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Drafted by:	Proebsting
Sponsors:	
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1 ..Title

2 AN ORDINANCE declaring a one-year moratorium
3 prohibiting the acceptance of applications for or
4 establishment of new or expansion of existing wineries,
5 breweries, distilleries and remote tasting rooms, as primary
6 uses or as home occupations or home industries; and
7 prohibiting temporary use permits for wineries, breweries,
8 distilleries and remote tasting room; and establishing a
9 work plan to evaluate the next steps for the regulations
10 regarding these uses.

11 ..Body

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 SECTION 1. Findings.

14 A. King County has authority, pursuant to constitutional police powers, home
15 rule authority and the Washington state Growth Management Act, including chapter
16 36.70A RCW ("the GMA"), to establish a moratorium to preclude the acceptance of
17 certain new development applications and preclude the establishment of otherwise
18 allowed uses while the county studies related land use issues.

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

21 C. Ordinance 19030 was challenged on State Environmental Policy Act

22 ("SEPA") and GMA grounds by Futurewise and a neighborhood group to the Central
23 Puget Sound Growth Management Hearings Board ("the board"), and designated as case
24 number 20-3-0004c. On May 26, 2020, the board invalidated most of the substantive sections of
25 the ordinance, including, Sections 12 through 30, and map amendments 1 and 2. Sections
26 12 through 30 include definitions, zoning conditions, parking restrictions, temporary use
27 permit clarifications, home occupation and home industry limitations and a
28 demonstration project.

29 D. The County appealed the board's May 26, 2020 order to Superior Court, and
30 the Superior Court reversed and remanded back to the board, which once again
31 invalidated Sections 12 through 30 on January 3, 2022. The County's appeal of the
32 board's January 3, 2022 order is currently pending at Division I of the Washington state
33 Court of Appeals. The timing for resolution of the Court of Appeals litigation is
34 unknown. The board's compliance deadline is July 1, 2022, and the outcome of
35 compliance proceedings is also unknown.

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
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 declared a moratorium that prevents new
48 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. The moratorium was declared by Ordinance 19122, and
52 was extended twice, with Ordinances 19217 and 19290.

53 H. Due to the on-going litigation, the county adopted a second renewal of the
54 moratorium with Ordinance 19290, which expired December 23, 2021.

55 I. An emergency moratorium was declared for one year by Ordinance 19309,
56 commencing on December 23, 2021.

57 J. Two proposed ordinances (2022-0147 and 2022-0148) that would provide
58 clarity regarding regulations for wineries, breweries, distilleries were introduced to the
59 metropolitan King County council on March 22, 2022.

60 K. It is currently uncertain if or when ordinances 2022-0147 and 2022-0148 will
61 be adopted.

62 L. RCW 36.70A.390 authorizes a moratorium to be declared for one year if a
63 "work plan is developed for related studies providing for such a longer period."

64 M. It is in the public interest, and is the intent of the county, to declare and
65 establish a second one-year moratorium on acceptance of applications for or
66 establishment of new or expansion of existing wineries, breweries, distilleries and remote
67 tasting rooms in order to ~~satisfy the terms negotiated settlement and~~ prevent unregulated

68 development while substantive issues before the board and the Court of Appeals are still
69 unresolved.

70 SECTION 2. A. Commencing on December 23, 2022, a moratorium is hereby
71 declared for one year, on the acceptance of applications for or establishment of those that
72 are new or expansion of those that are existing, including applications increasing their
73 size or scope, for the following in unincorporated King County:

- 74 1. Wineries, breweries, and distilleries;
- 75 2. Remote tasting rooms;
- 76 3. Winery, brewery, distillery and remote tasting room home occupations and
77 home industries; and
- 78 4. Temporary use permits for wineries, breweries, distilleries and remote tasting
79 room uses.

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

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

91 unless the context clearly requires otherwise.

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

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

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

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

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

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

105 c. blending wines, cider or brandies;

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

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

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

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

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

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