack of clarity exists for: wineries, breweries, distilleries and remote tasting
41 rooms that seek to locate or be established on a property as a primary use; wineries,
42 breweries, distilleries and remote tasting rooms that seek to locate or be established as a

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43 home occupation or home industry; and wineries, breweries, distilleries and remote
44 tasting rooms that seek to apply for temporary use permits allowed by the King County
45 Code.

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

52 H. On June 23, 2020, in accordance with RCW 36.70A.390, the council adopted
53 Ordinance 19122 as an emergency, declaring a six-month moratorium prohibiting the
54 acceptance of applications for or establishment of new or expansion of existing wineries,
55 breweries, distilleries and remote tasting rooms, as primary uses or as home occupations
56 or home industries; and prohibiting temporary use permits for wineries, breweries,
57 distilleries and remote tasting room uses under the King County Code.

58 I. Ordinance 19122 also required the executive to evaluate the necessary steps to
59 comply with the Central Puget Sound Washington State Growth Management Hearings
60 Board's Order regarding Ordinance 19030 and report to the council on the evaluation of
61 compliance and status of compliance. The executive transmitted a report that included
62 that evaluation as 2020-RPT0150 in October 2020. The report stated that because the
63 initial moratorium expired on December 23, 2020, and based on the timelines for
64 compliance in the report, "the County will not be able to determine whether regulatory
65 amendments are needed until the first quarter of 2021, which will be after the expiration

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66 of the moratorium." The report further states that "it is in the public interest to prevent
67 unregulated winery, brewery, and distillery development until this determination has been
68 made" and recommends that the moratorium be extended for an additional six months.

69 J. As a result, the council adopted Ordinance 19217, renewing the moratorium for
70 another six months. Since adoption of Ordinance 19217, the county issued a revised
71 SEPA checklist on November 4, 2020, on the proposed regulations adopted in Ordinance
72 19030. On January 15, 2021, the county's SEPA responsible official issued a
73 Determination of Nonsignificance based on the revised SEPA checklist.

74 K. All further board activity, including compliance schedule requirements,
75 remains stayed by the King County superior court, pending resolution of the county's
76 administrative appeal. The superior court reversed the board's decision on April 16,
77 2021, by its Order Granting King County's Appeal From an Order of the Central Puget
78 Sound Region Growth Management Hearings Board ("the superior court's order"). On
79 May 14, 2021, the superior court's order was appealed to the Washington state Court of
80 Appeals, Division I. The timing for resolution of the litigation in the Court of Appeals is
81 unknown. The superior court's order leaves the stay in place for the duration of the Court
82 of Appeals proceedings.

83 L. RCW 36.70A.390 authorizes a moratorium to be renewed for one or more six-
84 month periods if a subsequent public hearing is held and findings are made before each
85 renewal.

86 M. It is in the public interest, and is the intent of the county, to renew the
87 moratorium declared under Ordinances 19122 and 19217 on acceptance of applications
88 for or establishment of new or expansion of existing wineries, breweries, distilleries and

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89 remote tasting rooms for an additional six-month period in order to pause unregulated
90 development.

91 SECTION 2. A. Commencing on June 23, 2021, the moratorium declared under
92 Ordinance 19122, and renewed and extended by Ordinance 19217, is hereby renewed and
93 extended for an additional six months, on the acceptance of applications for or
94 establishment of those that are new or expansion of those that are existing, including
95 applications increasing their size or scope, for the following in unincorporated King
96 County:

- 97 1. Wineries, breweries, and distilleries;
- 98 2. Remote tasting rooms;
- 99 3. Winery, brewery, distillery and remote tasting room home occupations and
100 home industries; and
- 101 4. Temporary use permits for wineries, breweries, distilleries and remote tasting
102 room uses.

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

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112 established.

113 SECTION 3. The definitions in this section apply throughout this ordinance

114 unless the context clearly requires otherwise.

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

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

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

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

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

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

128 c. blending wines, cider or brandies;

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

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

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

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135 home industry in K.C.C. 21A.06.605.

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

139

Ordinance 19290 was introduced on 3/16/2021 and passed as amended by the Metropolitan King County Council on 5/25/2021, by the following vote:

Yes: 9 - Ms. Balducci, Mr. Dembowski, Mr. Dunn, Ms. Kohl-Welles, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, Mr. von Reichbauer and Mr. Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:
Claudia Balducci
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Claudia Balducci, Chair

ATTEST:

DocuSigned by:
Melani Pedroza
8DE1BB375AD3422...

Melani Pedroza, Clerk of the Council

APPROVED this _____ day of 6/11/2021, _____.

DocuSigned by:
Dow Constantine
4FBCAB8196AE4C6...

Dow Constantine, County Executive

Attachments: None

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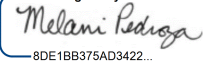
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Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
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