

King County

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Meeting Agenda

Planning, Rural Service and Environment Committee

Councilmembers: Kathy Lambert, Chair; Dave Upthegrove, Vice-Chair Larry Gossett, Joe McDermott, Pete von Reichbauer

> Staff: Erin Auzins, Lead Staff (206-477-0687) Erica Newman, Committee Assistant (206-477-7543)

1001
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SPECIAL MEETING

Pursuant to K.C.C. 1.24.035 A. and F., this meeting is also noticed as a meeting of the Metropolitan King County Council, whose agenda is limited to the committee business. In this meeting only the rules and procedures applicable to committees apply and not those applicable to full council meetings.

1. <u>Call to Order</u>

To show a PDF of the written materials for an agenda item, click on the agenda item below.

- 2. <u>Roll Call</u>
- 3. Approval of Minutes

September 12, 2018 meeting minutes

Discussion and Possible Action

4. <u>Proposed Ordinance No. 2018-0191</u> pp. 7-58

AN ORDINANCE creating the Poverty Bay Shellfish Protection District; establishing its boundaries; adopting the Poverty Bay Shellfish Protection District Closure Response Plan; and adding a new chapter to K.C.C. Title 2.

Sponsors: Mr. Upthegrove

Jenny Ngo, Council Staff



Sign language and communication material in alternate formats can be arranged given sufficient notice (296-1000). TDD Number 296-1024. ASSISTIVE LISTENING DEVICES AVAILABLE IN THE COUNCIL CHAMBERS.



5. <u>Proposed Ordinance No. 2018-0560</u> pp. 59-70

AN ORDINANCE certifying the existence of an emergency, requiring repair to the Stossel Bridge Right Bank Revetment, and certifying the cost incurred related to the repair work.

Sponsors: Ms. Lambert

Erin Auzins, Council Staff

Discussion

6. <u>Proposed Ordinance No. 2018-0241</u> pp.71-225

AN ORDINANCE responding to the King County Sammamish Valley Wine and Beverage Study; amending Ordinance 10870, Section 335, as amended, and K.C.C. 21A.08.080, Ordinance 10870, Section 407, as amended, and K.C.C. 21A.18.030, Ordinance 10870, Section 536, as amended, and K.C.C. 21A.30.080, Ordinance 15606, Section 20, as amended, and K.C.C. 21A.30.085, Ordinance 10870, Section 537, as amended, and K.C.C. 21A.30.090, Ordinance 10870, Section 549, as amended, and K.C.C. 21A.32.120 and Ordinance 13623, Section 37, as amended, and K.C.C. 23.32.010, adding new sections to K.C.C. chapter 21A.06, adding new sections to K.C.C. Title 6 and repealing Ordinance 15974, Section 5, and K.C.C. 21A.06.1427.

Sponsors: Ms. Lambert

Erin Auzins, Council Staff

7. Public Comment

Adjournment

King County

Printed on 11/27/2018



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1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Meeting Minutes

Planning, Rural Service and Environment Committee

Councilmembers: Kathy Lambert, Chair; Dave Upthegrove, Vice-Chair Larry Gossett, Joe McDermott, Pete von Reichbauer

Staff: Erin Auzins, Lead Staff (206-477-0687) Erica Newman, Committee Assistant (206-477-7543)

1:30 PM

Wednesday, September 12, 2018

Room 1001

SPECIAL MEETING DRAFT MINUTES

Pursuant to K.C.C. 1.24.035 A. and F., this meeting is also noticed as a meeting of the Metropolitan King County Council, whose agenda is limited to the committee business. In this meeting only the rules and procedures applicable to committees apply and not those applicable to full council meetings.

1. Call to Order

Chair Lambert called the meeting to order at 1:36PM.

2. Roll Call

Present: 5 - Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer

3. Approval of Minutes

Councilmember Upthegrove moved approval of the September 04, 2018 meeting minutes. Seeing no objections the minutes were approved.

Discussion and Possible Action

4. Proposed Ordinance No. 2018-0408

AN ORDINANCE revising the legal description of the annexation of approximately 99.98 acres of land into the King County water district No. 119, known as the Fellinge Annexation, for the purpose of water service; and amending Ordinance 18742, Section 1.

Jenny Ngo, Council Staff, briefed the Committee. This item was expedited to Council agenda for September 17, 2018.

A motion was made by Councilmember Upthegrove that this Ordinance be Recommended Do Pass Consent. The motion carried by the following vote:

King County

Yes: 5 - Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer

5. Proposed Ordinance No. 2018-0310

AN ORDINANCE renewing and extending a moratorium under RCW 90.58.590 on the establishment of commercial nonnative salmon net pen aquaculture facilities.

Erin Auzins, Council Staff, briefed the Committee and answered questions from the members.

A motion was made by Councilmember McDermott that this Ordinance be Recommended Do Pass Consent. The motion carried by the following vote:

Yes: 5 - Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer

6. Proposed Ordinance No. 2018-0153

AN ORDINANCE relating to comprehensive planning; amending Ordinance 263, Article 1 (part), as amended, and K.C.C. 20.08.060, Ordinance 263, Article 2, Section 1, as amended, and K.C.C. 20.12.010, Ordinance 12061, Section 4, as amended, and K.C.C. 20.12.325, Ordinance 13147, Section 19, as amended, and K.C.C. 20.18.030, and Ordinance 13147, Section 20, as amended, and K.C.C. 20.18.040, Ordinance 3688, Section 813, as amended, and K.C.C. 20.18.056, Ordinance 13147, Section 22, as amended, and K.C.C. 20.18.060, Ordinance 13147, Section 23, as amended, and K.C.C. 20.18.070, Ordinance 13147, Section 24, as amended, and K.C.C. 20.18.080, Ordinance 13147 Section 30, as amended, and K.C.C. 20.88.140, and Ordinance 14047, Section 9, as amended, and K.C.C. 20.18.170 and adding a new section to K.C.C. chapter 20.08.

Erin Auzins, Council Staff, briefed the questions and answered questions from the members. Councilmember McDermott moved approval of Amendment 1, 2, 4, 5, 6, and Friendly Amendment on Amendment 6, all passed unanimously. Amendment 7 failed. Councilmember Upthegrove moved approval of the Title Amendment 1.

A motion was made by Councilmember McDermott that this Ordinance be Recommended Do Pass Substitute. The motion carried by the following vote:

Yes: 5 - Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer

7. Chair's Report

Chair Lambert updated the Committee on concerns of vacant businesses in the town of Fall City. She also mentioned a fire that resulted from illegal use of fireworks on September 09, 2018.

8. <u>Public Comment</u>

There were two individuals available to provide public comment.

Alex Tsimerman Margeurite Richard

King County

Adjournment

The meeting was adjourned at 2:51 PM.

Approved this _____ day of _____

Clerk's Signature

King County

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Metropolitan King County Council Planning, Rural Service and Environment Committee

STAFF REPORT

Agenda Item:	4	Name:	Jenny Ngo
Proposed No.:	2018-0191	Date:	November 28, 2018

<u>SUBJECT</u>

Proposed Ordinance 2018-0191 would create the Poverty Bay Shellfish Protection District and shellfish protection program.

<u>SUMMARY</u>

In Fall 2016, the Washington State Department of Health ("Department of Health") downgraded a 124 acre portion of shellfish beds in Poverty Bay in the City of Federal Way and adjacent to the City of Des Moines. Monitoring data showed that water quality in Poverty Bay did not meet water quality standards for fecal coliform. Under state law,¹ King County, acting as the county legislative authority, is required to create a shellfish protection district and establish a shellfish protection program to address causes or suspected causes of pollution within 180 days after closure or downgraded status.

Proposed Ordinance 2018-0191, creates a shellfish protection district and establishes a Closure Response Plan as the shellfish protection program. Proposed Ordinance 2018-0191 appears to meet the requirements of Chapter 90.72 RCW.

BACKGROUND

Commercial Shellfish Harvesting

Commercial shellfish operators harvest shellfish (clams, oysters, mussels, geoducks, and scallops) in Puget Sound under licenses issued by the Washington State Department of Health (Department of Health). The Department of Health manages the approval of harvest areas, inspections of companies, monitors pathogens in commercial shellfish, and closes harvest areas that do not meet water quality standards.

Shellfish are susceptible to pollution and runoff resulting from urbanized areas. The Department of Health monitors both recreational and commercial shellfish growing areas and identifies four classifications for all shellfish harvesting areas: Approved, Conditionally Approved, Restricted, and Prohibited. An Approved classification authorizes commercial shellfish harvest for direct marketing. Conditionally Approved indicates that the growing

¹ RCW 90.72.045

area meets the approved status during certain periods during a given year, but are closed to shellfish harvesting during predictable periods.² Restricted shellfish harvesting areas does not meet the approved criteria, but shellfish from these areas may be transplanted to an approved growing area and later harvested. A Prohibited classification indicates that there may be a health risk to consumers and commercial harvests are not permitted.

Poverty Bay

Poverty Bay, located adjacent to the Cities of Des Moines and Federal Way, has nearly 1,000 acres of shellfish beds. The primary shellfish that is commercially harvested is geoduck, with approximately half harvested by the Puyallup Tribe and half auctioned by the Washington State Department of Natural Resources. The land surrounding Poverty Bay is mostly developed with single-family residences, parks, commercial development, and several major arterials. Nearly 2,300 parcels are served by on-site septic systems.

In fall 2016, approximately 225 acres of Poverty Bay were downgraded to Conditionally Approved after failing water quality tests conducted by the Department of Health. Shellfish harvesting is prohibited during the predictable period for Poverty Bay, which is June 1 through November 30 of each year. The County is required to create a shellfish protection district and establish a shellfish protection plan once a downgrade occurs:³

"The county legislative authority shall create a shellfish protection district and establish a shellfish protection program developed under RCW 90.72.030 or an equivalent program to address the causes or suspected causes of pollution within one hundred eighty days after the department of health, because of water quality degradation due to ongoing nonpoint sources of pollution has closed or downgraded the classification of a recreational or commercial shellfish growing area within the boundaries of the county."

ANALYSIS

Shellfish protection district are established when nonpoint source pollution threatens water quality in areas where shellfish harvesting occurs. Shellfish protection districts can be created at the discretion of a county legislative body or may be mandated under state law when a downgrade of a shellfish harvesting area occurs, as in the case with Poverty Bay. Proposed Ordinance 2018-0191 would create the shellfish protection district and the required shellfish protection program.

Where the district's boundaries are within an incorporated area, the County is required to establish procedures for participation for affected jurisdictions. For the proposed Poverty Bay shellfish protection district, the Department of Natural Resources and Parks convened a technical committee comprised of representatives from King County, the cities of Des Moines, Federal Way, Kent, and SeaTac, the Department of Health, Department of Ecology, Department of Natural Resources (DNR), Washington State Parks and Recreation Commission, Washington State Department of Transportation, Lakehaven and Midway Sewer Districts, the University of Washington, and the Puyallup Tribe. The

² The length of closure is pre-determined for a conditionally approved area and is based on the amount of time water quality in the harvesting area can recover. Two examples of closures are during summer boating season or after heavy rainfall events.

³ RCW 90.72.045

technical committee developed the parameters of the shellfish protection district, including the boundaries of the district, objectives specific to the district, and proposed actions, which has been transmitted through Proposed Ordinance 2018-0191.

State law permits the collection of charges or rates to implement a shellfish protection district and its activities; however, no rate or charge are proposed as part of this ordinance. Executive staff have indicated that the program can be implemented within existing resources and grant opportunities. A future ordinance adopted by Council would be necessary to enact charges or rates for the district.

Pursuant to RCW 90.72.030, shellfish protection districts must address topics deemed appropriate to manage nonpoint source pollution threatening water quality. This is carried out through an accompanying shellfish protection program, which is entitled the Closure Response Plan in Attachment B of the proposed ordinance. RCW 90.72.030 requires the minimum elements be included in the Closure Response Plan:

- Requiring the elimination or decrease of contaminants in stormwater runoff,
- Establishing monitoring, inspection, and repair elements to ensure that on-site sewage systems are adequately maintained and working properly,
- Assuring that animal grazing and manure management practices are consistent with best management practices, and
- Establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution.

The Closure Response Plan appears to meet the minimum elements listed in RCW 90.72.030. Additional testing, monitoring, and analyses is underway by WLRD to identify sources of pollution as well as necessary actions to address the pollution. The Closure Response Plan addresses suspected non-point sources, including on-site septic systems and stormwater discharge; however, actions may change as necessary to target specific sources once these sources are confirmed.

AMENDMENTS

Amendment 1 adds language to clarify the classification of the affected shellfish harvesting beds, adds language to reflect the requirements of Chapter 90.72 RCW, clarifies the requirements within the new chapter including stating that the council is the governing body, the adoption of the shellfish protection program, outside agencies for coordination, requirements for annual report transmittal to the state, and provisions to dissolve the district by ordinance. The two attachments within the proposed ordinance are also modified to include additional language related to stormwater, clarification on boundary features, and clarifications to maps. Title Amendment 1 updates the title to reflect changes in Amendment 1.

ATTACHMENTS

- 1. Proposed Ordinance 2018-0191 (and its attachments)
- 2. Amendment 1
- 3. Title Amendment 1

- 4. Transmittal Letter
- 5. Fiscal Note

INVITED

- 1. Christie True, Director, DNRP
- 2. Josh Baldi, Division Director, WLRD



KING COUNTY

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Signature Report

November 27, 2018

Ordinance

	Proposed No. 2018-0191.1 Sponsors Upthegrove
1	AN ORDINANCE creating the Poverty Bay Shellfish
2	Protection District; establishing its boundaries; adopting the
3	Poverty Bay Shellfish Protection District Closure Response
4	Plan; and adding a new chapter to K.C.C. Title 2.
5	STATEMENT OF FACTS:
6	1. The Washington state Department of Health regulates commercial
7	shellfish beds consistent with the National Shellfish Sanitation Program.
8	2. The Washington state Department of Health collects a minimum of six
9	water quality samples per year at defined nearshore marine water quality
10	monitoring stations. The monitoring stations are labeled in Attachment A
11	to this ordinance. The National Shellfish Sanitation Program standard for
12	approved shellfish harvesting is a fecal coliform geometric mean not
13	greater than fourteen organisms per one hundred milliliters with an
14	estimated ninetieth percentile not greater than forty-three organisms per
15	one hundred milliliters.
16	3. Due to the failure to meet the National Shellfish Sanitation Program
17	standard at the Washington state Department of Health marine water
18	quality monitoring stations at the mouth of Cold creek and at the mouth o
19	Woodmont creek, on September 14, 2016, the Washington state

20	Department of Health officially downgraded the classification of 124.4
21	acres of commercial shellfish harvesting area in Poverty bay, which is
22	located on Puget Sound in King County.
23	4. Chapter 90.72 RCW requires the King County council to create a
24	shellfish protection district and establish a shellfish protection program to
25	address the causes or suspected causes of pollution contributing to the
26	water quality degradation that led to the downgrade.
27	5. The Washington state Department of Health determined that the
28	degradation of Poverty bay water quality is primarily due to sources of
29	fecal coliform.
30	6. Sources of fecal coliform including, but not limited to, stormwater
31	conveying pet waste and agricultural runoff, and failing on-site sewage
32	systems threaten public health and safety when shellfish harvested from
33	Poverty bay is consumed.
34	7. Because of the downgrade, King County convened a technical
35	committee consisting of representatives of the cities of Des Moines,
36	Federal Way, Kent and SeaTac, the Washington state Department of
37	Health, Department of Ecology, Department of Natural Resources,
38	Department of Transportation and Parks and Recreation Commission,
39	Public Health - Seattle & King County, the Lakehaven and Midway sewer
40	districts, the University of Washington and the Puyallup Tribe. The
41	technical committee held several meetings in 2015, 2016 and 2017 to
42	discuss the boundaries of the district. It reviewed five options based on

43	monitoring data and watershed boundaries, and recommended the
44	boundaries in Attachment A to this ordinance.
45	BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:
46	SECTION 1. Sections 2 through 7 of this ordinance should constitute a new
47	chapter in K.C.C. Title 2.
48	NEW SECTION. SECTION 2. The Poverty Bay Shellfish Protection District is
49	hereby created as required by chapter 90.72 RCW.
50	NEW SECTION. SECTION 3. The legal boundaries of the Poverty Bay
51	Shellfish Protection District are in Attachment A to this ordinance.
52	NEW SECTION. SECTION 4. The purpose of the Poverty Bay Shellfish
53	Protection District is to implement a shellfish protection program to address the causes or
54	suspected causes of water quality degradation that led to the Washington state
55	Department of Health downgrade of the classification of the commercial shellfish
56	harvesting area of Poverty bay. The Poverty Bay Shellfish Protection District Closure
57	Response Plan, Attachment B to this ordinance, is hereby adopted.
58	NEW SECTION. SECTION 5. The King County department of natural
59	resources and parks shall be the lead agency for the shellfish protection program and shall
60	coordinate with the Washington state Department of Health, Department of Ecology,
61	Department of Natural Resources, Department of Transportation and Parks and
62	Recreation Commission, Public Health - Seattle & King County, the cities of Des
63	Moines, Federal Way, Kent and SeaTac, the Midway and Lakehaven sewer districts, the
64	Puyallup tribe and other appropriate entities with regulatory authority or activities within
65	the boundary to implement the Poverty Bay Shellfish Protection District Closure

3

66 Response Plan.

NEW SECTION. SECTION 6. Within one year of the effective date of this 67 ordinance, and every year thereafter, the King County department of natural resources 68 69 and parks shall transmit a report about implementation of this chapter to the council. The report shall be prepared in cooperation with the entities listed in section 5 of this 70 71 ordinance. It shall include a description of the status and progress of the shellfish 72 protection program, a review of the legal boundaries of the district and, if applicable, a recommended adjustment to the legal boundaries. The report shall be filed in the form of 73 74 a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff 75 and the lead staff to the transportation, economy and environment committee or its 76 77 successor.

NEW SECTION. SECTION 7. The Poverty Bay Shellfish Protection District
 shall be dissolved and this chapter repealed upon the Washington state Department of

November 28, 2018

80 Health's removal of the downgrade of the commercial shellfish harvesting area of Poverty

81 bay.

82

KING COUNTY COUNCIL KING COUNTY, WASHINGTON

J. Joseph McDermott, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

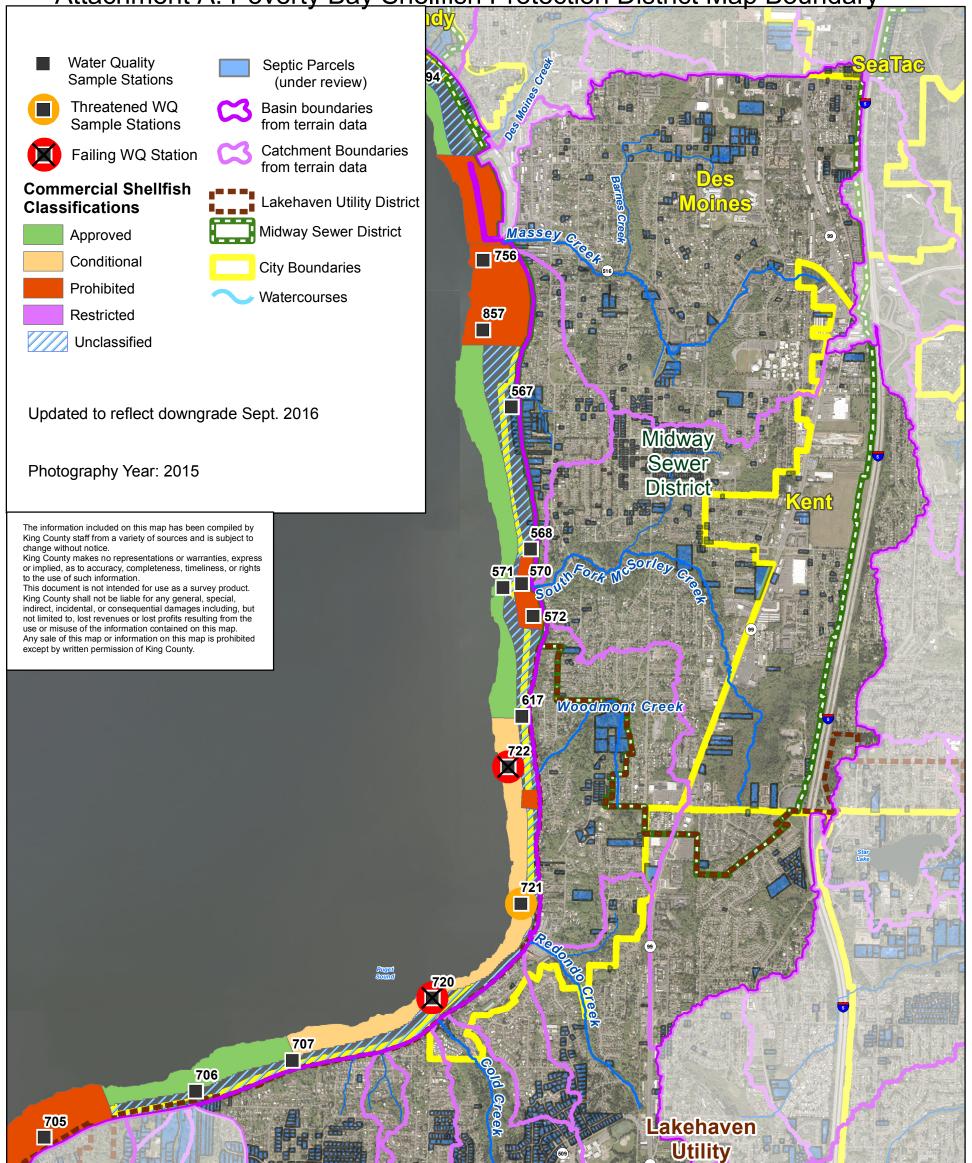
APPROVED this _____ day of _____, ____.

Dow Constantine, County Executive

Attachments: A. Poverty Bay Shellfish Protection District Map Boundry, B. Poverty Bay Shellfish Protection District Closure Response Plan

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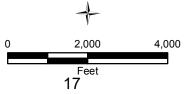
Attachment A: Poverty Bay Shellfish Protection District Map Boundary





Poverty Bay Shellfish Protection District Map Boundary

for the Geographic Extent of the Shellfish Protection District PRE Meeting Materials





Department of Natural Resources and Parks Water and Land Resources Division

The use of the information in this map is subject to the terms and conditions found at: www.kingcounty.gov/services/gis/Maps/terms-of-use.aspx. Your access and use is conditioned on your acceptance of these terms and conditions.

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Poverty Bay Shellfish Protection District

CLOSURE RESPONSE PLAN

February, 2018



King County Department of Natural Resources and Parks Water and Land Resources Division

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Preface

The goal of the Poverty Bay Shellfish Protection District (SPD) is to identify and eliminate sources of bacterial pollution within the district boundaries. This Closure Response Plan is an iterative document designed to evolve and change in response to the needs of the Shellfish Protection District.

Introduction

Poverty Bay is located along the eastern coast of Puget Sound from Federal Way to Des Moines. The shellfish harvesting area is nearly 1000 acres. Half of the wild geoducks are harvested by the Puyallup Tribe while the remaining are auctioned off by the Washington State Department of Natural Resources (DNR). The proceeds fund aquatic restoration projects throughout Puget Sound.

Based on marine water quality sampling stations #722 and #720 failing the National Shellfish Sanitation Program standard, the Washington State Department of Health (DOH) downgraded approximately 125 acres in the Poverty Bay commercial shellfish growing area from "Approved" to "Conditionally Approved" in 2016. In accordance with RCW 90.72 this triggered the requirement for the development of a Shellfish Protection District (SPD), and the need for a strategy to address bacterial pollution in the area.

RCW 90.72.040 requires counties to cooperate with cities, towns, and water-related special districts to establish shellfish protection district boundaries and implement shellfish protection programs, so in response to the notification from DOH, King County formed the Poverty Bay Technical Committee (TC), and initiated a bacterial Pollution Identification and Correction (PIC) field monitoring program with National Estuary Program funds from the EPA. The TC consists of representatives from state and local entities with regulatory authority or activities in the area including King County, the cities of Des Moines, Federal Way, Kent, and SeaTac, DOH, Washington State Department of Ecology, Washington State Department of Natural Resources (DNR), Washington State Parks and Recreation Commission, Washington State Department of Transportation, Lakehaven and Midway Sewer Districts, the University of Washington, and the Puyallup Tribe.

Boundaries of the Shellfish Protection District

The drainage basins for the attached boundary map (Appendix A) are nearly 10 square miles of mostly urban and suburban residential development with some commercial corridors. The boundary encompasses parts of the City of Des Moines, Federal Way, Kent, and SeaTac, and both Lakehaven and Midway Sewer districts operate within these drainage basins. There are five primary freshwater creeks that discharge within the boundary limits. Starting with the most southerly and moving northward they are Cold, Redondo, Woodmont, the South Fork of McSorley, and Massey creeks.

The map boundaries were drawn to include all areas with the potential to further influence the status of the downgraded shellfish bed. The boundary map includes areas in which nonpoint pollution may be threatening water quality and the restoration of shellfish harvesting. The TC has identified the need to develop a process for reviewing and recommending revisions to the SPD boundaries if applicable. Once the process has been formalized the boundaries may be subject to change when data supports a revision, and a recommendation from the TC is adopted by the King County Council.

There is currently no plan to use the Poverty Bay SPD as a funding mechanism. All parties are working towards the upgrade of the identified shellfish beds and designations that will allow for the year-round harvest of shellfish with existing resources, programs, and actions. This will be accomplished through a series of coordinated education and outreach, pollution identification, and source control efforts outlined in Table 1.

Description of the Area

The SPD includes 11 different sub-basins that drain to nearly five miles of shoreline. Approximately four miles of shoreline falls within the City of Des Moines, and about one mile is located within the City of Federal Way. Additionally, a small portion of shoreline falls within Saltwater State Park and is the responsibility of the Washington State Parks and Recreation Commission. There is approximately 1000 acres of shellfish harvesting beds in Poverty Bay. In nearly 600 acres shellfish harvesting is "prohibited", and it is "approved" in about 300 acres and now "conditionally approved" in 125 acres. The shellfish beds that are designated as "conditionally approved" present an actual or potential public health hazard during predictable periods of time during the year. Shellfish cannot be harvested from those beds during that timeframe. About half of the geoduck are exclusively available to the Puyallup Tribe and the other available by auction and managed by Washington State DNR. This Closure Response Plan sets forth proposed actions intended to restore the acres that are classified as "conditionally approved" to an "approved" classification.

Site investigations have located 20 discharge points along the shoreline from Saltwater State Park to the Redondo Creek stream discharge, with many more located up each of the major creek systems. More extensive shoreline investigations are planned.

Wastewater collection and disposal is managed by three primary organizations. Midway Sewer District and Lakehaven Sewer District both operate within the SPD boundaries. Lakehaven Sewer District operates a Wastewater Treatment Plant within the SPD boundaries. While the Wastewater Treatment Plant for Midway Sewer district is adjacent to Des Moines Creek, it sits outside the proposed SPD boundary. In addition, Public Health - Seattle & King County's septic system program reviews and approves the design and installation of new on-site sewage (septic) systems (OSS) and repair proposals and installations for failing on-site sewage systems. When a failure is suspected, they will investigate the site for evidence of surfacing sewage. If a failure is confirmed, they will ensure the system is repaired or connected to sanitary sewer lines, if possible. Within the SPD boundary map, 15 percent of residential, 1.5 percent of condominiums, and 5.4 percent of commercial parcels have been identified as being on septic systems.

There are no major agricultural activities identified within the SPD. Most likely there are a few hobbyists operating some small scale domestic animal operations, including chicken coops and private pony or horse barns, within the guidelines of various city ordinances, but these potential sources of bacteria are not considered a priority to the SPD at this time.

Boating and accessing the shoreline are the primary recreational activities within the SPD. Only a couple of businesses are located along the shoreline, with the bulk of commercial activity located upland in the Woodmont Creek, McSorley Creek, and Massey Creek drainage basins. The city of Des Moines operates a marina for 840 vessels on the northernmost edge, just outside of the SPD boundary where they offer free pump out of sewage included in the moorage fee. The city of Des Moines also operates a boat launch at Redondo Beach where there is public beach access.

Strategy and Actions

King County is currently the lead agency administering and coordinating the Shellfish Protection District and Closure Response Plan. The cities of Des Moines, Federal Way, Kent, and SeaTac are all involved as partner organizations. In addition, DOH, Washington State Department of Ecology, Washington State Department of Transportation, DNR, Washington State Parks and Recreation Commission, and Lakehaven and Midway Sewer Districts are also partners in the Shellfish Protection District.

Closure Response Plan activities are dependent upon the results of an ongoing sampling program and will evolve to reflect the outcomes of traditional bacterial culture and bacteriological genetic analyses designed to more accurately identify sources of bacteria. For the following table the designation of "Cities/County" means Des Moines, Federal Way, Kent, SeaTac, and King County:

Table 1: Poverty	Bay Shellfish	Protection	District Pro	posed Actions
			2 10 11 10 1 1 0	Postaria

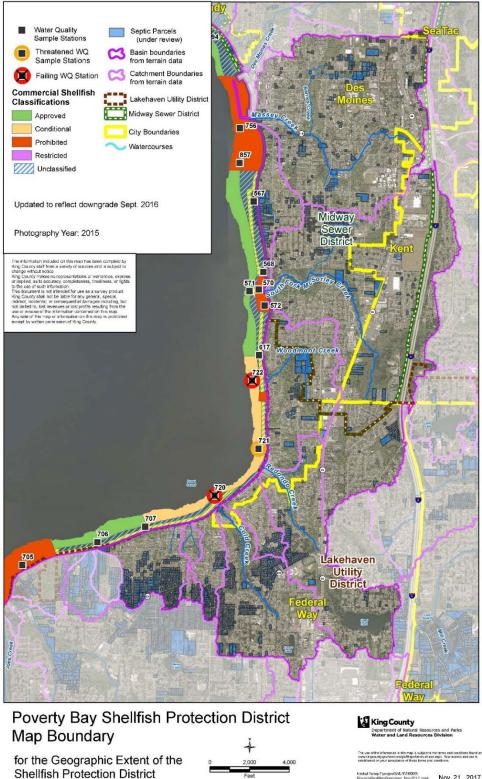
Task & Objective	Lead Agency/Partner	Timeline	Funding Source	Priority	Status	Actions/Products /Outcomes	Comments/Challenge s/ Resources Needed			
Objective 1: Planning, Coordination, and Reporting										
Create Shellfish Protection District	King County / All	1 st Quarter of 2018	King County	High	In progress	District created				
Develop a closure response plan/shellfish protection	King County / All	Started	King County	High	Drafted	Adaptive management plan				

Task & Objective	Lead Agency/Partner	Timeline	Funding Source	Priority	Status	Actions/Products /Outcomes	Comments/Challenge s/ Resources Needed
program							
Develop a Shellfish Protection District work group	King County / All	1st Quarter of 2018	King County	High	Completed	Workgroup and email distribution list	
Regular meetings of the Shellfish Protection District Committee or work group	King County / All	Started	King County	High	Ongoing	Regular meetings	
Annual Reporting to DOH under RCW 90.72	King County	Started	King County	High	Ongoing	Annual report	
Develop a Pollution Identification and Correction Program	King County / All	Unknown	King County	High	Not started	PIC program documentation	Dependent on sampling results for genetic markers
Create Pollution Identification Process Flowchart	King County	Complete	King County	High	Complete	Flowchart	Attached to this document (Appendix B)
Develop a formal process for recommending boundary changes, if applicable	King County/All	3 rd Quarter of 2018	King County	High	Not started	Clear process for recommending boundary changes to be made by the King County council, if applicable	
Objective 2: Mon	itor Water Quality,	Sampling an	d Analyses				
Conduct marine water quality monitoring of the Growing Area	DNR / DOH	Started	DNR / DOH	High	Ongoing		
Ambient freshwater monitoring program	King County / UW / Des Moines / Federal Way	Started	King County / University of Washington / Des Moines / Federal Way /	High	Ongoing		
			National Estuary Program				
sampling and analyses	King County / DNR / DOH	Started	National Estuary	High	Ongoing		
Shoreline sampling and analyses Develop PIC sampling protocol including "hot spot" criteria and bracketed sampling		Started	National Estuary Program DNR / King	High	Ongoing Completed	Quality Assurance Project Plan finalized	

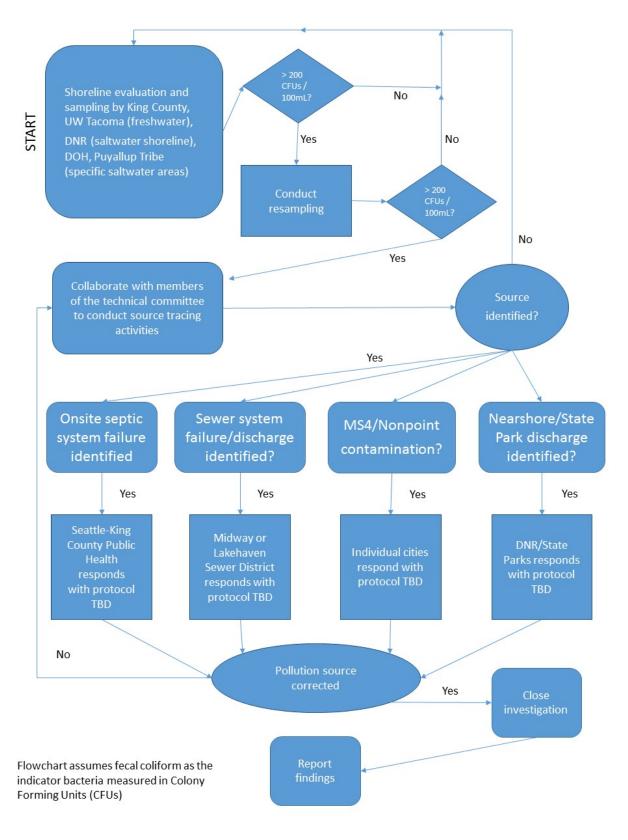
Task & Objective	Lead Agency/Partner	Timeline	Funding Source	Priority	Status	Actions/Products /Outcomes	Comments/Challenge s/ Resources Needed
roles and responsibilities						Sampling for bacteria in the Municipal Separate Storm Sewer System	
Circulation study of the growing area	DOH	Not started	Unknown	low			
Advanced fecal coliform source methodology (Sewage Sniffing Dog, Microbial Source Tracing, Male Specific Coliphage, Chemical Tracers)	King County / University of Washington	Started	King County / National Estuary Program	medium	Ongoing		
Water quality data management	King County	Started	King County	High	Drafted	Singular location for storing all the data	Combining existing datasets from various agencies is complicated
Share water quality data with stakeholder group	All Parties	Started	All	High	In progress	Singular location for storing all the data	
Objective 3: Cont	rol OSS Sources						
Implement enhanced OSS Operation and Management	Seattle - King County Public Health	TBD	Septage fee	Low	Not Started		Low priority until source of bacteria is determined pending approved authority
Identify location and risk level of septic systems in the shellfish protection district	Seattle - King County Public Health	TBD	Septage fee	Low	In progress	Location – Complete Risk level – not determined	Low priority until source of bacteria is determined
Sanitary/Parcel Surveys of marine and freshwater shoreline properties	Lakehaven sewer district, Midway sewer district, Seattle - King County Public Health	TBD	Partner agencies	Low	Not started		Low priority until source of bacteria is determined
Septic Operations & Maintenance notification and incentives	Seattle - King County Public Health	TBD	Septage fee	Low	Not started		Low priority until source of bacteria and funding is determined
Develop dye test protocol and dye test where warranted	Seattle - King County Public Health	Complete		Low - High	Drafted		Low priority until suspected source of bacteria are determined, then high
Objective 4: Cont	rol Storm Water So	ources					
National Pollutant Discharge Elimination System (NPDES) Program Implementation	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Annual Report and Stormwater Management Program Plans	

Task & Objective	Lead Agency/Partner	Timeline	Funding Source	Priority	Status	Actions/Products /Outcomes	Comments/Challenge s/ Resources Needed
Illicit discharge detection and elimination program	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Ongoing record keeping of identified and eliminated discharges	
Storm water facility maintenance and inspection	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Compliance with Municipal NPDES permit	
Low impact development	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Compliance with Municipal NPDES permit	
Objective 5: Educ	ation/Outreach						
Develop a communication/ social marketing plan	Cities/County	TBD	Team NPDES Programs	High	Not started	Communication tool with general focus	Genetic testing will provide more guidance on targeted outreach
Create Website for project history, summary and updates	King County	TBD	Unknown	Medium	Not started	Centralized website for district information/data/ studies	Funding and time are the greatest obstacles
Pet waste outreach program	Cities/County	TBD	Team NPDES Programs	Low	Not started		Genetic testing will provide more guidance on targeted outreach
Septic workshops for homeowners and realtors	Seattle – King County Public Health	TBD	Unknown	Low	Unfunded	Public workshops or easily accessible information	Genetic testing will provide more guidance on targeted outreach
Community Outreach Events	Cities/County	TBD	Team NPDES Programs	Medium	Not started	Tabling at public festivals and various events	Need materials specific to the district, and a presence at events
Objective 7: Point	t Sources - Waste W	Vater Treatm	ent Plants and I	Marinas			
Review WWTP records and performance	Midway and Lakehaven sewer districts	Started	Midway and Lakehaven sewer districts	High	Ongoing	Compliance with regulations	
Collection system and Combined Sewer Overflows evaluation	Midway and Lakehaven sewer districts	Started	Midway and Lakehaven sewer districts	High	Ongoing	Compliance with regulations	
Develop procedures for identifying and cleaning up homeless encampments	All Parties	Started	All	Medium	Ongoing	Defined procedures for each jurisdiction	Politically sensitive issue

Appendix A: Poverty Bay Shellfish Protection District Boundary Map



Appendix B: Poverty Bay Pollution Identification Process Flow Chart:



8/30/18	
Striker	

jn

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Jn	Proposed No.: 2018-0191	
<u>STRI</u>	KING AMENDMENT TO PROPOSED ORDINANCE 2018-0191, VERSION	
<u>1</u>		
On page 1, beginning on line 5, strike everything through page 5, line 81, and insert:		
	STATEMENT OF FACTS:	
	1. The Washington state Department of Health regulates commercial	
	shellfish beds consistent with the National Shellfish Sanitation Program.	
	2. The Washington state Department of Health collects a minimum of six	
	water quality samples per year at defined nearshore marine water quality	
	monitoring stations. The monitoring stations are labeled in Attachment A	
	to this ordinance. The National Shellfish Sanitation Program standard for	
	approved shellfish harvesting is a fecal coliform geometric mean not	
	greater than fourteen organisms per one hundred milliliters with an	
	estimated ninetieth percentile not greater than forty-three organisms per	
	one hundred milliliters.	
	3. Due to the failure to meet the National Shellfish Sanitation Program	
	standard at the Washington state Department of Health marine water	
	quality monitoring stations at the mouth of Cold creek and at the mouth of	

Sponsor:

Upthegrove

Woodmont creek, on September 14, 2016, the Washington state

- 1 -

19	Department of Health officially downgraded from approved to
20	conditionally approved status the classification of 124.4 acres of
21	commercial shellfish harvesting area in Poverty bay, which is located on
22	Puget Sound in King County.
23	4. Due to the downgrade, RCW 90.72.045 requires the King County
24	council to create a shellfish protection district and establish a shellfish
25	protection program to address the causes or suspected causes of pollution
26	contributing to the water quality degradation that led to the downgrade.
27	Additionally, RCW 90.72.045 requires the council to initiate
28	implementation of the shellfish protection program within sixty days after
29	it is established.
30	5. The Washington state Department of Health determined that the
31	degradation of Poverty bay water quality is primarily due to sources of
32	fecal coliform.
33	6. Sources of fecal coliform including, but not limited to, stormwater
34	conveying pet waste and agricultural runoff, and failing on-site sewage
35	systems threaten public health and safety when shellfish harvested from
36	Poverty bay is consumed.
37	7. King County convened a technical committee consisting of
38	representatives of the cities of Des Moines, Federal Way, Kent and
39	SeaTac, the Washington state Department of Health, Department of
40	Ecology, Department of Natural Resources, Department of Transportation
41	and Parks and Recreation Commission, Public Health - Seattle & King

- 2 -30

42	County, the Lakehaven and Midway sewer districts, the University of
43	Washington and the Puyallup Tribe. The technical committee held several
44	meetings in 2015, 2016 and 2017 to discuss the boundaries of the district,
45	elements of the shellfish protection program and administration of the
46	district. It reviewed five options based on monitoring data and watershed
47	boundaries, and recommended the boundaries in Attachment A to this
48	ordinance.
49	BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:
50	SECTION 1. Sections 2 through 7 of this ordinance should constitute a new
51	chapter in K.C.C. Title 2.
52	NEW SECTION. SECTION 2. The Poverty Bay shellfish protection district is
53	hereby created in accordance with RCW 90.72.030 and RCW 90.72.045. The council
54	shall constitute the governing body of the district and shall adopt a shellfish protection
55	program with elements and activities to be effective within the district.
56	NEW SECTION. SECTION 3. The legal boundaries of the Poverty Bay
57	shellfish protection district are in Attachment A to this ordinance.
58	NEW SECTION. SECTION 4. The purpose of the Poverty Bay shellfish
59	protection district is to implement a shellfish protection program to address the causes or
60	suspected causes of pollution resulting in water quality degradation that led to the
61	Washington state Department of Health downgrade of the classification of the
62	commercial shellfish harvesting area of Poverty bay. The Poverty Bay Shellfish
63	Protection District Closure Response Plan, Attachment B to this ordinance, is hereby
64	adopted as the shellfish protection program.

PRE Meeting Materials

- 3 -31 MEW SECTION. SECTION 5. The King County department of natural resources and parks shall be the lead agency for implementation of the Shellfish Protection District Closure Response Plan. The department shall coordinate with state agencies and affected cities, tribes, utility districts that have regulatory authority for any of the sources of nonpoint pollution covered by the Plan. and other appropriate entities with regulatory authority or activities within the boundary to implement the Poverty Bay Shellfish Protection District Closure Response Plan.

72 NEW SECTION. SECTION 6. Within one year of the effective date of this 73 ordinance, and every year thereafter, the executive shall transmit a report about 74 implementation of this chapter to the council. The report shall be prepared in cooperation 75 with the entities listed in section 5 of this ordinance. It shall include a description of the 76 status and progress of the shellfish protection program, a review of the legal boundaries 77 of the district and, if applicable, a recommended adjustment to the legal boundaries. The 78 report shall be filed in the form of a paper original and an electronic copy with the clerk 79 of the council, who shall retain the original and provide an electronic copy to all 80 councilmembers, the council chief of staff and the lead staff to the planning, rural service 81 and environment committee or its successor. The clerk of the council shall submit the 82 report to the Washington state Department of Health once the council acknowledges 83 receipt of the report.

84 <u>NEW SECTION. SECTION 7.</u> When the Washington state Department of 85 Health has reclassified the affected commercial shellfish harvesting area of Poverty Bay 86 to approved status, the department of natural resources and parks shall prepare and 87 transmit to the council a proposed ordinance dissolving the Poverty Bay shellfish

PRE Meeting Materials

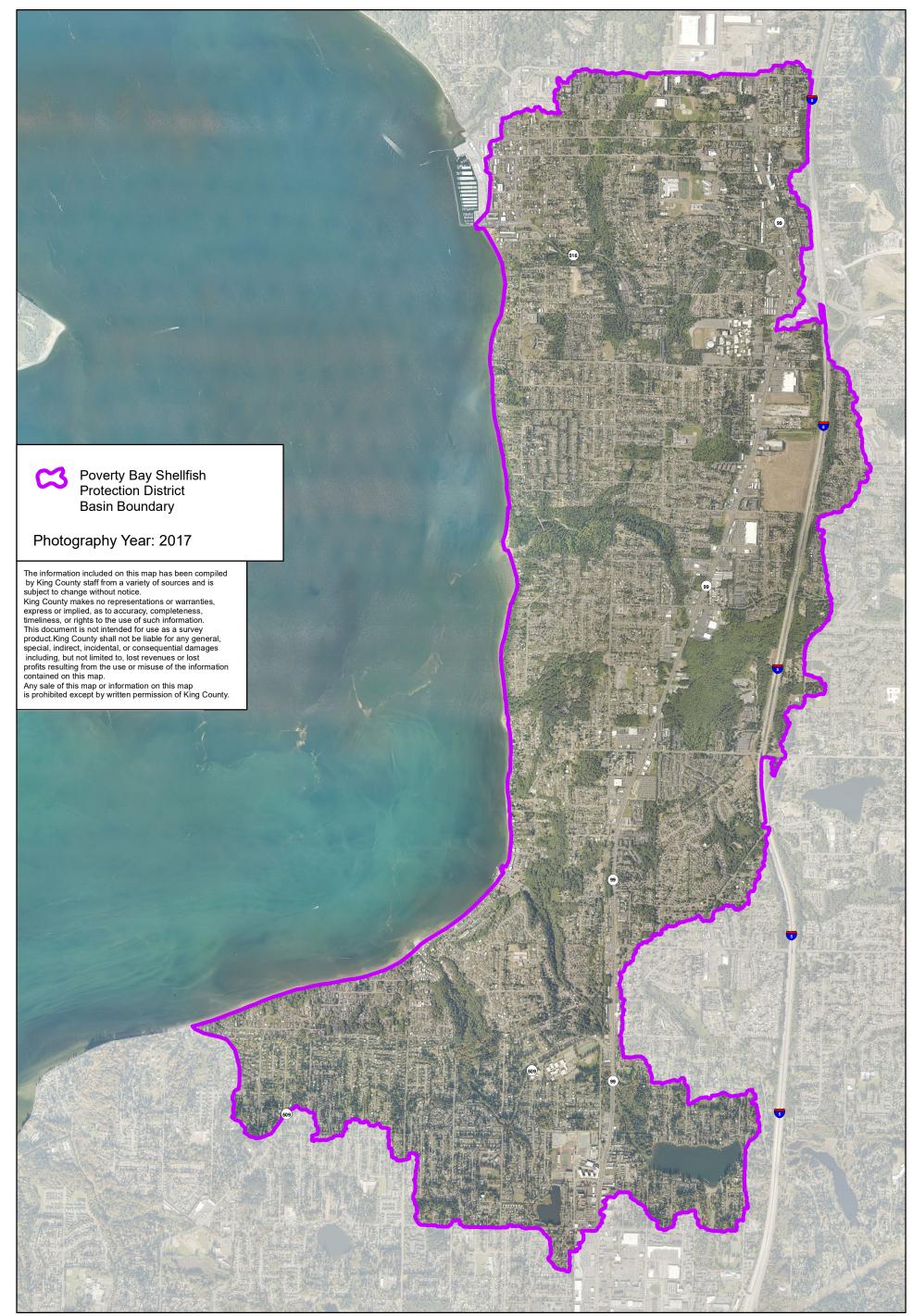
- 4 -32

November 28, 2018

88 protection district and repealing this chapter.

90	Delete Attachment A, Poverty Bay Shellfish Protection District Map Boundry, dated
91	November 21, 2017, and insert Attachment A, Poverty Bay Shellfish Protection District
92	Map Boundary, dated September 4, 2018.
93	
94	Delete Attachment B, Poverty Bay Shellfish Protection District Closure Response Plan,
95	dated February 2018, and insert Attachment B, Poverty Bay Shellfish Protection District
96	Map Boundary, dated September 2018.
97	
98	EFFECT: Striking Amendment that makes the following changes to the underlying
99	Proposed Ordinance:
100	• Clarifies language regarding implementation of the Shellfish Protection
101	District Closure Response Plan and coordination with agencies
102	• Modifies language to address dissolution of the shellfish protection district
103	Modifies the Shellfish Protection District Closure Response Plan to address
104	stormwater compliance and septic system existing conditions, add an
105	objective related to risk level of farms, and modification of Appendix A to
106	clarify map elements.

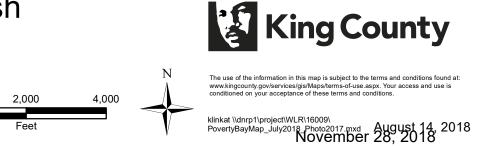
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35

Attachment A: Poverty Bay Shellfish Protection District Map Boundary for the Geographic Extent of the Shellfish Protection District

PRE Meeting Materials



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Poverty Bay Shellfish Protection District

CLOSURE RESPONSE PLAN

November, 2018



King County Department of Natural Resources and Parks Water and Land Resources Division

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Introduction	2
Boundaries of the Shellfish Protection District	3
Description of the Area	3
Strategy and Actions	4
Appendix A: Poverty Bay Shellfish Protection District Maps	10
Appendix B: Poverty Bay Pollution Identification Process Flow Chart:	14

Preface

The goal of the Poverty Bay Shellfish Protection District (SPD) is to identify and eliminate sources of bacterial pollution within the district boundaries. This Closure Response Plan is an iterative document designed to evolve and change in response to the needs of the Shellfish Protection District.

Introduction

Poverty Bay is located along the eastern coast of Puget Sound from Federal Way to Des Moines. The shellfish harvesting area is nearly 1,000 acres. Half of the wild geoducks are harvested by the Puyallup Tribe while the remaining are auctioned off by the Washington State Department of Natural Resources (DNR). The proceeds fund aquatic restoration projects throughout Puget Sound.

Based on marine water quality sampling stations #722 and #720 failing the National Shellfish Sanitation Program standard, the Washington State Department of Health (DOH) downgraded approximately 125 acres in the Poverty Bay commercial shellfish growing area from "Approved" to "Conditionally Approved" in 2016. In accordance with RCW 90.72 this triggered the requirement for the development of a Shellfish Protection District (SPD), and the need for a strategy to address bacterial pollution in the area.

RCW 90.72.040 requires counties to cooperate with cities, towns, and water-related special districts to establish shellfish protection district boundaries and implement shellfish protection programs. In response to the notification from DOH, King County formed the Poverty Bay Technical Committee (TC), and initiated a bacterial Pollution Identification and Correction (PIC) field monitoring program with National Estuary Program funds from the EPA. The TC consists of representatives from state and local entities with regulatory authority or activities in the area including King County, the cities of Des Moines, Federal Way, Kent, and SeaTac, DOH, Washington State Department of Ecology, Washington State Department of Natural Resources (DNR), Washington State Parks and Recreation Commission, Washington State Department of Transportation, Lakehaven and Midway Sewer Districts, the University of Washington, and the Puyallup Tribe.

Boundaries of the Shellfish Protection District

The basin for the attached boundary map (Appendix A) is nearly 10 square miles of mostly urban and suburban residential development with some commercial corridors, parks, playfields, several major arterial roadways, and almost no agricultural lands. The boundary encompasses parts of the City of Des Moines, Federal Way, Kent, and SeaTac, and both Lakehaven and Midway Sewer districts operate within this basin. There are five primary freshwater creeks that discharge within the boundary limits. Starting with the most southerly and moving northward they are Cold, Redondo, Woodmont, the South Fork of McSorley, and Massey creeks.

The map boundaries were drawn to include all areas with the potential to further influence the status of the downgraded shellfish bed. The boundary map includes areas in which nonpoint pollution may be threatening water quality and the restoration of shellfish harvesting. The TC has identified the need to develop a process for reviewing and recommending revisions to the SPD boundaries if applicable. Recommended revisions will be submitted to the King County Council. Modifications to boundaries will require council approval.

There is currently no plan to use the Poverty Bay SPD as a funding mechanism. All parties are working towards the upgrade of the identified shellfish beds and designations that will allow for the year-round harvest of shellfish with existing resources, programs, and actions. This will be accomplished through a series of coordinated education and outreach, pollution identification, and source control efforts outlined in Table 1.

Description of the Area

The SPD includes ten different catchments that drain to nearly five miles of shoreline. Approximately four miles of shoreline falls within the City of Des Moines, and about one mile is located within the City of Federal Way. Additionally, a small portion of shoreline falls within Saltwater State Park and is the responsibility of the Washington State Parks and Recreation Commission. There is approximately 1000 acres of shellfish harvesting beds in Poverty Bay. In nearly 500 acres shellfish harvesting is "prohibited", and it is "approved" in about 300 acres and now "conditionally approved" in 225 acres. The shellfish beds that are designated as "conditionally approved" present an actual or potential public health hazard during predictable periods of time during the year, from June 1st to November 30th. Shellfish cannot be harvested from those beds during that timeframe. About half of the geoduck are exclusively available to the Puyallup Tribe and the other available by auction and managed by Washington State DNR. This Closure Response Plan sets forth proposed actions intended to restore the acres that are classified as "conditionally approved" to an "approved" classification.

Site investigations have identified 20 discharge locations along the shoreline from Saltwater State Park to the mouth of Redondo Creek, where there are pipes that discharge to the beach, with many more located up each of the major creek systems. More extensive shoreline investigations are planned.

The cities of Des Moines, Federal Way, Kent, and SeaTac are all responsible for administering stormwater management programs under their municipal National Pollutant Discharge Elimination System permit. Actions required by the permit include, but are not limited to, conducting routine inspections and maintenance on stormwater infrastructure, detecting and

eliminating illicit connections or discharges of pollutants, and making low impact development the preferred and most commonly used approach when developing or redeveloping properties.

Wastewater collection and disposal is managed by three primary organizations. Midway Sewer District and Lakehaven Sewer District both operate within the SPD boundaries. Lakehaven Sewer District operates a Wastewater Treatment Plant within the SPD boundaries. While the Wastewater Treatment Plant for Midway Sewer district is adjacent to Des Moines Creek, it sits outside the proposed SPD boundary.

In addition, Public Health - Seattle & King County's septic system program reviews and approves the design and installation of new on-site sewage (septic) systems (OSS) and repair proposals and installations for failing on-site sewage systems. Public Health – Seattle & King County is typically made aware of failures from repair applications, reports by OSS professionals, complaints by neighbors, or at a time of sale inspection. When a failure is suspected, Public Health will investigate the site for evidence of surfacing sewage. If a failure is confirmed, they will ensure the system is repaired or connected to sanitary sewer lines, if possible. Within the SPD boundary, there are 2,292 parcels with OSS. Only about 50 of them are commercial and the remaining are residential. It is likely there are OSS that are failing without anyone knowing. On-the-ground investigations help to track failing OSS and broken sewer pipes.

There are no major agricultural activities identified within the SPD. Most likely there are a few hobbyists operating some small scale domestic animal operations, including chicken coops and private pony or horse barns, within the guidelines of various city ordinances, but these potential sources of bacteria are not considered a priority to the SPD at this time.

Boating and accessing the shoreline are the primary recreational activities within the SPD. Only a couple of businesses are located along the shoreline, with the bulk of commercial activity located upland in the Woodmont Creek, McSorley Creek, and Massey Creek drainage basins. The city of Des Moines operates a marina for 840 vessels on the northernmost edge, just outside of the SPD boundary where they offer free pump out of sewage included in the moorage fee. The city of Des Moines also operates a boat launch at Redondo Beach where there is public beach access.

Strategy and Actions

The King County Department of Natural Resources and Parks is the lead agency administering and coordinating the Shellfish Protection District and Closure Response Plan. The cities of Des Moines, Federal Way, Kent, and SeaTac are all involved as partner organizations. In addition, DOH, Washington State Department of Ecology, Washington State Department of Transportation, DNR, Washington State Parks and Recreation Commission, and Lakehaven and Midway Sewer Districts are also partners in the Shellfish Protection District.

Closure Response Plan activities are dependent upon the results of an ongoing sampling program and will evolve to reflect the outcomes of traditional bacterial culture and bacteriological genetic analyses designed to more accurately identify sources of bacteria. For the following table the designation of "Cities/County" means Des Moines, Federal Way, Kent, SeaTac, and King County:

Task & Objective	Lead Agency/ Partner	Timeline	Funding Source	Priority	Status	Actions/ Products/Outc omes	Comments/ Challenges/ Resources Needed
Objective 1: Pla	nning, Coordi	ination, and	Reporting				
Create Shellfish Protection District	King County / All	1 st Quarter of 2018	King County	High	In progress	District created	
Develop a closure response plan/shellfish protection program	King County / All	Started	King County	High	Drafted	Adaptive management plan	
Develop a Shellfish Protection District work group	King County / All	1st Quarter of 2018	King County	High	Completed	Workgroup and email distribution list	
Regular meetings of the Shellfish Protection District Committee or work group	King County / All	Started	King County	High	Ongoing	Regular meetings	
Annual Reporting to DOH under RCW 90.72	King County	Started	King County	High	Ongoing	Annual report	
Develop a Pollution Identification and Correction Program	King County / All	Unknown	King County	High	Not started	PIC program documentation	Dependent on sampling results for genetic markers
Create Pollution Identification Process Flowchart	King County	Completed	King County	High	Completed	Flowchart	Attached to this document (Appendix B)
Develop a formal process for recommending boundary changes, if applicable	King County/ All	3 rd Quarter of 2018	King County	High	Not started	Clear process for recommending boundary changes to be made by the King County council, if applicable	

Table 1: Poverty Bay Shellfish Protection District Proposed Actions

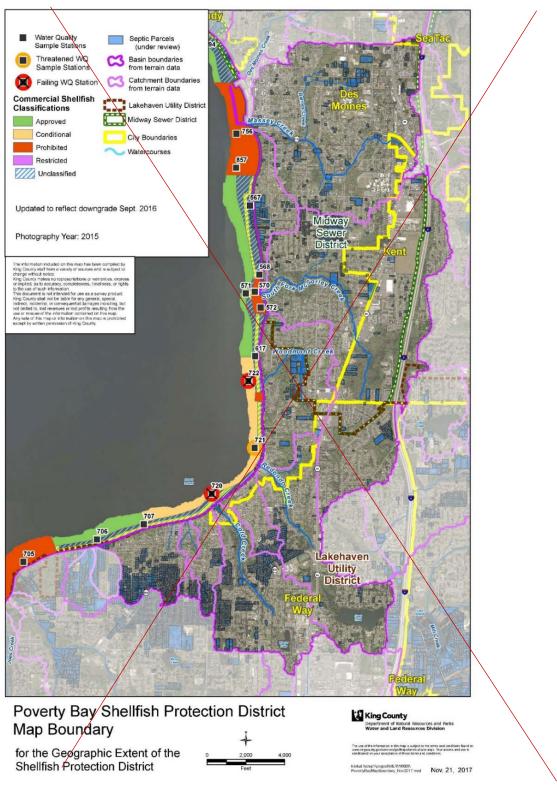
Task & Objective	Lead Agency/ Partner	Timeline	Funding Source	Priority	Status	Actions/ Products/Outc omes	Comments/ Challenges/ Resources Needed
Objective 2: Mo	nitor Water (Quality, Sam	pling and Ana	alyses			
Conduct marine water quality monitoring of the Growing Area	DNR / DOH	Started	DNR / DOH	High	Ongoing		
Ambient freshwater monitoring program	King County / UW / Des Moines / Federal Way	Started	King County / University of Washington / Des Moines / Federal Way / National Estuary Program	High	Ongoing		
Shoreline sampling and analyses	King County / DNR / DOH	Started	DNR / King County	High	Ongoing		
Develop PIC sampling protocol including "hot spot" criteria and bracketed sampling	King County	Complete	Septage Fee		Completed	Quality Assurance Project Plan finalized	
Identify source tracing team roles and responsibilities	Cities/ County	Not started	King County	High	Not started	Documented roles and responsibilities Sampling for bacteria in the Municipal Separate Storm Sewer System	
Circulation study of the growing area	DOH	Not started	Unknown	Low			
Advanced fecal coliform source methodology (Sewage Sniffing Dog, Microbial Source Tracing, Male Specific Coliphage, Chemical Tracers)	King County / University of Washington	Started	King County / National Estuary Program	Medium	Ongoing		
Water quality data management	King County	Started	King County	High	Drafted	Singular location for storing all the	Combining existing datasets from various

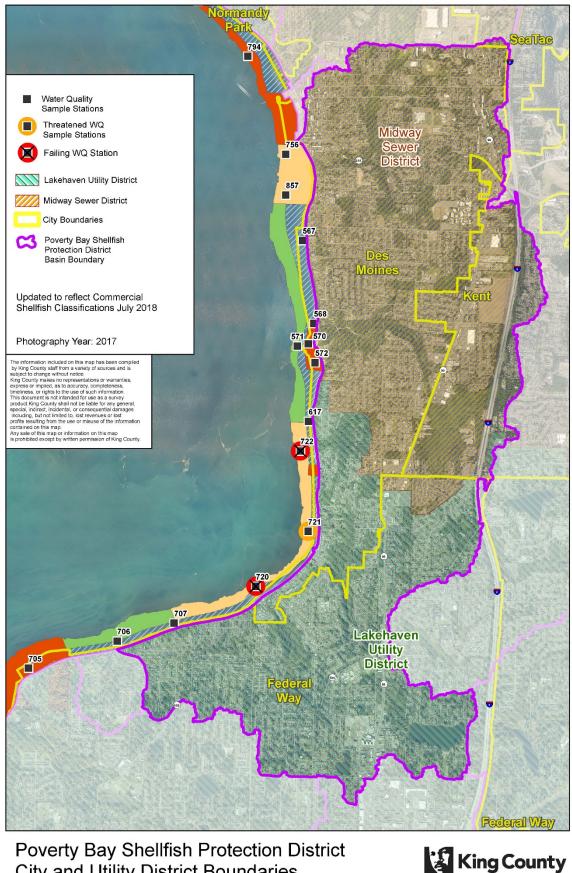
Task & Objective	Lead Agency/ Partner	Timeline	Funding Source	Priority	Status	Actions/ Products/Outc omes	Comments/ Challenges/ Resources Needed
						data	agencies is complicated
Share water quality data with stakeholder group	All Parties	Started	All	High	In progress	Singular location for storing all the data	
Objective 3: Co	ntrol OSS Sou	irces					
Implement enhanced OSS Operation and Management	Seattle - King County Public Health	TBD	Septage fee	Low	Not Started		Low priority until source of bacteria is determined pending approved authority
Identify location and risk level of septic systems in the shellfish protection district	Seattle - King County Public Health	TBD	Septage fee	Low	In progress	Location – Complete Risk level – not determined	Low priority until source of bacteria is determined
Sanitary/Parcel Surveys of marine and freshwater shoreline properties	Lakehaven sewer district, Midway sewer district, Seattle - King County Public Health	TBD	Partner agencies	Low	Not started		Low priority until source of bacteria is determined
Septic Operations & Maintenance notification and incentives	Seattle - King County Public Health	TBD	Septage fee	Low	Not started		Low priority until source of bacteria and funding is determined
Develop dye test protocol and dye test where warranted	Seattle - King County Public Health	Complete		Low - High	Drafted		Low priority until suspected source of bacteria are determined, then high
Objective 4: Co	ntrol Storm W	Vater Source	s				
National Pollutant	Des Moines / Federal	Started	Des Moines / Federal	High	Ongoing	Annual Report and Stormwater	

Task & Objective	Lead Agency/ Partner	Timeline	Funding Source	Priority	Status	Actions/ Products/Outc omes	Comments/ Challenges/ Resources Needed
Discharge Elimination System (NPDES) Program Implementation	Way / Kent / SeaTac		Way / Kent / SeaTac			Management Program Plans	
Illicit discharge detection and elimination program	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Ongoing record keeping of identified and eliminated discharges	
Storm water facility maintenance and inspection	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Compliance with Municipal NPDES permit	
Low impact development	Des Moines / Federal Way / Kent / SeaTac	Started	Des Moines / Federal Way / Kent / SeaTac	High	Ongoing	Compliance with Municipal NPDES permit	
Objective 5: Ed	ucation/Outre	ach					
Develop a communication/ social marketing plan	Cities/ County	TBD	Team NPDES Programs	High	Not started	Communication tool with general focus	Genetic testing will provide more guidance on targeted outreach
Create Website for project history, summary and updates	King County	TBD	Unknown	Medium	Not started	Centralized website for district information/dat a/ studies	Funding and time are the greatest obstacles
Pet waste outreach program	Cities/ County	TBD	Team NPDES Programs	Low	Not started		Genetic testing will provide more guidance on targeted outreach
Septic workshops for homeowners and realtors	Seattle – King County Public Health	TBD	Unknown	Low	Unfunded	Public workshops or easily accessible information	Genetic testing will provide more guidance on targeted outreach
Community Outreach Events	Cities/ County	TBD	Team NPDES Programs	Medium	Not started	Tabling at public festivals and various events	Need materials specific to the district, and a presence at events
Objective 6: Co	ntrol Agricult	ural Sources					
Identify location and	Cities	Started		Low	Ongoing		Agricultural sources of

Task & Objective	Lead Agency/ Partner	Timeline	Funding Source	Priority	Status	Actions/ Products/Outc omes	Comments/ Challenges/ Resources Needed
risk level of farms							bacteria will be identified through source control inspections and illicit discharge detection and elimination programs
							F 8
Objective 7: Poi	nt Sources - V	Vaste Water	Treatment P	lants and	Marinas		
Review WWTP records and performance	Midway and Lakehaven sewer districts	Started	Midway and Lakehaven sewer districts	High	Ongoing	Compliance with regulations	
Collection system and Combined Sewer Overflows evaluation	Midway and Lakehaven sewer districts	Started	Midway and Lakehaven sewer districts	High	Ongoing	Compliance with regulations	
Develop procedures for identifying and cleaning up homeless encampments	All Parties	Started	All	Medium	Ongoing	Defined procedures for each jurisdiction	Politically sensitive issue

Appendix A: Poverty Bay Shellfish Protection District Maps





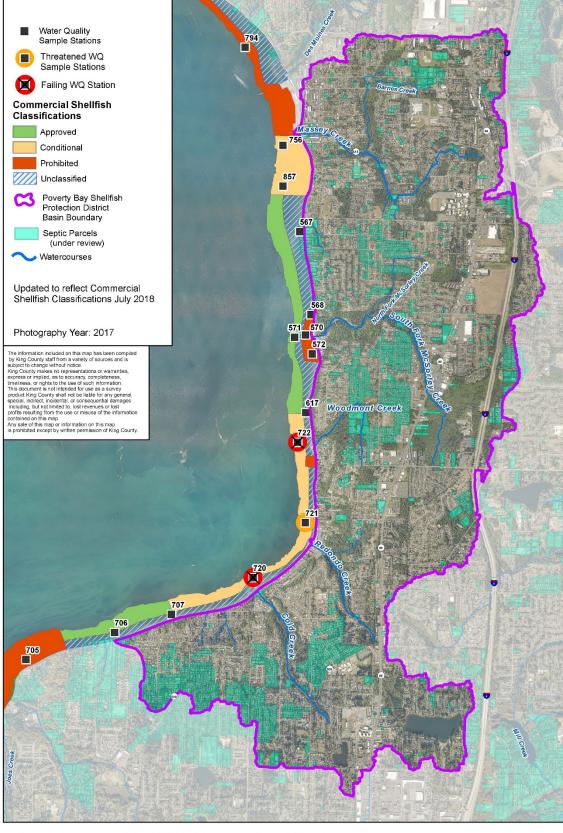
City and Utility District Boundaries



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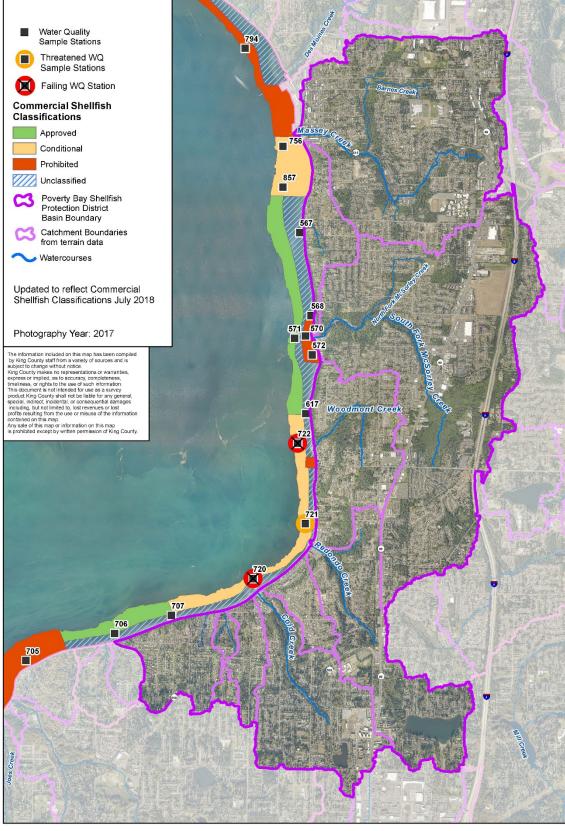
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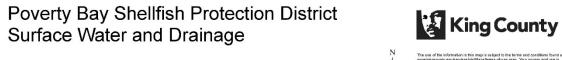
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Poverty Bay Shellfish Protection District Identified Septic Systems



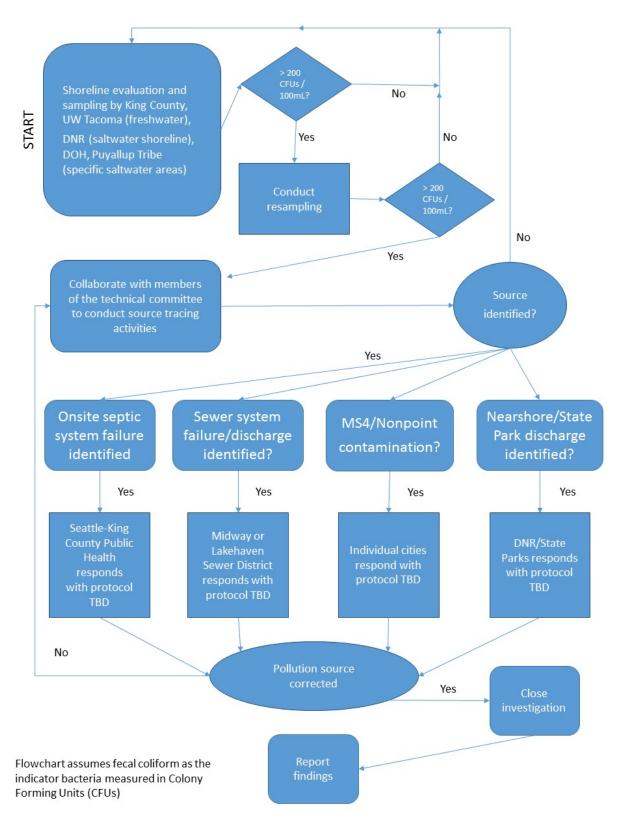




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Appendix B: Poverty Bay Pollution Identification Process Flow Chart:



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T1	
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8/20/18 Title

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	Sponsor:	Upthegrove							
jn	Proposed No.:	2018-0191							
TITLE AMENDMENT TO	PROPOSED ORD	INANCE 2018-0191, VERSION 1							
On page 1, strike lines 1 throu	On page 1, strike lines 1 through 4, and insert:								
"AN ORDINA	NCE creating the Po	overty Bay shellfish							
protection dist	rict; establishing the	district's boundaries;							
establishing a s	shellfish protection p	program; and adding a							
new chapter to	new chapter to K.C.C. Title 2."								
EFFECT: Title Amendment T1 conforms the Title to the changes made by Striking									
Amendment S1.									

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April 5, 2018

The Honorable Joe McDermott Chair, King County Council Room 1200 C O U R T H O U S E

Dear Councilmember McDermott:

This letter transmits an ordinance that will establish a shellfish protection district in Poverty Bay near the City of Federal Way in King County, and meet the requirements of RCW 90.72.

The Washington State Department of Health (Health) monitors and regulates commercial shellfish beds in Washington State. In the fall of 2016, Health downgraded the classification of 124 acres of commercial shellfish harvest area in Poverty Bay after monitoring showed that that water quality was not meeting state standards for fecal coliform. Sources of pollution include pet waste in stormwater runoff and failing on-site septic systems. King County has been working with area cities and the Puyallup Tribe to identify sources of pollution and actions to address them. This legislation formally establishes a Shellfish Protection District that is required by state law when shellfish beds are downgraded, and will help to coordinate city and county efforts to find and eliminate sources of bacterial pollution entering Poverty Bay in Puget Sound so that these shellfish beds can be reopened.

Specifically, the ordinance will accomplish the following:

- Establish the geographic boundaries of a state required Shellfish Protection District
- Adopt by attachment, a Poverty Bay Shellfish Protection District Closure Response Plan.

Programs associated with the legislation also further the goals of key County plans and initiatives as follows:

- The programs associated with the legislation further the King County Strategic Plan goal of preserving open space and rural character by protecting near shore shellfish habitat from fecal coliform bacteria.
- The programs associated with the legislation further the King County Equity and Social Justice Initiative goal of developing tools for better engagement and access to

The Honorable Joe McDermott April 5, 2018 Page 2

> services by moving from project based outreach to ongoing engagement and partnering with other organizations to facilitate consistent engagement with communities.

• The programs associated with the legislation further the Strategic Climate Action Plan goal of collaborating with local cities, residents, and other partners to prepare for the effect of climate change on the environment, human health, public safety, and the economy by coordinating with partners to address potential impacts to wild grown shellfish.

In developing the legislation, the Department of Natural Resources and Parks (DNRP) engaged the cities of Des Moines, Federal Way, Kent, and SeaTac; the Washington State Departments of Health, Ecology, Natural Resources and Transportation; the Washington State Parks and Recreation Commission; Public Health – Seattle and King County; the Lakehaven and Midway sewer districts; the University of Washington; and the Puyallup Tribe. DNRP convened several meetings from 2015 through 2017. In addition, comments on the draft legislation were solicited on three occasions between November 16, 2017, and January 15, 2018. These comments were incorporated into the legislation.

Thank you for considering this ordinance. This important legislation will help King County residents protect Puget Sound from sources of bacterial pollution.

If you have any questions about this ordinance, please contact Josh Baldi, Division Director of the Water and Land Resources Division of the Department of Natural Resources and Parks, at 206-477-9440.

Sincerely,

Dow Constantine King County Executive

Enclosures

cc: King County Councilmembers
 <u>ATTN</u>: Carolyn Busch, Chief of Staff
 Melani Pedroza, Clerk of the Council
 Dwight Dively, Director, Office of Performance, Strategy and Budget
 Christie True, Director, Department of Natural Resources and Parks (DNRP)
 Josh Baldi, Division Director, Water and Land Resources Division, DNRP

2017/2018 FISCAL NOTE

Ordinance/Motion: 2018-XXXX

Title: Creating the Poverty Bay Shellfish Protection District

Affected Agency and/or Agencies: Water and Land Resources Division, Department of Natural Resources and Parks

Note Prepared By: Robert Kniestedt

Date Prepared: 1/23/2018

Note Reviewed By: Jillian Scheibeck, Performance Strategy & Budget

Date Reviewed: 1/24/18

Description of request:

This ordinance creates the Poverty Bay Shellfish Protection District; establishing its boundaries; adopting the Poverty Bay Closure Response Plan; and adding a new chapter to K.C.C. Title 2.

Revenue to:

Agency	Fund Code	Revenue Source	2017/2018	2019/2020	2021/2022
Water & Land Resources	1211	NA	0	0	0
TOTAL			0	0	0

Expenditures from:

Agency	Fund Code	Department	2017/2018	2019/2020	2021/2022
Water & Land Resources	1211		0	0	0
TOTAL			0	0	0

Expenditures by Categories

	0017/0010	0040/0000	0004/0000
	2017/2018	2019/2020	2021/2022
NA			
TOTAL	0	0	0

Does this legislation require a budget supplemental? No

Notes and Assumptions: The ordinance is setting the district boundaries as required by RCW 90.72. At this time staff is doing an analysis on whether there will be any future planning and program costs. Any future budget implications relating to this ordinance will be proposed in future legislation.

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Metropolitan King County Council Planning, Rural Service and Environment Committee

STAFF REPORT

Agenda Item:	5	Name:	Erin Auzins
Proposed No.:	Proposed No.: 2018-0560 Date:		November 28, 2018

SUBJECT

Proposed Ordinance 2018-0560 would certify that an emergency existed for work done on the Stossel Bridge Right Bank Revetment, and certify the costs incurred.

<u>SUMMARY</u>

Proposed Ordinance 2018-0560 would certify emergency work completed by the Roads Services Division and Water and Land Resources Division in 2018. The work involved repairing a revetment associated with the Stossel Bridge in Council District 3.

BACKGROUND

Stossel Bridge is located northwest of the City of Carnation, in Council District 3. It spans the Snoqualmie River, and is NE Carnation Farm Road. The emergency work conducted for this emergency repair occurred on the east bank of the river, north of the bridge.

In late March 2018, a property owner called the Water and Land Resources Division (WLRD) in the Department of Natural Resources and Parks (DNRP) to report rapidlydeveloping erosion damage to the Stossel Bridge Right Bank Revetment. The report from the property owner indicated a one hundred foot long by eight foot high section of the riverward slope of the levee prism being eroded exposing gravel and sand substrate.

The Executive determined that persons, property and agricultural operations would have been threatened and damaged unless further efforts were taken to reduce the threat to life and property. This included two homes, the Game Haven farm property, and King County road 310th Avenue NE, which showed tension cracks indicating that the road is at imminent risk of collapse into the river. On June 26, 2018, the Executive issued an Executive Determination of Emergency in accordance with RCW 39.04.280 and K.C.C. 2.93.080, declaring that immediate steps needed to be taken to complete the repair work by September 30, 2018 in advance of the 2018-2019 winter flood season, and transmitted notice to the Council on the same day. The Executive, through the Executive Determination of Emergency, waived competitive procurement

requirements in accordance with RCW 39.04.010 and K.C.C. 4A.100.070 and K.C.C. chapters 2.93, 12.16 and 12.18.

ANALYSIS

The Revised Code of Washington and the King County Code¹ provide for waiver of competitive bidding requirements for public works projects in the event of an emergency that threatens death, personal injury, or the destruction of property. In addition, RCW 36.32.235(12) allows public employees to perform emergency public work but imposes certain reporting requirements.

This section of the RCW requires that when public employees are used for emergency public work, a resolution (which for the county would be an ordinance) be transmitted to the council within two weeks of the declaration of the emergency. The statute requires the council to certify the damage to public facilities and costs incurred or anticipated within two weeks of the emergency declaration. The Executive alerted the Council to the emergency declaration in June, but did not transmit legislation to certify the damage to public facilities and costs incurred within that two week period. Nevertheless, based on the information provided by executive staff, this work appears to meet the requirements for a declaration of an emergency and the use of public employees to complete emergency work. Final costs are stated by executive staff to be just under \$\$697,000.

If the council does not certify that the work was done pursuant to an emergency then the labor work completed by the Roads Division would not be deemed emergency work and could not be excluded from the annual limit on the amount of public works that county employees may perform in a budgetary period². In such an instance, depending on other uses of county forces during the budgetary period, including this amount into the annual amount of county labor used, this could also potentially expose the county to a temporary loss of gas tax revenues³. Additionally since the amount of county labor work exceeded the \$90,000 limit for more than one trade, without the council's certification of the damage to public facilities and costs incurred, again the county would be in violation of the statute.

While the timing of the council's certification is beyond the period called out in the statute, nevertheless certifying the damage and costs brings the actions of the Roads Division and WLRD within the spirit of the law and provides the transparency that RCW 36.32.235(12) seeks to provide.

A budget supplemental is not expected for this work; the ordinance states that there is sufficient capacity within the existing WLRD budget for this work. Executive staff note that additional work may be needed on this bridge in the future, which may require additional appropriation, either by the County or by the Flood Control District.

¹ RCW 39.04.280, RCW 36.32.270 and K.C.C. 12.52

² RCW 36.32.235(8) through (10)

³ RCW 36.32.253(9)

ATTACHMENTS

- Proposed Ordinance 2018-0560
 Transmittal Letter for PM 2018-0556
 Executive's Declaration of Emergency dated June 26, 2018

INVITED

1. Josh Baldi, Director, Water and Land Resources Division , DNRP

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KING COUNTY

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Signature Report

November 27, 2018

Ordinance

	Proposed No. 2018-0560.1 Sponsors Lambert
1	AN ORDINANCE certifying the existence of an emergency,
2	requiring repair to the Stossel Bridge Right Bank Revetment,
3	and certifying the cost incurred related to the repair work.
4	BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:
5	SECTION 1. Findings:
6	A. In late March 2018, a property owner called the water and land resources
7	division in the department of natural resources and parks to report rapidly-developing
8	erosion damage to the Stossel Bridge Right Bank Revetment. The report from the
9	property owner indicated a one-hundred-foot-long by eight-foot-high section of the
10	riverward slope of the levee prism being eroded exposing gravel and sand substrate.
11	B. The executive determined that persons, property and commercial agricultural
12	operations would have been threatened and damaged unless further efforts were taken to
13	reduce the threat to life and property, including two homes, the Game Haven farm
14	property and King County road 310th Avenue NE, which was immediately threatened
15	and showed tension cracks indicating that the road is at imminent risk of collapse into the
16	river.
17	C. The executive determined that the immediate nature required the repair work
18	to be completed before September 30, 2018, in advance of the 2018-2019 winter flood
19	season.

November 28, 2018

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20	D. Based on the foregoing facts, on June 26, 2018, the executive issued an				
21	Executive Determination of Emergency in accordance with RCW 39.04.280 and K.C.C.				
22	2.93.080, declaring that immediate steps needed to be taken to complete the repair work				
23	by September 30, 2018, and transmitted notice to the council on the same day. The				
24	executive, through the Executive Determination of Emergency, waived competitive				
25	procurement requirements in accordance with RCW 39.04.010, K.C.C. 4A.100.070 and				
26	K.C.C. chapters 2.93, 12.16 and 12.18.				
27	E. Due to project conditions and schedules, the road services division of the King				
28	County department of transportation completed the repair work on September 28, 2018,				
29	at a cost of \$697,380.				
30	F. RCW 36.32.235(12) authorizes the county to use public employees to				
31	undertake emergency public work performed under a declaration of emergency. The				
32	statute also requires that, within two weeks of the emergency declaration, the county				
33	legislative authority adopt a resolution certifying the damage to public facilities and the				
34	costs incurred or anticipated relating to correcting the emergency.				
35	G. Although the executive did not advise the council of the use of county				
36	employees, or the costs to complete the project until after the two-week period expired,				
37	this ordiance complies with the intent of the statute and provides the basis for the use of				
38	public employees and the costs to address the emergency.				
39	H. The executive has determined the cost incurred for the perform the repair				
40	work for the revetment were \$697,380.				
41	I. The executive has sufficient funds assigned to capital projects related to this				
42	action, including the flood control district capital program that the water and land				

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November 28, 2018

43	resources division	of the department	t of natural resources i	implements on	contract with the

- 44 district, so that no supplemental budget appropriation ordinance is necessary.
- 45 <u>SECTION 2.</u> In accordance with RCW 36.32.235(12), the council hereby
- 46 certifies that the damage to the Stossel Bridge Right Bank Revetment created an
- 47 emergency situation and certifies the total cost incurred to address the emergency to be

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- 48 \$697,380, which was a necessary expenditure to prevent significant property damage,
- 49 including to county facilities.

50

KING COUNTY COUNCIL KING COUNTY, WASHINGTON

J. Joseph McDermott, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this _____ day of _____, ____.

Dow Constantine, County Executive

Attachments: None

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November 5, 2018

The Honorable Joe McDermott Chair, King County Council Room 1200 C O U R T H O U S E

Dear Councilmember McDermott:

This letter transmits a motion that supports an Executive Determination of Emergency (attached) that I made on June 26, 2018, in which it was declared that there was an emergency due to threats of the Stossel Bridge Right Bank Revetment failure affecting King County. The Executive Determination of Emergency authorized designated departments of King County to enter into contracts and incur obligations necessary to combat such an emergency to protect integral county infrastructure and protect two residences and the Game Haven Farm property. King County Department of Transportation Road Services Division construction crews were utilized to repair the Stossel Bridge Right Bank Revetment.

The legislation will support compliance with the intent of RCW notification and verification requirements that require the adoption of a resolution by the King County Council if emergency work is completed using public employees. It is acknowledged that this motion is being transmitted outside of the two-week reporting requirement as set forth in RCW 36.32.235(12).

Specifically, the motion will accomplish the following:

- Recognize that in late March 2018, the Stossel Bridge Right Bank Revetment was observed to be failing and at risk of undermining the county road. Staff from the Water and Land Resources Division (WLRD) of the Department of Natural Resources and Parks determined that repairs to the revetment needed to be made prior to the annual start of flood season on September 30 in order to reduce the potential for loss of life, property and economic hardship to the adjacent Game Haven Farm should the revetment completely fail.
- Confirm that due to the short timeframe to accomplish the repairs, it was determined that an emergency waiver from competitive procurement requirements was required in the event contracted labor would need to be hired to complete the work. I signed a

The Honorable Joe McDermott November 5, 2018 Page 2

determination of emergency and a waiver from competitive procurement and communicated this determination in a transmittal letter to you on June 26, 2018.

• Acknowledge that as the project design progressed, WLRD determined that utilizing Road Services Division crews instead of contracted labor was the best course of action due to availability. The Road Services Division completed the repair work on September 28, 2018.

The legislation also furthers the goals of key County plans and initiatives as follows:

• The legislation furthers the King County Strategic Plan goal of enhancing public safety by rebuilding infrastructure which reduce the region's vulnerability to flooding.

Thank you for your consideration of this motion. This important legislation will certify the damage to public facilities as well as the costs incurred to correct the emergency situation as required by RCW 36.32.235(12).

If you have any questions, please feel free to contact Josh Baldi, Division Director of the Water and Land Resources Division of the Department of Natural Resources and Parks, at 206-477-9440.

Sincerely,

Dow Constantine King County Executive

Enclosures

cc: King County Councilmembers
 <u>ATTN</u>: Carolyn Busch, Chief of Staff
 Melani Pedroza, Clerk of the Council
 Dwight Dively, Director, Office of Performance, Strategy and Budget
 Christie True, Director, Department of Natural Resources and Parks (DNRP)
 Josh Baldi, Division Director, Water and Land Resources Division, DNRP



EXECUTIVE DETERMINATION OF EMERGENCY AND WAIVER FROM COMPETITIVE PROCUREMENT REQUIREMENTS FOR REPAIR OF THE STOSSEL BRIDGE RIGHT BANK REVETMENT

WHEREAS, King County owns and is responsible for various flood protection infrastructure such as levees and revetments throughout the county; and

WHEREAS, in mid-March 2018, a property owner called the Department of Natural Resources and Parks (DNRP) Water and Land Resources Division to report rapidly-developing erosion damage to the Stossel Bridge Right Bank Revetment. The report from the property owner indicated to the riverward slope of the revetment prism being eroded exposing gravel and sand substrate for an approximately 250-foot long by 12-foot high section; and

WHEREAS, the Stossel Bridge Right Bank Revetment protects two residential structures, the 73acre Game Haven Farm property, and King County road 310th Ave NE; and

WHEREAS, persons and property will be threatened and damaged unless immediate efforts are taken to reduce the threat to life and property, particularly during the winter flood season from September 30 - May 1; and

WHEREAS, King County road 310th Ave NE is immediately threatened and showing deep tension cracks, which indicates that the road is at imminent risk of being undermined; and

WHEREAS, the immediate nature requires the repair work to be completed before September 30th, which is the start of the 2018-2019 winter flood season; and

WHEREAS, the short-term repair, while needed in the immediate term, will not resolve the ongoing risk to the revetment and there will be additional need for a capital project to address the deficiencies; and

WHEREAS, this emergency determination will allow the King County Water and Land Resources Division to contract for emergency repair work; and

WHEREAS, an emergency waiver of competitive bidding and formal solicitation requirements of state and county law is necessary to prevent material loss or damage to property, bodily injury, or loss of life if immediate action is not taken to address the risk of failure of the Stossel Bridge Right Bank Revetment and King County road 310th Ave; and

WHEREAS, the emergency will require emergency purchases by King County and the waiver of public procurement processes as described under KCC Chapter 2.93.080,

NOW, THEREFORE, THE KING COUNTY EXECUTIVE, DOW CONSTANTINE, HEREBY DETERMINES AND DECLARES AS FOLLOWS:

SECTION 1

In accordance with RCW 39.04.280(3) and KCC 2.93.080, it is hereby determined and declared that there is an emergency due to threats of the Stossel Bridge Right Bank Revetment failure affecting King County; therefore, designated departments of King County are authorized to enter into contracts and incur obligations necessary to combat such an emergency to protect integral county infrastructure and protect two residences and the Game Haven Farm property.

SECTION 2

The requirements for competitive bidding and formal solicitation for the lease or purchase of tangible personal property or services, public works and professional or technical services under RCW 39.04.010 and KCC Chapters 4A.100.070, 2.93, 12.16, and 12.18 and all applicable King County Executive policies and procedures are hereby waived with reference to any such contracts relating to the repair of the Stossel Bridge Right Bank Revetment. This waiver shall continue in full force and effect until all necessary contracts are executed or until terminated by subsequent order of the King County Executive, action by the Metropolitan King County Council by ordinance or as otherwise required by law.

DATE this 26 day of JHE, 2018

Dow Constantine, King County Executive State of Washington



Metropolitan King County Council Planning, Rural Service and Environment Committee

STAFF REPORT

Agenda Item:	6	Name:	Erin Auzins
Proposed No.:	2018-0241	Date:	November 28, 2018

SUBJECT

Proposed Ordinance 2018-0241 would update King County's development regulations for wineries, breweries and distilleries.

<u>SUMMARY</u>

Following a years-long process, the Executive transmitted a Proposed Ordinance and associated Action Plan that would modify the development regulations for wineries, breweries and distilleries. The Proposed Ordinance would add a new business license requirement for these uses; create a new "remote tasting room" use; add new development conditions and permit requirements for wineries, breweries and distilleries; establish two demonstration projects, one for remote tasting rooms and one for tourism district events; and increase citation penalties for violations by these types of businesses.

The Executive's Action Plan also calls for improved signage for the agricultural production district, for community van and bike share projects, and for improved east-west trail connections in the Sammamish Valley.

The Committee was briefed on the legislation on June 19, 2018 and July 17, 2018. At those briefings, Council staff provided a summary of the Executive's proposal, a high level overview of the policy questions for Council to consider; a technical-only striking amendment, and a chair's conceptual striker. At today's briefing, an updated chair's conceptual striker will be briefed.

BACKGROUND

Wineries and breweries have been uses listed in the permitted use tables since at least the 1993 Zoning Code.¹ The development conditions that apply today were largely adopted in 2003,² and standards relating to minimum lot size, maximum building size, special event limitations, and product content were first adopted. Distilleries were first

¹ Ordinance 10870

² Ordinance 14781

recognized as a land use in 2013.³ Wineries, breweries and distilleries are considered the same land use category under the code, and for each zone in which they are allowed (either outright as a Permitted use, or with a Conditional Use Permit), they have the same development conditions.

In 2010, the City of Woodinville submitted a docket request that would have expanded the Urban Growth Boundary and established new commercial zoning. In 2011, a private resident submitted a similar docket request. In each case, the County Executive did not support the proposal, and any changes would have been required to be taken up during a major Comprehensive Plan update. As part of the next such update, in 2012,⁴ the Council adopted a work plan item to work with the City of Woodinville on joint recommendations for wine and agriculture industries:

P.1. The executive shall work collaboratively with the city of Woodinville to develop joint recommendations for promoting the wine and agriculture industries.

2. In developing these recommendations, the county shall work with the city to analyze and consider the following:

a. Identification of existing and needed transportation infrastructure including traffic safety improvements, roads, sidewalks, parking, trails, tourism buses, signage and way finding;

b. The finite nature and value of agricultural soil resources and the agricultural potential of the APD;

c. The character of the surrounding rural area;

d. Vacant, buildable, and redevelopable land within the existing urban growth area;

e. The adopted Countywide Planning Policies and King County Comprehensive Plan;

f. Input from the public and interested stakeholders, including local businesses and surrounding city and unincorporated area communities;

g. Failing septic systems and pollution in the valley, in conjunction with the report set forth in subsection I of this section; and

h. Nonconforming uses on the unincorporated lands in King County and on the agricultural lands.

Between 2012 and 2015, Public Health Seattle-King County instituted a pilot program that allowed wine and distillery tasting rooms to apply for an exemption from the annual operating permit. The pilot project was intended as an alternative to a required food permit for these business, and was tested to see if the businesses would still comply with food safety practices. Public Health discovered during the pilot program that only about 50% of the businesses complied and we decided to end the program. For beverage-related businesses that qualified for the pilot program, extensive outreach was conducted via a series of meetings and communications with stakeholders, an

³ Ordinance 17539

⁴ Ordinance 17485

evening meeting at the Columbia Winery, and information including FAQs⁵ posted to the Food Program website.

When the Public Health decided to end the pilot program, extensive outreach to all known beverage related associations and businesses, such as wineries, tap rooms, and distilleries was conducted in the summer of 2015 to notify them of the change. This included two public meetings, emails, notices via social media, and updates posted to the FAQs on the website.

Following the 2012 Comprehensive Plan work program and the end of the food permit pilot program in 2015, and as part of the mid-biennial budget supplemental in 2016,⁶ the Executive requested, and the Council approved, an appropriation of \$75,000 for the Office of Performance, Strategy and Budget to hire a consultant to conduct a "[s]tudy to develop recommendations to improve the interface of the burgeoning wine industry with the surrounding communities. The funding will be used to secure consultant assistance to support the outreach, research and recommendation process. The study will focus on economic development, transportation, land use and agriculture in the Sammamish Valley area, and may also make recommendations for other parts of unincorporated King County as appropriate."

Around the same time, neighbors of wineries within the Sammamish Valley filed a number of code enforcement complaints for operating in violation of the zoning code and construction without required permits. The Department of Permitting and Environmental Review (DPER), knowing that the Executive would be beginning a study to look at policy recommendations, signed settlement agreements with 20 of the wineries. These settlement agreements acknowledged that aspects of the winery uses were not permitted, that the business owner would not increase non-compliance, and that any life-safety issues would be corrected. In return, DPER would not move forward with any code enforcement process while the Executive's study was being complete and before any legislative changes were considered and adopted by the Council.

Following approval of the budget supplemental request, the Executive formed a stakeholder group of Sammamish Valley wineries, agricultural interests, and the Cities of Woodinville and Redmond. The consultant performed stakeholder interviews, and held five meetings with the stakeholders to review the goals and priorities, wine industry needs and issues, the issues with the existing development regulations, transportation issues, and potential policy changes and infrastructure improvements. The consultant also held an open public meeting and used an online public comment tool. The stakeholder group and consultant provided a series of policy recommendations in their final report, issued in September 2016.⁷

Since that time, the Executive has been working through a series of proposed policy changes, as well as on improvements within the Sammamish Valley (shuttle van, trail connections, signage). A public review draft of the proposed regulations was issued in

⁵ Here is a link to these FAQs: <u>https://www.kingcounty.gov/depts/health/environmental-health/food-safety/food-business-permit/~/media/depts/health/environmental-health/documents/food-safety/FAQ-Beverages.ashx</u>
⁶ Ordinance 18239

⁷ Link to report: <u>https://www.kingcounty.gov/~/media/depts/executive/performance-strategy-budget/regional-planning/Sammamish-Study-Area/CAISammValleyWineBeverageStudyFINAL-091216.ashx?la=en</u>

June 2017, outlining an initial proposal for public comment. After reviewing and considering the feedback on the public review draft, the Executive transmitted a final report (Attachment 4) and Proposed Ordinance 2018-0241 to the Council in April 2018.

ANALYSIS

Summary of Changes in Proposed Ordinance

Proposed Ordinance 2018-0241 would make a number of changes to the development regulations for wineries, breweries and distilleries.

Business license requirement

The Proposed Ordinance would add a new business license requirement for "adult beverage businesses", which includes "winery, brewery, distillery or cidery, and remote tasting rooms for any of those businesses." The annual fee for this business license would be \$100.

New Definitions

The Proposed Ordinance would establish new definitions for "remote tasting room", and three types of "winery, brewery, distillery facilities." The three facility definitions are different based on size, with a Facility I being "very small", Facility II being "small", and Facility III not having a size qualifier. In addition, a Facility I would not allow on-site sales or tasting.

Permitted Use Table

The Proposed Ordinance makes modifications to the Manufacturing permitted uses table, where wineries, breweries, and distilleries are regulated today. Within the Manufacturing permitted uses table, the Proposed Ordinance would:

- Add Winery/Brewer/Distillery Facility I to the table, and permit it with development conditions in the RA and UR zones.
- Add Winery/Brewer/Distillery Facility II to the table, and permit it with varying development conditions in the A, RA, UR, NB, CB, RB and I zones. This use would also be allowed with a Conditional Use Permit (and development conditions) in the RA zone.
- Add Winery/Brewer/Distillery Facility III to the table, and permit it as a Conditional Use Permit and with varying development conditions, in the A, RA, UR, NB, CB, RB and I zones.

The development conditions for each of the facility sizes, and in different zones, vary considerably. There is a summary of the changes by zone with a comparison to the existing code in Attachment 5. In general, the development conditions address:

- Minimum lot sizes
- Maximum building sizes
- Allowances for tasting and hours of operation
- Water use
- Product content
- Production requirements
- Facility locations for agricultural lands
- Parking maximums
- Setbacks from Rural Area and Residential zones

Parking Requirements

The parking requirements are proposed to be modified by the Proposed Ordinance. The existing parking requirements for wineries, breweries and distilleries are 0.9 spaces per 1,000 square feet of manufacturing area, plus 1 per 50 square feet of tasting area.

Under the Proposed Ordinance, the parking ratio for the tasting area would be changed to 1 per 300 square feet.

Home Occupation and Home Industry

Home occupations and home industries are regulated based on zoning district, in three sections of Code. The Proposed Ordinance would add wineries, breweries and distilleries, and remote tasting rooms, to the list of specifically prohibited uses in home occupations and home industries.

Special Events/Temporary Use Permit

The Proposed Ordinance includes the following changes for special events and temporary use permits (TUP):

- For Facility II and III in A zones, events are limited to 2 per month and all parking must be accommodated on site or through a plan approved by the director.
- For Facility II and III in RA zones, events are limited to 24 within a one-year period and all parking must be accommodated on site or through a plan approved by the director.
- For Facility II in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 125 guests.
- For Facility III in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 250 guests.

- No events or temporary use permits for facility I, legally nonconforming home occupations, or home industries.
- Facility II and III in all other zones events may be allowed under a TUP for up to 60 days a year.

Demonstration Project A

The first demonstration project proposed by the Executive would allow "remote tasting rooms" within an identified area in the Sammamish Valley near the city limits of Woodinville, and within the Vashon Rural Town. The demonstration project would allow remote tasting rooms with the following regulations:

- One or more remote tasting rooms could operate in a single location
- The approval of the remote tasting rooms would be a Type 1 land use decision.⁸
- Total space for tasting and retail is 1,000 square feet plus storage, restroom, back-of-the-house uses
- Additional 500 square feet of outdoor space allowed
- Direct access to an arterial required
- No production allowed on-site
- Incidental retail sales of products related to products tasted allowed
- Hours of operation are limited to Monday Thursday 11am-5pm, Friday Sunday 11am-9pm
- Required to obtain a liquor license from the state
- No events or temporary use permits allowed
- Parking limited to 150 percent of minimum required

Demonstration project A would be in effect for 3 years from effective date of the ordinance, after which DPER would stop accepting applications and the existing remote tasting rooms would become legally nonconforming uses. Annually, DPER would compile a list of applications approved and related code complaints. Based on this data, the Executive may submit additional proposed legislation extending or amending the regulation within the 3 year demonstration project.

Demonstration Project B

The second demonstration project proposed by the Executive would allow "tourism district events" such as weddings and similar uses to be reviewed and conditioned as part of Facility III conditional use permit review within an identified area in the Sammamish Valley, south of city limits and east of State Route 202. The demonstration project would waive the TUP requirement for CUP approved Facility III events. Event uses would be reviewed and approved only as part of a CUP application; CUPs are a Type 2 land use permit.⁹ This demonstration project may allow more than 24 events per year, depending on the site-specific review of each application.

⁸ Type 1 land use decisions are made by the DPER Director, or their designee (usually a product line manager).

These decisions do not have public notice and have no administrative appeal to the Hearing Examiner.

⁹ Type 2 land use decisions are made by the DPER Director, or their designee. These decisions do have public notice and have an administrative appeal to the Hearing Examiner.

Demonstration project B would be in effect for 3 years from effective date of the ordinance, after which DPER would stop accepting applications, and the existing CUPs with the special event allowance would become legally nonconforming. Annually, DPER would compile a list of applications approved and related code complaints. Based on this data, the Executive may submit additional proposed legislation extending or amending the regulations within the 3 year demonstration project.

Citation Penalties

The Proposed Ordinance would modify the citation penalties for wineries, breweries, and distilleries and remote tasting rooms. Under existing code, most code violations are subject to a \$100 penalty for the first violation, and \$500 for subsequent violations. The Proposed Ordinance would increase the citation penalty for these uses to \$500 for the first violation and \$1,000 for subsequent violations.

Policy Considerations

Applicability of Countywide Regulations

As described in the background section, the transmitted Proposed Ordinance was the result of a years long process to address the proliferation of wineries within the Sammamish Valley. However, except for the demonstration projects, the Proposed Ordinance would apply countywide, and would apply to breweries and distilleries.

The Council may want to consider whether sufficient input from other industries, including breweries and distilleries, has been taken, and whether further input is necessary before code changes are adopted.

Additionally, the Council may want to consider whether the impacts of the proposed changes in other parts of the County have been fully analyzed. For example, a Facility III is required to connect to a Group A or Group B water system. This is a practical requirement for the Sammamish Valley where water is available, but may be more burdensome in other parts of the County that have water supply issues – and/or may not be a necessary requirement for other parts of the County.

Impact on Existing Businesses¹⁰

Executive staff are aware of 54 wineries, breweries, and distilleries in unincorporated King County. Of those, only 4 are legally permitted today and all 4 would become legally nonconforming under the Proposed Ordinance as transmitted. The other 50 are operating without permits or in violation of the County's development regulations.

Executive staff estimate that 8 businesses will not be able to comply with the new regulations at their current locations – they all appear to be within Agriculture zoned areas. Of note, lands that have Farmland Preservation Program (FPP) status would not be permitted by the associated covenants to operate a winery, brewery or distillery facility or a remote tasting room on-site. For the businesses that are expected to not be

¹⁰ See the discussion below on a recent ruling from the Hearing Examiner.

able to comply, DPER states that they will start the enforcement process upon the ordinance becoming effective. DPER staff state that the plan would be to allow the businesses the same 6 month compliance period that other businesses will receive, but these businesses would not receive technical support through the consultant.

Additionally, another 16 businesses do not have direct access to an arterial, which would limit them to the Facility I category (8 of these businesses may be able to apply for a Facility II with a conditional use permit, which is intended to give the director discretion to modify the access requirement). These businesses may need to downsize their operations to comply with the new rules (e.g., size of the facility, hours of operation, tasting area, or number and scale of events).

Enforcement

There are a couple of different ways that enforcement could be an issue with the new ordinance. First, although a statement signed by business owner is required for demonstrating compliance with the product content requirement through the business license, no further evidence is required. This could create a future compliance issue: if a business license is issued based on a signed statement, and then DPER finds later that the business does not meet the product content requirements, DPER would have to start code enforcement proceedings and/or deny a renewal of the license.

Second, the Council approved a \$50,000 request in the 2019-2020 biennial budget ordinance.¹¹ This \$50,000 would fund a consultant to perform outreach and provide technical assistance for businesses within the County over a six-month period after the zoning changes are adopted. After this six-month period, enforcement of the provisions would follow DPERs established code enforcement process. The Council may want to take into consideration enforcement of the provisions over the longer term, especially considering the task force recommendations and report initially focused on the Sammamish Valley and the industry and proposed development regulations encompasses the entire County. The County has limited code enforcement resources, in terms of: 1) number of code enforcement officers, 2) ability to obtain voluntary compliance quickly under the code, and 3) ability to get resolution on cases through the judicial system. Further, enforcement of the noise code provisions, is reliant on King County Sheriff's deputies, which are also limited in resources for unincorporated King County. The proviso for implementation of the ordinance that is included in the 2019-2020 biennial budget ordinance may address this concern.

Third, some of the requirements in the Proposed Ordinance may pose a challenge for enforcement. It is clear how DPER will enforce requirements for minimum lot size and maximum building size through the normal permit and approval process. For other requirements it may be less clear the method for how DPER will ultimately enforce the provision. For example, the legislation proposes hours of operation for tasting rooms. These hours of operation can be listed on an issued permit as a condition, but it may be difficult to enforce this provision, as the County does not have staff available in the evenings and on the weekends to visit these businesses to ensure compliance or respond to complaints in the moment. Depending on the circumstances and staffing

¹¹ Ordinance 18835

resources, code enforcement may be able to issue a citation based on witness statements at a later date.

Remote Tasting Rooms

In the Public Review Draft (PRD), remote tasting rooms were shown being added as a use in the retail table. In the transmitted legislation, this use does not appear in any land use table and is only mentioned in the demonstration project section. In past demonstration projects, the use itself appears in the table, and the development conditions say it is only allowed as part of a demonstration project.

The Council may also want consider whether remote tasting rooms could be allowed in other zones, such as the Commercial zones, as part of this Ordinance. This could be done as a permitted or conditional use, and with or without development conditions.

Special Events and Temporary Use Permits

The Council may want to consider further clarification of the definition of a "special event". In practice, Executive staff report that it will need to be based on criteria that a DPER inspector could easily see if they visit the site. This could include: events that require tents, portable toilets, or stages on-site; and/or a need for additional parking over the permitted number of maximum spaces. Executive staff indicate that closing during allowed tasting hours for a private event would not trigger a TUP unless it meets the criteria above; however, this criteria is not stated in the Proposed Ordinance. The Council may want to consider whether the criteria should be clear in the Code for what is included within normal business operations, and what is outside of the normal operations that needs a special event TUP.

Demonstration Projects

For demonstration project A, a remote tasting room would be allowed within the Rural Town boundary. When and if the Council makes permanent changes to remote tasting rooms, by allowing them or wineries, breweries and distilleries generally, an amendment to the Vashon-Maury Island Subarea Plan and P-suffix conditions would also be necessary. As a precedent, Council may want to consider whether changes meet their policy goals to allow uses through a demonstration project that would otherwise not be allowed by a P-suffix or Special District Overlay.

Additionally, demonstration project A would allow remote tasting rooms on parcels where the underlying zoning would not allow wineries, breweries and distilleries in any form (Residential zones) elsewhere in the County. The Council may want to consider whether the Vashon-Maury Island portion of the demonstration project should include the entire Rural Town boundary or should be limited to existing nonresidential areas/zones.

The purpose of a demonstration project is to "test and evaluate alternative development standards and processes prior to amending King County policies and regulations." The Council may want to consider whether the reporting requirements for the demonstration

projects, as transmitted by the Executive, provide sufficient evaluation for the Council to make an informed decision on future permanent code changes.

Finally, the Proposed Ordinance states that DPER cannot accept applications after three years from the effective date of the ordinance for the demonstration projects. However, this will still be a codified section of Code after that date, as it doesn't have an official expiration date. The Council may want to consider making this expiration date more clear, or whether it should expire without further action by the Council.

Summary of Other Recommendations in Executive's Action Report

The Executive's Action Report called for improvements within the Sammamish Valley, to complement the regulatory changes proposed by the transmitted Proposed Ordinance.

The first are wayfinding Agricultural Production District (APD) signs. DNRP states that they worked with the Roads Services Division (RSD) to come up with some initial designs. DNRP will be taking the designs for the signs to the Agriculture Commission in September 2018 after their summer break ends. The goal would be to finalize design in the fall, have the RSD sign shop fabricate, and deploy the signs in 2019. DNRP expects the budget impact to be minimal, as RSD had planned on replacing the signs that are in the APDs currently.

The second project is a Community Van project and bike share. Transit states that the Bothell-Woodinville Community Van has been in operation since the fall of 2017. The County's annual cost is approximately \$41,000 which covers vehicle operations costs (fuel, insurance, etc.), promotion and marketing, and salary for a half-time Community Transportation Coordinator employed by UW-Bothell. The bike share concept did not move forward into planning and implementation.

The third is an east-west trail connection(s) in the Sammamish Valley. DNRP states that King County Parks is managing a study to develop a strategy for a safe crossing of the Eastside Rail Corridor (ERC) at NE 145th Street and a connection to the Sammamish River Trail along the north side of NE 145th Street. The study is jointly funded by King County Parks and the City of Woodinville, and includes participation by the City and the Woodinville Chamber. The primary stakeholder outreach will include the owners adjacent to/nearby the crossing, including Chateau Ste. Michelle, Columbia Winery, owners of the Red Hook site (which will be the home of Teatro Zinzanni and a proposed brewpub), and the Willows Lodge/Herbfarm. In addition to serving the future ERC trail, the crossing would provide a safe pedestrian route for visitors of the different food and beverage destinations along NE 145th Street. The preliminary study will be complete in the fall of 2018, and will provide direction for the next steps in implementation.

The Eastside Rail Corridor (ERC) funding commission also includes City of Woodinville representation and is intended to identify specific opportunities for the trail to benefit from and support nearby business.

Executive staff report that currently, there are no plans to look at similar recommendations/improvements for other areas of the County, but that the demonstration projects could lead to future plans.

Update on Recent Hearing Examiner Ruling

On October 3, 2018, the King County Hearing Examiner issued a ruling in response to an appeal filed by a brewery. The Hearing Examiner ruled against DPERs position that home occupations do not permit tasting rooms in conjunction with a production facility (W/B/D). This may mean that more of the existing wineries/breweries/distilleries could be permitted under current code as home occupations, with tasting, limited to the restrictions in the home occupation code, which for the RA zone, are:

- 1. No more than 20% of the dwelling unit can be devoted to home occupations (including production, storage and tasting)
- 2. Garage and storage buildings may be used for home occupation, with no explicit square footage limitation.*
- 3. Total outdoor areas for home occupation is 440 sf for lots less than 1 acre, and 1% of the lot, up to 5,000 sf for lots one acre or greater.
- 4. Outdoor storage and parking areas setback 25 feet from property line and screened with landscaping.
- 5. On-site nonresident employees limited to 3 at the same time.
- 6. Parking is limited to 1 stall for each nonresident employed on-site, plus 1 stall for customers.
- 7. Sales are limited to mail order, internet order, accessory items to services provided on-site, and items grown, produced or fabricated on-site. For sites 5 acres or greater, items that support agriculture, equestrian or forestry uses (with some limitations).
- 8. Use cannot require a change to occupancy type of the structure (usually due to equipment needs).**
- 9. Use cannot increase vehicular traffic by more than 4 vehicles at any given time.
- 10. Customer visits and deliveries limited to 8:00 a.m. to 7:00 p.m. on weekdays, and 9:00 a.m. to 5:00 p.m. on weekends
- 11. Vehicle storage used by the home occupation is allowed, with limitations 2-4 vehicles depending on lot size, not allowed in the setback, not part of the outdoor storage area above.

*The Hearing Examiner's ruling is that the brewery and associated tasting have to be limited-scale service or fabrication activity....subordinate and incidental to the primary use of the site as a residence. This requires limits on the size of the tasting room – as does the various requirements above (no more than 4 vehicles, max 4 parking spaces, maximum outdoor and dwelling unit square feet).

**This may limit distilleries, if the equipment triggers an occupancy change.

The Executive's proposal would prohibit production facilities and remote tasting rooms as home occupations and home industries. The Council may want to consider whether this is consistent with the Council's policy goals and the Hearing Examiner's read of the existing code.

The ruling is included in Attachment 7.

AMENDMENT

At today's briefing, Council staff will brief the Committee on an updated chair's conceptual striker, which is included in Attachment 8.

ATTACHMENTS

- 1. Proposed Ordinance 2018-0241 with attachments
- 2. Transmittal Letter
- 3. Fiscal Note
- 4. King County Action Report: Sammamish Valley Winery and Beverage Study
- 5. Council staff summary matrix of substantive changes
- 6. Public comments received through November 26, 2018
- 7. Hearing Examiner Decision on Four Horsemen Brewery Appeal
- 8. Chair's Conceptual Striker dated November 26, 2018

INVITED

- 1. Jim Chan, Interim Director, DPER
- 2. Karen Wolf, Senior Policy Advisory, PSB
- 3. Calli Knight, External Relations Specialist, Executive's Office



KING COUNTY

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Signature Report

November 27, 2018

Ordinance

	Proposed No. 2018-0241.1 Sponsors Lambert
1	AN ORDINANCE responding to the King County
2	Sammamish Valley Wine and Beverage Study; amending
3	Ordinance 10870, Section 335, as amended, and K.C.C.
4	21A.08.080, Ordinance 10870, Section 407, as amended,
5	and K.C.C. 21A.18.030, Ordinance 10870, Section 536, as
6	amended, and K.C.C. 21A.30.080, Ordinance 15606,
7	Section 20, as amended, and K.C.C. 21A.30.085,
8	Ordinance 10870, Section 537, as amended, and K.C.C.
9	21A.30.090, Ordinance 10870, Section 549, as amended,
10	and K.C.C. 21A.32.120 and Ordinance 13623, Section 37,
11	as amended, and K.C.C. 23.32.010, adding new sections to
12	K.C.C. chapter 21A.06, adding new sections to K.C.C.
13	chapter 21A.55, adding a new chapter to K.C.C. Title 6 and
14	repealing Ordinance 15974, Section 5, and K.C.C.
15	21A.06.1427.
16	BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:
17	SECTION 1. Findings:
18	A. These regulatory changes are a response to the King County Sammamish
19	Valley Wine and Beverage Study that was released in September 2016. Those changes

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20	will help King County prepare for and support the future of the wine and adult beverage
21	industry as it evolves in the region, while adhering to the framework of the state Growth
22	Management Act.
23	B. King County continues to support and foster agriculture, especially within the
24	five designated Agricultural Production Districts. King County also supports the wine
25	and adult beverage industry and recognizes the need to establish a strong foundation for
26	moving the industry into the future.
27	C. A business license is established for the adult beverage industry in King
28	County to provide greater certainty about where adult beverage producers and tasting
29	rooms are located and to verify that they are in compliance with county rules and laws.
30	D. Two demonstration projects are established in the rural area of the
31	Sammamish Valley, with one of the two also applicable to the Vashon Island Town
32	Center Special District Overlay. One demonstration is in two limited areas and evaluates
33	the presence of remote tasting rooms in the rural community. The second demonstration
34	is in one very limited area and evaluates incorporating industry-supporting events within
35	the conditional use permit rather than through the annual temporary use permit process.
36	SECTION 2. Sections 3 through 9 of this ordinance should constitute a new
37	chapter in K.C.C. Title 6.
38	NEW SECTION. SECTION 3. There is hereby added to the chapter established
39	in section 2 of this ordinance a new section to read as follows:
40	It is the purpose of this chapter to establish business licensing standards for adult
41	beverage businesses located in unincorporated King County, in order to promote and
42	protect the health, safety and general welfare of unincorporated King County's residents.

November 28, 2018

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43	NEW SECTION. SECTION 4. There is hereby added to the chapter established
44	in section 2 of this ordinance a new section to read as follows:
45	A person or entity shall not operate or maintain an adult beverage business in
46	unincorporated King County unless the business has obtained a business license issued by
47	the director as provided by this chapter. A current adult beverage business license issued
48	under this chapter shall be prominently displayed on the licensed premises. The adult
49	beverage business licensee shall comply with all applicable laws.
50	NEW SECTION. SECTION 5. There is hereby added to the chapter established
51	in section 2 of this ordinance a new section to read as follows:
52	An application for an adult beverage business license or license renewal must be
53	submitted in the name of the business owner or the entity proposing to operate the
54	business. The application shall be signed by the owner or primary responsible officer of
55	any entity proposing to operate the business, certified as true under penalty of perjury.
56	All applications shall be submitted on a form supplied by the director, and shall include
57	the following:
58	A. The full name, current residential, email and mailing address of the owner or
59	primary responsible officer;
60	B. The name, street address and telephone number of the adult beverage
61	business;
62	C. A copy of the Washington state Liquor and Cannabis Board non-retail liquor
63	license or non-retail liquor license with retail endorsement associated with the business
64	address; and
65	D. For businesses in the A zone, a signed statement that at least sixty percent of

the products to be used by the business are grown on-site, as prescribed under K.C.C. 66 21A.08.080.B.3.f. 67 68 NEW SECTION. SECTION 6. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows: 69 70 An applicant for an adult beverage business license or renewal under this chapter 71 shall pay an application fee at the time of application submittal. The nonrefundable application fee for an adult beverage business license or renewal is one hundred dollars. 72 73 NEW SECTION. SECTION 7. There is hereby added to the chapter established 74 in section 2 of this ordinance a new section to read as follows: The director shall deny, suspend or revoke a license issued under this chapter if 75 76 the Washington state Liquor and Cannabis Board does not issue a license to the business, 77 or if the department of permitting and environmental review receives notice that the state 78 license issued to the business is suspended or revoked, or was not reissued. A business 79 owner whose application for a business license has been denied or whose license has been suspended or revoked may appeal the decision to the office of the hearing examiner 80 in accordance with K.C.C. 6.01.150. 81 82 NEW SECTION. SECTION 8. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows: 83 84 An adult beverage business license expires one year from the date the business 85 license is issued by the department of permitting and environmental review. To avoid a lapse in the effectiveness of a license, an application to renew a license must be submitted 86 to the director, on a form provided by the director, at least thirty days before the 87 88 expiration of the business license. An adult beverage business license renewal expires

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89 one year from the previous license's expiration date.

- NEW SECTION. SECTION 9. There is hereby added to the chapter established 90 91 in section 2 of this ordinance a new section to read as follows: Within thirty days of the director's receipt of a complete adult beverage business 92 license application, the director shall issue or deny the license. Within thirty days of the 93 94 director's receipt of a complete renewal application, the director shall issue or deny the renewal. 95 96 SECTION 10. Ordinance 15974, Section 5, and K.C.C. 21A.06.1427 are hereby 97 repealed. NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 98 21A.06 a new section to read as follows: 99 100 Adult beverage business: An adult beverage business means a winery, brewery, 101 distillery or cidery, and remote tasting rooms for any of those businesses.
- 102 <u>NEW SECTION. SECTION 12.</u> There is hereby added to K.C.C. chapter
- 103 21A.06 a new section to read as follows:
- 104 Remote tasting room: A small facility approved by the Washington state Liquor
- and Cannabis Board as a remote tasting room for a licensed winery, brewery or distillery
- that is operating at a location other than the licensed winery, brewery or distillery
- 107 production facility, for the purpose of the retail sale and sampling of the licensed product.
- 108 <u>NEW SECTION. SECTION 13.</u> There is hereby added to K.C.C. chapter
- 109 21A.06 a new section to read as follows:
- 110 Winery, brewery, distillery facility I: A very small establishment licensed by the
- state of Washington to produce adult beverages such as wine, cider, beer and distilled

spirits and where on-site product tasting or retail sale of merchandise does not occur.

113 <u>NEW SECTION. SECTION 14.</u> There is hereby added to K.C.C. chapter

114 21A.06 a new section to read as follows:

Winery, brewery, distillery facility II: A small scale production facility licensed 115 116 by the state of Washington to produce adult beverages such as wine, cider, beer and 117 distilled spirits and that includes an adult beverage production use such as crushing, 118 fermentation, barrel or tank aging, and finishing. A winery, brewery, distillery facility II 119 may include additional product-related uses such as vineyards, orchards, wine cellars or 120 similar product-storage areas as authorized by state law, on-site product tasting and sales as 121 authorized by state law, and sales of merchandise related to products available for tasting as 122 authorized by state law.

123 <u>NEW SECTION. SECTION 15.</u> There is hereby added to K.C.C. chapter

124 21A.06 a new section to read as follows:

Winery, brewery, distillery facility III: An establishment licensed by the state of 125 Washington to produce adult beverages such as wine, cider, beer and distilled spirits and 126 127 that includes an adult beverage production use such as crushing, fermentation, barrel or 128 tank aging, and finishing. A winery, brewery, distillery facility III may include additional 129 product-related uses such as vineyards, orchards, wine cellars or similar product-storage 130 areas as authorized by state law, on-site product tasting as authorized by state law, and 131 sales of merchandise related to products available as authorized by state law. SECTION 16. Ordinance 10870, Section 335, as amended, and K.C.C. 132

133 21A.08.080 are hereby amended to read as follows:

134 A. Manufacturing land uses.

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P-Permitted Use C-Conditional Use		RESOURCE			RURAL	RESI	DENTI	AL	COMMERCIAL/INDUSTRIAL				
S-Special	Use												
SIC #	SPECIFIC LAND USE	A	F	М	RA	UR	R1- 8	R12- 48	NB	СВ	RB	0	I (11)
20	Food and Kindred Products (28)								P2	P2	P2 C		P2 C
*	Winery/Brewery/Distillery Facility I				<u>P30</u>	<u>P30</u>							
*((/2082 / /2085)))	Winery/Brewery /Distillery Facility II	P3 ((C12))			P3 C((12)) <u>31</u>	P3			P17	P17	P <u>29</u>		P <u>29</u>
*	Winery/Brewery/Distillery Facility III	<u>C12</u>			<u>C12</u>	<u>C12</u>			<u>C29</u>	<u>C29</u>	<u>C29</u>		<u>C29</u>
*	Materials Processing Facility		P13 C	P14 C15	P16 C								Р
22	Textile Mill Products												С
23	Apparel and other Textile Products										С		Р
24	Wood Products, except furniture	P4 P18	P4 P18 C5		P4 P18 C5	P4					C6		Р
25	Furniture and Fixtures		P19		P19						С		Р
26	Paper and Allied Products												С
27	Printing and Publishing								P7	P7	P7C	P7C	Р
*	Marijuana Processor I	P20			P27					P21 C22	P21 C22		
*	Marijuana Processor II									P23 C24	P23 C24		P25 C26
28	Chemicals and Allied Products												С
2911	Petroleum Refining and Related Industries												С
30	Rubber and Misc. Plastics Products												С

31	Leather and Leather Goods						С		Р
32	Stone, Clay, Glass and					P6	P9		Р
	Concrete Products								
33	Primary Metal Industries								С
34	Fabricated Metal Products								Р
35	Industrial and Commercial								Р
	Machinery								
351-55	Heavy Machinery and								С
	Equipment								
357	Computer and Office						С	С	Р
	Equipment								
36	Electronic and other						С		Р
	Electric Equipment								
374	Railroad Equipment								С
376	Guided Missile and Space								С
	Vehicle Parts								
379	Miscellaneous								С
	Transportation Vehicles								
38	Measuring and Controlling						С	C	Р
	Instruments								
39	Miscellaneous Light						С		Р
	Manufacturing								
*	Motor Vehicle and Bicycle								С
	Manufacturing								
*	Aircraft, Ship and Boat								P10C
	Building								
7534	Tire Retreading						С		Р
781-82	Movie						Р		Р
	Production/Distribution								

B. Development conditions.

- 136 1. Repealed.
- 137 2. Except slaughterhouses.

138	3.a. Limited to ((wineries, SIC Industry No. 2082 Malt Beverages and SIC
139	Industry No. 2085-Distilled and Blended Liquors)) winery, brewery, distillery facility II
140	<u>uses;</u>
141	b. In the A zone, only allowed on sites where the primary use is SIC Industry
142	Group No. 01-Growing and Harvesting Crops or No. 02-Raising Livestock and Small
143	Animals;
144	c. In the RA, A and UR zones, only allowed on lots of at least four and one-
145	half acres;
146	d. The <u>aggregated</u> floor area ((devoted to all processing)) of structures and
147	areas for winery, brewery, distillery facility uses shall not exceed three thousand five
148	hundred square feet, unless located in ((a building)) whole or in part in a structure
149	designated as historic resource under K.C.C. chapter 20.62, in which case the aggregated
150	floor area of structures and areas devoted to winery, brewery, distillery facility uses shall
151	not exceed five thousand square feet;
152	e. Structures and <u>parking</u> areas ((used)) for ((processing)) winery, brewery,
153	distillery facility uses shall maintain a minimum distance of seventy-five feet from
154	property lines adjoining rural area and residential zones, unless located in a building
155	designated as historic resource under K.C.C. chapter 20.62;
156	f. In the A zones, $((S))$ ixty percent or more of the products processed must be
157	grown ((in the Puget Sound counties)) on-site. At the time of the initial application for
158	the adult beverage licensing provisions of K.C.C. chapter 6.xx (the new chapter created
159	in section 2 of this ordinance), the applicant shall submit a projection of the source of
160	products to be produced; ((and))

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161	g. In the A zone, structures and areas for non-agricultural winery, brewery,
162	distillery facility uses shall be located on portions of agricultural lands that are unsuitable
163	for agricultural purposes, such as areas within the already developed portion of such
164	agricultural lands that are not available for direct agricultural production, or areas without
165	prime agricultural soils;
166	h. Tasting of products produced on site may be provided in accordance with
167	state law. The area devoted to tasting shall be included in the floor area limitation in
168	subsection B.3.((e-))d. of this section. Hours of operation for on-site tasting of products
169	shall be limited as follows: Mondays, Tuesdays, Wednesdays and Thursdays, tasting
170	room hours shall be limited to 11:00 a.m. through 5:00 p.m.; and Fridays, Saturdays and
171	Sundays, tasting room hours shall be limited to 11:00 a.m. through 9:00 p.m.;
172	i. On a site with direct access to an arterial;
173	j. Off-street parking is limited to one hundred and fifty percent of the
174	minimum requirement for wineries, breweries or distilleries specified in K.C.C.
175	<u>21A.18.030;</u>
176	k. The business operator shall obtain an adult beverage business license in
177	accordance with the adult beverage licensing provision of K.C.C. chapter 6.xx (the new
178	chapter created in section 2 of this ordinance); and
179	l. Events may be allowed with an approved temporary use permit under K.C.C.
180	<u>chapter 21A.32.</u>
181	4. Limited to rough milling and planing of products grown on-site with portable
182	equipment.
183	5. Limited to SIC Industry Group No. 242-Sawmills and SIC Industry No.

184	2431-Millwork. For RA zoned sites, if using lumber or timber grown off-site, the
185	minimum site area is four and one-half acres.
186	6. Limited to uses found in SIC Industry No. 2434-Wood Kitchen Cabinets and
187	No. 2431-Millwork, (excluding planing mills).
188	7. Limited to photocopying and printing services offered to the general public.
189	8. Only within enclosed buildings, and as an accessory use to retail sales.
190	9. Only within enclosed buildings.
191	10. Limited to boat building of craft not exceeding forty-eight feet in length.
192	11. For I-zoned sites located outside the urban growth area designated by the
193	King County Comprehensive Plan, uses shown as a conditional use in the table of K.C.C.
194	21A.08.080.A. shall be prohibited, and all other uses shall be subject to the provisions for
195	rural industrial uses as set forth in K.C.C. chapter 21A.12.
196	12.a. Limited to ((wineries, SIC Industry No. 2082-Malt Beverages and SIC
197	Industry No. 2085 Distilled and Blended Liquors)) winery, brewery, distillery facility III
198	<u>uses;</u>
199	b.(((1) Except as provided in subsection B.12.b.(2) of this section, t)) <u>T</u> he
200	aggregated floor area of structures and areas for ((wineries, breweries and distilleries and
201	any accessory)) winery, brewery, distillery facility uses shall not exceed a total of eight
202	thousand square feet((-)), except that $((T))$ the floor area may be increased by up to an
203	additional eight thousand square feet of underground storage that is constructed
204	completely below natural grade, not including required exits and access points, if the
205	underground storage is at least one foot below the surface and is not visible above
206	ground; ((and

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PRE Meeting Materials

207	(2) On Vashon Maury Island, the total floor area of structures for wineries,
208	breweries and distilleries and any accessory uses may not exceed six thousand square
209	feet, including underground storage;))
210	c. The minimum site area is four and one-half acres. If the aggregated floor
211	area of structures for winery, brewery, distillery uses exceeds six thousand square feet,
212	including underground storage, the minimum site area shall be ten acres;
213	d. Wineries, breweries and distilleries shall comply with Washington state
214	Department of Ecology and King County board of health regulations for water usage and
215	wastewater disposal, and must connect to an existing Group A water system or an
216	existing Group B water system if a Group A water system is not available. ((Wineries,
217	breweries and distilleries using water from exempt wells shall install a water meter;
218	d. Off street parking is limited to one hundred and fifty percent of the
219	minimum requirement for wineries, breweries or distilleries specified in K.C.C.
220	21A.18.030;))
221	e. Structures and <u>parking</u> areas ((used for processing)) for winery, brewery
222	distillery uses shall be set back a minimum distance of seventy-five feet from property
223	lines adjacent to rural area and residential zones, unless ((the processing is)) located in a
224	building designated as historic resource under K.C.C. chapter 20.62;
225	f. ((The minimum site area is four and one half acres. If the total floor area of
226	structures for wineries, breweries and distilleries and any accessory uses exceed six
227	thousand square feet, including underground storage:
228	(1) the minimum site area is ten acres; and
229	(2) a minimum of two and one-half acres of the site shall be used for the

230 growing of agricultural products: 231 g. The facility shall be limited to processing agricultural products and)) In the A zone, sixty percent or more of the products processed must be grown ((in the Puget 232 Sound counties)) on-site. At the time of the initial application for the adult beverage 233 licensing provisions of K.C.C. chapter 6.xx (the new chapter created in section 2 of this 234 ordinance), the applicant shall submit a projection of the source of products to be 235 processed; ((and)) 236 g. In the A zone, structures and areas for non-agricultural winery, brewery, 237 238 distillery facility uses shall be located on portions of agricultural lands that are unsuitable for agricultural purposes, such as areas within the already developed portion of such 239 agricultural lands that are not available for direct agricultural production, or areas without 240 241 prime agricultural soils; h. Tasting of products produced on site may be provided in accordance with 242 state law. The area devoted to tasting shall be included in the aggregated floor area 243 limitation in subsection B.12.b. and c. of this section. Hours of operation for on-site 244 tasting of products shall be limited as follows: Mondays, Tuesdays, Wednesdays and 245 Thursdays, tasting room hours shall be limited to 11:00 a.m. through 5:00 p.m.; and 246 Fridays, Saturdays and Sundays, tasting room hours shall be limited to 11:00 a.m. 247 through 9:00 p.m.; 248 249 i. On a site with direct access to an arterial; j. Off-street parking is limited to one hundred and fifty percent of the 250 minimum requirement for wineries, breweries or distilleries specified in K.C.C. 251 252 21A.18.030;

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253	k. The business operator shall obtain an adult beverage business license in
254	accordance with the adult beverage licensing provision of K.C.C. chapter 6.xx (the new
255	chapter created in section 2 of this ordinance); and
256	1. Events may be allowed with an approved temporary use permit under K.C.C.
257	<u>chapter 21A.32.</u>
258	13. Only on the same lot or same group of lots under common ownership or
259	documented legal control, which includes, but is not limited to, fee simple ownership, a
260	long-term lease or an easement:
261	a. as accessory to a primary forestry use and at a scale appropriate to process
262	the organic waste generated on the site; or
263	b. as a continuation of a sawmill or lumber manufacturing use only for that
264	period to complete delivery of products or projects under contract at the end of the
265	sawmill or lumber manufacturing activity.
266	14. Only on the same lot or same group of lots under common ownership or
267	documented legal control, which includes, but is not limited to, fee simple ownership, a
268	long-term lease or an easement:
269	a. as accessory to a primary mineral use; or
270	b. as a continuation of a mineral processing use only for that period to
271	complete delivery of products or projects under contract at the end of mineral extraction.
272	15. Continuation of a materials processing facility after reclamation in
273	accordance with an approved reclamation plan.
274	16. Only a site that is ten acres or greater and that does not use local access
275	streets that abut lots developed for residential use.

276	17.a. Limited to ((wineries, SIC Industry No. 2082 Malt Beverages and SIC
277	Industry No. 2085 Distilled and Blended Liquors)) winery, brewery, distillery facility II
278	uses;
279	b. The <u>aggregated</u> floor area ((devoted to all processing)) of structures and
280	areas for winery, brewery, distillery facility uses shall not exceed three thousand five
281	hundred square feet, unless located in ((a building)) whole or in part in a structure
282	designated as historic resource under K.C.C. chapter 20.62, in which case the aggregated
283	floor area of structures and areas devoted to winery, brewery, distillery facility uses shall
284	not exceed five thousand square feet;
285	c. Structures and <u>parking</u> areas ((used)) for ((processing)) winery, brewery,
286	distillery facility uses shall maintain a minimum distance of seventy-five feet from
287	property lines adjoining rural area and residential zones, unless located in a building
288	designated as historic resource under K.C.C. chapter 20.62; ((and))
289	d. Tasting of products produced on site may be provided in accordance with
290	state law. The area devoted to tasting shall be included in <u>aggregated</u> the floor area
291	limitation in subsection $B.((18.))$ <u>17.</u> b. of this section; and
292	e. The business operator shall obtain an adult beverage business license
293	pursuant to the adult beverage licensing provisions of K.C.C. chapter 6.xx (the new
294	chapter created in section 2 of this ordinance).
295	f. Events may be allowed with an approved temporary use permit under K.C.C.
296	chapter 21A.32.
297	18. Limited to:
298	a. SIC Industry Group No. 242-Sawmills and SIC Industry No. 2431-

299	Millwork, as follows:
300	(1) If using lumber or timber grown off-site, the minimum site area is four
301	and one-half acres;
302	(2) The facility shall be limited to an annual production of no more than one
303	hundred fifty thousand board feet;
304	(3) Structures housing equipment used in the operation shall be located at
305	least one-hundred feet from adjacent properties with residential or rural area zoning;
306	(4) Deliveries and customer visits shall be limited to the hours of 8:00 a.m. to
307	7:00 p.m. on weekdays, and 9:00 a.m. to 5:00 p.m. on weekends;
308	(5) In the RA zone, the facility's driveway shall have adequate entering sight
309	distance required by the 2007 King County Road Design and Construction Standards. An
310	adequate turn around shall be provided on-site to prevent vehicles from backing out on to
311	the roadway that the driveway accesses; and
312	(6) Outside lighting is limited to avoid off-site glare; and
313	b. SIC Industry No. 2411-Logging.
314	19. Limited to manufacture of custom made wood furniture or cabinets.
315	20.a. Only allowed on lots of at least four and one-half acres;
316	b. Only as an accessory use to a Washington state Liquor Control Board
317	licensed marijuana production facility on the same lot;
318	c. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;
319	d. Only with documentation that the operator has applied for a Puget Sound
320	Clean Air Agency Notice of Construction Permit. All department permits issued to either
321	marijuana producers or marijuana processors, or both, shall require that a Puget Sound

322 Clean Air Agency Notice of Construction Permit be approved before marijuana products323 are imported onto the site; and

324	e. Accessory marijuana processing uses allowed under this section are subject
325	to all limitations applicable to marijuana production uses under K.C.C. 21A.08.090.
326	21.a. Only in the CB and RB zones located outside the urban growth area;
327	b. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;
328	c. Only with documentation that the operator has applied for a Puget Sound
329	Clean Air Agency Notice of Construction Permit. All department permits issued to either
330	marijuana producers or marijuana processors, or both, shall require that a Puget Sound
331	Clean Air Agency Notice of Construction Permit be approved before marijuana products
332	are imported onto the site;
333	d. Per lot, the aggregated total gross floor area devoted to the use of, and in
334	support of, processing marijuana together with any separately authorized production of
335	marijuana shall be limited to a maximum of two thousand square feet; and

e. If the two-thousand-square-foot-per-lot threshold is exceeded, each and
every marijuana-related entity occupying space in addition to the two-thousand-squarefoot threshold area on that lot shall obtain a conditional use permit as set forth in

subsection B.22. of this section.

22.a. Only in the CB and RB zones located outside the urban growth area;
b. Per lot, the aggregated total gross floor area devoted to the use of, and in
support of, processing marijuana together with any separately authorized production of
marijuana shall be limited to a maximum of thirty thousand square feet;

344

c. With a lighting plan, only if required by K.C.C. 21A.12.220.G.; and

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345	d. Only with documentation that the operator has applied for a Puget Sound	
346	Clean Air Agency Notice of Construction Permit. All department permits issued to either	
347	marijuana producers or marijuana processors, or both, shall require that a Puget Sound	
348	Clean Air Agency Notice of Construction Permit be approved before marijuana products	
349	are imported onto the site.	
350	23.a. Only in the CB and RB zones located inside the urban growth area;	
351	b. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;	
352	c. Only with documentation that the operator has applied for a Puget Sound	
353	Clean Air Agency Notice of Construction Permit. All department permits issued to either	
354	marijuana producers or marijuana processors, or both, shall require that a Puget Sound	
355	Clean Air Agency Notice of Construction Permit be approved before marijuana products	
356	6 are imported onto the site;	
357	d. Per lot, the aggregated total gross floor area devoted to the use of, and in	
358	support of, processing marijuana together with any separately authorized production of	
359	marijuana shall be limited to a maximum of two thousand square feet; and	
360	e. If the two-thousand-square-foot-per-lot threshold is exceeded, each and	
361	every marijuana-related entity occupying space in addition to the two-thousand-square-	
362	foot threshold area on that lot shall obtain a conditional use permit as set forth in	
363	subsection B.24. of this section.	
364	24.a. Only in the CB and RB zones located inside the urban growth area;	
365	b. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;	
366	c. Only with documentation that the operator has applied for a Puget Sound	
367	Clean Air Agency Notice of Construction Permit. All department permits issued to either	
	10	

368	marijuana producers or marijuana processors, or both, shall require that a Puget Sound		
369	Clean Air Agency Notice of Construction Permit be approved before marijuana products		
370	are imported onto the site; and		
371	d. Per lot, the aggregated total gross floor area devoted to the use of, and in		
372	support of, processing marijuana together with any separately authorized production of		
373	marijuana shall be limited to a maximum of thirty thousand square feet.		
374	25.a. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;		
375	b. Only with documentation that the operator has applied for a Puget Sound		
376	Clean Air Agency Notice of Construction Permit. All department permits issued to either		
377	marijuana producers or marijuana processors, or both, shall require that a Puget Sound		
378	Clean Air Agency Notice of Construction Permit be approved before marijuana products		
379	9 are imported onto the site; and		
380	c. Per lot, limited to a maximum aggregate total of two thousand square feet of		
381	gross floor area devoted to, and in support of, the processing of marijuana together with		
382	any separately authorized production of marijuana.		
383	26.a. With a lighting plan, only if required by K.C.C. 21A.12.220.G.;		
384	b. Only with documentation that the operator has applied for a Puget Sound		
385	Clean Air Agency Notice of Construction Permit. All department permits issued to either		
386	marijuana producers or marijuana processors, or both, shall require that a Puget Sound		
387	Clean Air Agency Notice of Construction Permit be approved before marijuana products		
388	are imported onto the site; and		
389	c. Per lot, limited to a maximum aggregate total of thirty thousand square feet of		
390	gross floor area devoted to, and in support of, the processing of marijuana together with		

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391 any separately authorized production of marijuana.

392	27.a. Marijuana processors in all RA zoned areas except for Vashon-Maury
393	Island, that do not require a conditional use permit issued by King County, that receive a
394	Washington state Liquor and Cannabis Board license business prior to October 1, 2016,
395	and that King County did not object to within the Washington state Liquor and Cannabis
396	Board marijuana license application process, shall be considered nonconforming as to
397	subsection B.27.e. of this section, subject to the provisions of K.C.C. 21A.32.020 through
398	21A.32.075 for nonconforming uses;
399	b. Only with a lighting plan that complies with K.C.C. 21A.12.220.G.;
400	c. Only with documentation that the operator has applied for a Puget Sound
401	Clean Air Agency Notice of Construction Permit. All department permits issued to either
402	marijuana producers or marijuana processors, or both, shall require that a Puget Sound
403	Clean Air Agency Notice of Construction Permit be approved before marijuana products
404	are imported onto the site;
405	d. Only allowed on lots of at least four and on-half acres on Vashon-Maury
406	Island;
407	e. Only allowed in the RA-10 or the RA-20 zone, on lots of at least ten acres,
408	except on Vashon-Maury Island;
409	f. Only as an accessory use to a Washington state Liquor Cannabis Board
410	licensed marijuana production facility on the same lot; and
411	g. Accessory marijuana processing uses allowed under this section are subject to
412	all limitations applicable to marijuana production uses under K.C.C. 21A.08.090.
413	28. If the food and kindred products manufacturing or processing is associated

414	with agricultural activities it will be reviewed in accordance with K.C.C. 21A.08.090.			
415	29.a. The business operator shall obtain an adult beverage business license			
416	pursuant to the adult beverage licensing provisions of K.C.C. chapter 6.xx (the new chapter			
417	created in section 2 of this ordinance).			
418	b. Events may be allowed with an approved Temporary Use Permit under			
419	K.C.C. chapter 21A.32.			
420	30. a. Limited to winery, brewery, distillery facility I uses;			
421	b. The aggregated floor area of structures and areas for the winery, brewery,			
422	distillery use shall not exceed one thousand five hundred square feet;			
423	c. Structures and parking areas for winery, brewery, distillery uses shall be set			
424	back a minimum distance of seventy-five feet from property lines adjacent to rural area			
425	and residential zones, unless located in a building designated as historic resource under			
426	5 <u>K.C.C. chapter 20.62;</u>			
427	d. No more than one nonresident employee shall be permitted to work on-site;			
428	e. One on-site parking place shall be provided if a nonresident is employed to			
429	work on-site;			
430	f. The business operator shall obtain an adult beverage business license in			
431	accordance with the adult beverage licensing provision of K.C. C. chapter 6.xx (the new			
432	chapter created in section 2 of this ordinance); and			
433	g. No product tasting, retail sale or events requiring a Temporary Use Permit			
434	under K.C.C. chapter 21A.32 shall be allowed.			
435	31.a. Limited to winery, brewery, distillery facility II uses;			
436	b. Only allowed on lots of at least four and one-half acres;			

437	c. The aggregated floor area of structures and areas for winery, brewery,
438	distillery facility uses shall not exceed three thousand five hundred square feet, unless
439	located in whole or in part in a structure designated as historic resource under K.C.C.
440	chapter 20.62, in which case the aggregated floor area of structures and areas devoted to
441	winery, brewery, distillery facility uses shall not exceed five thousand square feet;
442	d. Structures and parking areas for winery, brewery, distillery facility uses
443	shall maintain a minimum distance of seventy-five feet from property lines adjoining
444	rural area and residential zones, unless located in a building designated as historic
445	resource under K.C.C. chapter 20.62;
446	e. Tasting of products produced on site may be provided in accordance with
447	state law. The area devoted to tasting shall be included in the floor area limitation in
448	subsection B.3.c. of this section. Hours of operation for on-site tasting of products shall
449	be limited as follows: Mondays, Tuesdays, Wednesdays and Thursdays, tasting room
450	hours shall be limited to 11:00 a.m. through 5:00 p.m.; and Fridays, Saturdays and
451	Sundays, tasting room hours shall be limited to 11:00 a.m. through 9:00 p.m.;
452	f. On a site with direct access to a public roadway;
453	g. Off-street parking is limited to one hundred and fifty percent of the
454	minimum requirement for wineries, breweries or distilleries specified in K.C.C.
455	<u>21A.18.030;</u>
456	h. The business operator shall obtain an adult beverage business license in
457	accordance with the adult beverage licensing provision of K.C.C. chapter 6.xx (the new
458	chapter created in section 2 of this ordinance); and
459	i. Events may be allowed with an approved temporary use permit under K.C.C.

460 <u>chapter 21A.32.</u>

461 <u>SECTION 17.</u> Ordinance 10870, Section 407, as amended, and K.C.C.

462 21A.18.030 are hereby amended to read as follows:

A. Except as modified in K.C.C. 21A.18.070.B((-)). through D., off-street

464 parking areas shall contain at a minimum the number of parking spaces as stipulated in

the following table. Off-street parking ratios expressed as number of spaces per square

466 feet means the usable or net square footage of floor area, exclusive of non-public areas.

467 Non-public areas include but are not limited to building maintenance areas, storage areas,

468 closets or restrooms. If the formula for determining the number of off-street parking

spaces results in a fraction, the number of off-street parking spaces shall be rounded to

470 the nearest whole number with fractions of 0.50 or greater rounding up and fractions

471 below $\underline{0.50}$ rounding down.	
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LAND USE	MINIMUM PARKING SPACES
	REQUIRED
RESIDENTIAL (K.C.C. 21A.08.030.A):	
Single detached/Townhouse	2.0 per dwelling unit
Apartment:	
Studio units	1.2 per dwelling unit
One bedroom units	1.5 per dwelling unit
Two bedroom units	1.7 per dwelling unit
Three bedroom units or larger	2.0 per dwelling unit

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Mobile home park	2.0 per dwelling unit
Senior citizen assisted	1 per 2 dwelling or sleeping units
Community residential facilities	1 per two bedrooms
Dormitory, including religious	1 per two bedrooms
Hotel/Motel including organizational	1 per bedroom
hotel/lodging	
Bed and breakfast guesthouse	1 per guest room, plus 2 per facility
RECREATION/CULTURAL (K.C.C. 2)	1 4 08 040 4).
Recreation/culture uses:	1 per 300 square feet
Exceptions:	
Bowling center	5 per lane
Golf course	3 per hole, plus 1 per 300 square feet of
	club house facilities
Tennis Club	4 per tennis court plus 1 per 300 square
	feet of clubhouse facility
Golf driving range	1 per tee
Park/playfield/paintball	(director)
Theater	1 per 3 fixed seats
Conference center	1 per 3 fixed seats, plus 1 per 50 square
	feet used for assembly purposes without
	fixed seats, or 1 per bedroom, whichever
	results in the greater number of spaces.

LAND USE	MINIMUM PARKING SPACES
	REQUIRED
GENERAL SERVICES (K.C.C. 21A.08.0	50.A):
General services uses:	1 per 300 square feet
Exceptions:	
e	1 per 50 square feet of chapel area
Daycare I	2 per facility
Daycare II	2 per facility, plus 1 space for each 20
	children
Churches, synagogue, temple	1 per 5 fixed seats, plus 1 per 50 square
	feet of gross floor area without fixed seats
	used for assembly purposes
Outpatient and Veterinary clinic offices	1 per 300 square feet of office, labs and
	examination rooms
Nursing and personal care Facilities	1 per 4 beds
Hospital	1 per bed
Elementary schools	1 per classroom, plus 1 per 50 students
Secondary schools	
Middle/junior high schools	1 per classroom, plus 1 per 50 students
High schools	1 per classroom, plus 1 per 10 students
High schools with stadiums	greater of 1 per classroom plus 1 per 10
	students, or 1 per 3 fixed seats in stadium
Vocational schools	1 per classroom, plus 1 per five students
Specialized instruction Schools	1 per classroom, plus 1 per two students

Artist Studios	<u>0</u> .9 per 1,000 square feet of area used for
	studios
GOVERNMENT/BUSINESS SERVICE	ES (K.C.C. 21A.08.060.A):
Government/business services uses:	1 per 300 square feet
Exceptions:	
Public agency yard	1 per 300 square feet of offices, plus <u>0</u> .9
	per 1,000 square feet of indoor storage or
	repair areas
Public agency archives	<u>0</u> .9 per 1000 square feet of storage area,
	plus 1 per 50 square feet of
	waiting/reviewing areas
Е	3 per courtroom, plus 1 per 50 square feet
	of fixed seat or assembly areas
Police facility	(director)
Fire facility	(director)
Construction and trade	1 per 300 square feet of office, plus 1 per
	3,000 square feet of storage area
Warehousing and storage	1 per 300 square feet of office, plus <u>0</u> .9
	per 1,000 square feet of storage area
Self-service storage	1 per 3,500 square feet of storage area,
	plus 2 for any resident director's unit
Outdoor advertising services	1 per 300 square feet of office, plus <u>0</u> .9

	1.000
	per 1,000 square feet of storage area
Heavy equipment repair	1 per 300 square feet of office, plus <u>0</u> .9
	per 1,000 square feet of indoor repair
	areas
Office	1 per 300 square feet
LAND USE	MINIMUM PARKING SPACES
	REQUIRED
RETAIL/WHOLESALE (K.C.C. 21A.08.07	70.A):
Retail trade uses:	1 per 300 square feet
Exceptions:	
Food stores, less than 15,000 square feet	3 plus 1 per 350 square feet
Gasoline service stations w/o grocery	3 per facility, plus 1 per service bay
Gasoline service stations w/grocery, no	1 per facility, plus 1 per 300 square feet of
service bays	store
Restaurants	1 per 75 square feet in dining or lounge
	areas
Wholesale trade uses	<u>0</u> .9 per 1000 square feet
Retail and wholesale trade mixed use	1 per 300 square feet
MANUFACTURING (K.C.C. 21A.08.080.A	A):
Manufacturing uses	<u>0</u> .9 per 1,000 square feet
Winery/Brewery/Distillery Facility II	$\underline{0.9}$ per 1,000 square feet, plus 1 per ((50))
	<u>300</u> square feet of tasting area

RESOURCES (K.C.C. 21A.08.090.A):	
Resource uses	(director)
REGIONAL (K.C.C. 21A.08.100.A):	
Regional uses	(director)

B. An applicant may request a modification of the minimum required number of 472 473 parking spaces by providing that parking demand can be met with a reduced parking requirement. In such cases, the director may approve a reduction of up to fifty percent of 474 the minimum required number of spaces. 475 C. When the county has received a shell building permit application, off-street 476 parking requirements shall be based on the possible tenant improvements or uses 477 authorized by the zone designation and compatible with the limitations of the shell 478 permit. When the range of possible uses result in different parking requirements, the 479 480 director will establish the amount of parking based on a likely range of uses. D. Where other provisions of this code stipulate maximum parking allowed or 481 reduced minimum parking requirements, those provisions shall apply. 482 483 E. In any development required to provide six or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type parking 484 485 facilities unless otherwise specified. 486 1. Off-street parking areas shall contain at least one bicycle parking space for every twelve spaces required for motor vehicles except as follows: 487 a. The director may reduce bike rack parking facilities for patrons when it is 488 demonstrated that bicycle activity will not occur at that location. 489

490	b. The director may require additional spaces when it is determined that the
491	use or its location will generate a high volume of bicycle activity. Such a determination
492	will include but not be limited to the following uses:
493	(1) Park/playfield,
494	(2) Marina,
495	(3) Library/museum/arboretum,
496	(4) Elementary/secondary school,
497	(5) Sports club, or
498	(6) Retail business (when located along a developed bicycle trail or
499	designated bicycle route).
500	2. Bicycle facilities for patrons shall be located within 100 feet of the building
501	entrance and shall be designed to allow either a bicycle frame or wheels to be locked to a
502	structure attached to the pavement.
503	3. All bicycle parking and storage shall be located in safe, visible areas that do
504	not impede pedestrian or vehicle traffic flow, and shall be well lit for nighttime use.
505	4. When more than ten people are employed on site, enclosed locker-type
506	parking facilities for employees shall be provided. The director shall allocate the
507	required number of parking spaces between bike rack parking and enclosed locker-type
508	parking facilities.
509	5. One indoor bicycle storage space shall be provided for every two dwelling
510	units in townhouse and apartment residential uses, unless individual garages are provided
511	for every unit. The director may reduce the number of bike rack parking spaces if indoor
512	storage facilities are available to all residents.

513	SECTION 18. Ordinance 10870, Section 536, as amended, and K.C.C.
514	21A.30.080 are hereby amended to read as follows:
515	In the R, UR, NB, CB and RB zones, residents of a dwelling unit may conduct one
516	or more home occupations as accessory activities, only if:
517	A. The total floor area of the dwelling unit devoted to all home occupations shall
518	not exceed twenty percent of the floor area of the dwelling unit.
519	B. Areas within garages and storage buildings shall not be considered part of the
520	dwelling unit and may be used for activities associated with the home occupation;
521	C. All the activities of the home occupation or occupations shall be conducted
522	indoors, except for those related to growing or storing of plants used by the home
523	occupation or occupations;
524	D. A home occupation or occupations is not limited in the number of employees
525	that remain off-site. No more than one nonresident employee shall be permitted to work
526	on-site for the home occupation or occupations;
527	E. The following uses, by the nature of their operation or investment, tend to
528	increase beyond the limits permitted for home occupations. Therefore, the following shall
529	not be permitted as home occupations:
530	1. Automobile, truck and heavy equipment repair;
531	2. ((Autobody)) Auto body work or painting;
532	3. Parking and storage of heavy equipment;
533	4. Storage of building materials for use on other properties;
534	5. Hotels, motels or organizational lodging;
535	6. Dry cleaning;

536	7. Towing services;
537	8. Trucking, storage or self service, except for parking or storage of one
538	commercial vehicle used in home occupation; ((and))
539	9. Veterinary clinic; ((and))
540	10. Recreational marijuana processor, recreational marijuana producer or
541	recreational marijuana retailer; and
542	11. Winery, brewery, distillery facility I, II, and III, and remote tasting room;
543	F. In addition to required parking for the dwelling unit, on-site parking is provided
544	as follows:
545	1. One stall for each nonresident employed by the home occupations; and
546	2. One stall for patrons when services are rendered on-site;
547	G. Sales are limited to:
548	1. Mail order sales;
549	2. Telephone, Internet or other electronic commerce sales with off-site delivery;
550	and
551	3. Items accessory to a service provided to patrons who receive services on the
552	premises;
553	H. On-site services to patrons are arranged by appointment;
554	I. The home occupation or occupations use or store a vehicle for pickup of
555	materials used by the home occupation or occupations or the distribution of products from
556	the site, only if:
557	1. No more than one such a vehicle is allowed; and
558	2. The vehicle is not stored within any required setback areas of the lot or on

adjacent streets; and

560 3. The vehicle does not exceed an equivalent licensed gross vehicle weight of one561 ton;

562 J. The home occupation or occupations do not:

563 1. Use electrical or mechanical equipment that results in a change to the
564 occupancy type of the structure or structures used for the home occupation or occupations;
565 or

566 2. Cause visual or audible interference in radio or television receivers, or

sector electronic equipment located off-premises or fluctuations in line voltage off-premises;

568 ((and))

K. There shall be no exterior evidence of a home occupation, other than growing or
storing of plants under subsection C. of this section or a permitted sign, that would cause
the premises to differ from its residential character. Exterior evidence includes, but is not
limited to, lighting, the generation or emission of noise, fumes or vibrations as determined
by using normal senses from any lot line or on average increase vehicular traffic by more
than four additional vehicles at any given time;
L. Customer visits and deliveries shall be limited to the hours of 8:00 a.m. to 7:00

575 L. Customer visits and deliveries shall be limited to the hours of 8:00 a.m. to 7:00 576 p.m. on weekdays, and 9:00 a.m. to 5:00 p.m. on weekends; and

577 M. Uses not allowed as home occupations may be allowed as a home industry

578 under K.C.C. 21A.30.090.

579 <u>SECTION 19.</u> Ordinance 15606, Section 20, as amended, and K.C.C.

580 21A.30.085 are hereby amended to read as follows:

581 In the A, F and RA zones, residents of a dwelling unit may conduct one or more

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582	home occupations as accessory activities, under the following provisions:
583	A. The total floor area of the dwelling unit devoted to all home occupations shall
584	not exceed twenty percent of the dwelling unit.
585	B. Areas within garages and storage buildings shall not be considered part of the
586	dwelling unit and may be used for activities associated with the home occupation;
587	C. Total outdoor area of all home occupations shall be permitted as follows:
588	1. For any lot less than one acre: Four hundred forty square feet; and
589	2. For lots one acre or greater: One percent of the area of the lot, up to a
590	maximum of five thousand square feet.
591	D. Outdoor storage areas and parking areas related to home occupations shall be:
592	1. No less than twenty-five feet from any property line; and
593	2. Screened along the portions of such areas that can be seen from an adjacent
594	parcel or roadway by the:
595	a. planting of Type II landscape buffering; or
596	b. use of existing vegetation that meets or can be augmented with additional
597	plantings to meet the intent of Type II landscaping((-)):
598	E. A home occupation or occupations is not limited in the number of employees
599	that remain off-site. Regardless of the number of home occupations, the number of
600	nonresident employees is limited to no more than three who work on-site at the same time
601	and no more than three who report to the site but primarily provide services off-site((-)):
602	F. In addition to required parking for the dwelling unit, on-site parking is provided
603	as follows:
604	1. One stall for each nonresident employed on-site; and

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605	2. One stall for patrons when services are rendered on-site;
606	G. Sales are limited to:
607	1. Mail order sales;
608	2. Telephone, Internet or other electronic commerce sales with off-site delivery;
609	3. Items accessory to a service provided to patrons who receive services on the
610	premises;
611	4. Items grown, produced or fabricated on-site; and
612	5. On sites five acres or larger, items that support agriculture, equestrian or
613	forestry uses except for the following:
614	a. motor vehicles and parts (North American Industrial Classification System
615	("NAICS" Code 441);
616	b. electronics and appliances (NAICS Code 443); and
617	c. building material and garden equipment and supplies (NAICS Code 444);
618	H. The home occupation or occupations do not:
619	1. Use electrical or mechanical equipment that results in a change to the
620	occupancy type of the structure or structures used for the home occupation or occupations;
621	2. Cause visual or audible interference in radio or television receivers, or
622	electronic equipment located off-premises or fluctuations in line voltage off-premises; or
623	3. Increase average vehicular traffic by more than four additional vehicles at any
624	given time;
625	I. Customer visits and deliveries shall be limited to the hours of 8:00 a.m. to 7:00
626	p.m. on weekdays, and 9:00 a.m. to 5:00 p.m. on weekends;
627	J. The following uses, by the nature of their operation or investment, tend to

628	increase beyond the limits permitted for home occupations. Therefore, the following shall
629	not be permitted as home occupations:
630	1. Hotels, motels or organizational lodging;
631	2. Dry cleaning((÷));
632	3. Automotive towing services, automotive wrecking services and tow-in parking
633	lots; ((and))
634	4. Recreational marijuana processor, recreational marijuana producer or
635	recreational marijuana retailer((-)); and
636	5. Winery, brewery, distillery facility I, II, and III, and remote tasting room;
637	K. Uses not allowed as home occupation may be allowed as a home industry under
638	K.C.C. chapter 21A.30; and
639	L. The home occupation or occupations may use or store vehicles, as follows:
640	1. The total number of vehicles for all home occupations shall be:
641	a. for any lot five acres or less: two;
642	b. for lots greater than five acres: three; and
643	c. for lots greater than ten acres: four;
644	2. The vehicles are not stored within any required setback areas of the lot or on
645	adjacent streets; and
646	3. The parking area for the vehicles shall not be considered part of the outdoor
647	storage area provided for in subsection C. of this section.
648	SECTION 20. Ordinance 10870, Section 537, as amended, and K.C.C.
649	21A.30.090 are hereby amended to read as follows:
650	A resident may establish a home industry as an accessory activity, as follows:

651	A. The site area is one acre or greater;
652	B. The area of the dwelling unit used for the home industry does not exceed fifty
653	percent of the floor area of the dwelling unit.
654	C. Areas within attached garages and storage buildings shall not be considered part
655	of the dwelling unit for purposes of calculating allowable home industry area but may be
656	used for storage of goods associated with the home industry;
657	D. No more than six nonresidents who work on-site at the time;
658	E. In addition to required parking for the dwelling unit, on-site parking is provided
659	as follows:
660	1. One stall for each nonresident employee of the home industry; and
661	2. One stall for customer parking;
662	F. Additional customer parking shall be calculated for areas devoted to the home
663	industry at the rate of one stall per:
664	1. One thousand square feet of building floor area; and
665	2. Two thousand square feet of outdoor work or storage area;
666	G. Sales are limited to items produced on-site, except for items collected, traded
667	and occasionally sold by hobbyists, such as coins, stamps, and antiques;
668	H. Ten feet of Type I landscaping are provided around portions of parking and
669	outside storage areas that are otherwise visible from adjacent properties or public rights-of-
670	way;
671	I. The department ensures compatibility of the home industry by:
672	1. Limiting the type and size of equipment used by the home industry to those that
673	are compatible with the surrounding neighborhood;

674	2. Providing for setbacks or screening as needed to protect adjacent residential
675	properties;
676	3. Specifying hours of operation;
677	4. Determining acceptable levels of outdoor lighting; and
678	5. Requiring sound level tests for activities determined to produce sound levels
679	that may be in excess of those in K.C.C. chapter 12.88; ((and))
680	J. Recreational marijuana processors, recreational marijuana producers and
681	recreational marijuana retailers shall not be allowed as home industry; and
682	K. Winery, brewery, distillery facility I, II, and III, and remote tasting room shall
683	not be allowed as home industry.
684	SECTION 21. Ordinance 10870, Section 549, as amended, and K.C.C.
685	21A.32.120 are hereby amended to read as follows:
686	Except as otherwise provided in this chapter or in K.C.C. chapter 21A.45,
687	temporary use permits shall be limited in duration and frequency as follows:
688	A. The temporary use permit shall be effective for one year from the date of
689	issuance and may be renewed annually as provided in subsection D. of this section;
690	B.1. The temporary use shall not exceed a total of sixty days in any three-
691	hundred and sixty five day period. This requirement applies only to the days that the
692	event or events actually take place.
693	2. For a winery, brewery, distillery facility II and III in the A ((or RA)) zones,
694	the temporary use shall not exceed a total of two events per month and all event parking
695	((for the events)) must be accommodated on site or managed through a parking
696	management plan approved by the director.

697	3. For a winery, brewery, distillery facility II and III in the RA zones, the
698	temporary use shall not exceed a total of twenty-four days in any three-hundred-sixty-
699	five-day period and all event parking must be accommodated on site or managed through
700	a parking management plan approved by the director. This requirement applies only to
701	the days that the event or events actually take place;
702	4. For a winery, brewery, distillery facility II in the A or RA zones, in addition
703	to all other relevant facts, the department shall consider building occupancy limits and
704	parking limitations during permit review. The department shall condition the number of
705	guests allowed for a temporary use. No permit shall authorize attendance of more than
706	one hundred twenty-five guests.
707	5. For a winery, brewery, distillery facility III in the A or RA zones, in addition
708	to all other relevant facts, the department shall consider building occupancy limits and
709	parking limitations during permit review. The department shall condition the number of
710	guests allowed for a temporary use. No permit shall authorize attendance of more than
711	two hundred fifty guests.
712	6. Events that require a temporary use permit are prohibited for any winery,
713	brewery, distillery facility I, any nonconforming winery, brewery, distillery facility home
714	occupation, and any nonconforming winery, brewery, distillery facility home industry.
715	No temporary use permit shall be issued to the operator or a winery, brewery, distillery
716	facility I, a nonconforming home occupation winery, brewery, distillery facility or a
717	nonconforming home industry winery, brewery, distillery facility.
718	C. The temporary use permit shall specify a date upon which the use shall be
719	terminated and removed; and

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720	D. A temporary use permit may be renewed annually for up to a total of five
721	consecutive years as follows:
722	1. The applicant shall make a written request and pay the applicable permit
723	extension fees for renewal of the temporary use permit at least seventy days before the
724	end of the permit period;
725	2. The department must determine that the temporary use is being conducted in
726	compliance with the conditions of the temporary use permit;
727	3. The department must determine that site conditions have not changed since
728	the original temporary permit was issued; and
729	4. At least forty-five days before the end of the permit period, the department
730	shall notify property owners within five hundred feet of the property boundaries that a
731	temporary use permit extension has been requested and contact information to request
732	additional information or to provide comments on the proposed extension.
733	NEW SECTION. SECTION 22. There is hereby added to K.C.C. chapter
734	21A.55 a new section to read as follows:
735	A.1. There is hereby created the Sammamish Valley and Vashon Town Center
736	wine and adult beverage remote tasting room demonstration project A. The purpose of
737	demonstration project A is to support agriculture and synergistic development of mixed
738	use wine and adult beverage facilities in order to boost agritourism and both areas'
739	reputations as food and adult-beverage destinations.
740	2. The demonstration project will enable the county to determine if expanded
741	wine and adult beverage-based uses can be permitted while maintaining the core
742	functions and purposes of the Rural Area and Agricultural Production District zones. The

743	expected benefits from the demonstration projects include: developing a clear picture of
744	wine and adult beverage industry impacts on and benefits to Rural Area and Agricultural
745	Production District zoned communities, opportunity for additional exposure for locally
746	sourced agricultural products; and the opportunity to identify and evaluate potential
747	substantive changes to countywide land use regulations to support the development of
748	additional areas of unincorporated King County that may benefit from growth in wine
749	and adult beverage industry agritourism.
750	B. An application for a demonstration project remote tasting room under this
751	section shall be approved or denied administratively by the department of permitting and
752	environmental review based upon compliance with the criteria in subsections D. and E. of
753	this section. Approval or denial of a remote tasting room application shall not be
754	construed as applying to any other development application either within the
755	demonstration project area or elsewhere in the county.
756	C. The use that the department may approve pursuant to this Sammamish Valley
757	and Vashon Town Center wine and beverage tourism demonstration project A shall
758	include only the following: Remote tasting room as defined in K.C.C. chapter 21A.06.
759	D.1. This section allows establishment and operation of a remote tasting room
760	use.
761	2. A demonstration project remote tasting room use may be approved, subject to
762	the following:
763	a. One or more winery, brewery, distillery facility I, II or III may operate
764	within one remote tasting room;
765	b. The aggregated total space devoted to tasting and retail activity shall be

766	limited to one thousand square feet of gross floor area, not including areas devoted to
767	storage, restrooms, and similar back-of-the-house uses;
768	c. Notwithstanding subsection D.2.b. of this section, an additional five hundred
769	square feet of immediately adjacent outdoor space may be used for tasting, subject to
770	applicable state regulations limiting sale, service and consumption of alcoholic
771	beverages;
772	d. The site must have direct access to an arterial;
773	e. The remote tasting room site shall not be used as a winery, brewery,
774	distillery facility I, II or III production facility;
775	f. Incidental retail sales of products and merchandise related to the products
776	being tasted is allowed;
777	g. The hours of operation for the tasting room shall be limited as follows:
778	Mondays, Tuesdays, Wednesdays and Thursdays, tasting room hours shall be limited to
779	11:00 a.m. through 5:00 p.m.; and Fridays, Saturdays and Sundays, tasting room hours
780	shall be limited to 11:00 a.m. through 9:00 p.m.;
781	h. An adult beverage business license is required, in accordance with K.C.C.
782	Title 6;
783	i. A remote tasting room may not operate without proof of Washington state
784	Liquor and Cannabis Board approval;
785	j. Events that require a temporary use permit shall be prohibited at remote
786	tasting rooms; and
787	k. Parking shall be limited to one hundred fifty percent of minimum required
788	for retail trade uses in accordance with K.C.C. 21A.18.030.

789	E.1. To be eligible to use the provisions of this section, a remote tasting room
790	must be located on a demonstration project site identified in Attachment A to this
791	ordinance.
792	2. Projects proposed in accordance with this section must be consistent with
793	general health, safety and public welfare standards, and must not violate state or federal
794	law.
795	3. The criteria in this subsection supersede other variance, modification or
796	waiver criteria and provisions of K.C.C. Title 21A.
797	F.1. Projects proposed in accordance with this section may be submitted in
798	conjunction with an application for an adult beverage business license or a building
799	permit.
800	2. Requests shall be submitted to the department in writing, together with any
801	supporting documentation and must illustrate how the proposal meets the criteria in
802	subsections D. and E. of this section.
803	3. A director's decision regarding a remote tasting room application shall be
804	treated as a Type I land use decision in accordance with K.C.C. 20.20.020.
805	G. Applications in accordance with this section may be accepted by the
806	department of permitting and environmental review only within three years of the
807	effective date of this ordinance. Remote tasting room uses approved in accordance with
808	this section may continue as long as an underlying business license or renewal is
809	maintained, and subject to the nonconformance provisions of K.C.C. chapter 21A.32.
810	H. One year after the effective date of this ordinance, and on an annual basis for
811	three years thereafter, the director shall compile a list of demonstration project

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applications submitted and related code complaints, if any.

813 I. After considering the information compiled under subsection H. of this section, the executive may submit additional proposed legislation extending or otherwise 814 amending this ordinance within three years of the effective date of this ordinance. 815 NEW SECTION. SECTION 23. There is hereby added to K.C.C. chapter 816 817 21A.55 a new section to read as follows: A.1. The purpose of the Sammamish valley wine and adult beverage tourism 818 819 district events demonstration project B is to support agriculture and synergistic 820 development of mixed use wine and adult beverage facilities in order to boost agritourism and the area's reputation as a food and adult beverage destination. 821 822 2. The demonstration project will enable the county to determine if expanded 823 wine and adult beverage-based uses can be permitted while maintaining the core 824 functions and purposes of the Rural Area and Agricultural Production District zones. The expected benefits from the demonstration projects include: developing a clear picture of 825 wine and adult beverage industry impacts on and benefits to surrounding Rural Area and 826 827 Agricultural Production District zoned communities; the opportunity for additional 828 exposure for locally sourced agricultural products; and the opportunity to identify and evaluate potential substantive changes to countywide land use regulations to support the 829 830 development of additional areas of unincorporated King County that may benefit from 831 growth in wine and adult beverage industry agritourism. B. A wine and beverage tourism demonstration project district B application to 832 833 modify development standards for on-site winery, brewery, distillery facility III wedding 834 and events shall be administratively approved by the department of permitting and

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835	environmental review, and upon such an approval K.C.C. chapter 21A.42 review
836	procedures shall be applied. Demonstration project uses may be approved and
837	conditioned by the department if compliant with the criteria in K.C.C. 21A.44.040.
838	Approval of the proposed demonstration project shall not be construed as applying to any
839	other development application either within the demonstration project area or elsewhere
840	in the county, and shall not render uses authorized under this section "otherwise
841	permitted in the zone" under K.C.C. 21A.32.100.A.
842	C. The development regulations that shall be waived upon application include the
843	following:
844	1. K.C.C. 21A.32.100 through 21A.32.140;
845	2. K.C.C. 21A.44.020; and
846	3. K.C.C. 21A.08.080.B.12.1
847	D.1. A demonstration project authorized by this section allows a winery,
848	brewery, distillery facility III operator to obtain authorization for on-site weddings and
849	similar uses pursuant to conditional use review mechanisms in K.C.C. 21A.44.040, and
850	applicable to those uses under K.C.C. 21A.08.080.A and B;
851	2. Demonstration project conditional use permits are subject to all King County
852	Code provisions except those specifically excluded by subsection C. of this section,
853	including but not limited to, K.C.C. chapters 21A.42and 20.20.
854	E.1. Demonstration project applications made in accordance with this section
855	may only be submitted in relation to an application for a winery, brewery, distillery
856	facility III conditional use permit or winery, brewery, distillery facility conditional use
857	permit modification or expansion.

858	2. Demonstration project applications shall be submitted to the department in
859	writing before or in conjunction with an application for a winery, brewery, distillery
860	facility III conditional use permit or an application for a winery, brewery, distillery
861	facility III conditional use permit modification or expansion. The supporting
862	documentation must illustrate how the proposal meets the criteria in K.C.C 21A.44.040.
863	3. A demonstration project conditional use permit, conditional use modification
864	or conditional use expansion decision shall be treated as a Type II land use decision in
865	accordance with K.C.C. 20.20.020.
866	F.1. To be eligible to use the provisions of this section, a demonstration project
867	must be located on a demonstration project site identified in Attachment B to this
868	ordinance.
869	2. Demonstration project applications must be consistent with general health,
870	safety and public welfare standards, and must not violate state or federal law.
871	G. Demonstration project applications authorized by this section shall be filed
872	with the department of permitting and environmental review within three years of the
873	effective date of this ordinance. Conditional uses permitted under this section are subject
874	to the nonconformance provisions of K.C.C. Title 21A.32. Any deadline in this
875	subsection shall be adjusted to include the time for appeal of all or any portion of the
876	project approval.
877	H. One year after the effective date of this ordinance, and on an annual basis for
878	three years thereafter, the director shall compile a list of demonstration project
879	applications, an evaluation of the impacts of wedding and similar uses authorized
880	pursuant to demonstration project conditional use permits, and related code complaints, if

881 any.

882	I. The executive may submit additional proposed legislation reflecting				
883	information compiled under subsection H of this section within three years of the				
884	effective date of this ordinance.				
885	SECTION 24. Ordinance 13623, Section 37, as amended, and K.C.C. 23.32.010				
886	are hereby amended to read as follows:				
887	A.1. Civil fines and civil penalties for civil code violations shal	l be imposed for			
888	remedial purposes and shall be assessed for each violation identified in	a citation, notice			
889	and order, voluntary compliance agreement or stop work order pursuant to the following				
890	schedule:				
	a. citations, except for winery, brewery, distillery facility I, II				
	and II and remote tasting room:				
	(1) with no previous similar code violations	\$100			
	(2) with no previous code violations of K.C.C. chapter 12.86	\$125			
	within the past twelve months				
	(3) with one previous code violation of K.C.C. chapter 12.86	\$250			
	within the past twelve months				
	(4) with one or more previous similar code violations, or with	\$500			

two previous code violations of K.C.C. chapter 12.86 within the past twelve months

(5) with two or more previous violations of K.C.C. Title 10, or	Double the rate
three or more previous code violations of K.C.C. chapter 12.86	of the previous
within the past twelve months	penalty

b. citations for violations of winery, brewery, dstillery facility I,

II, and III and remote tasting room zoning conditions, including but

not limited to unapproved events;

(1) with no previous similar code violations	<u>\$500</u>
(2) with one or more previous similar code violations within	<u>\$1,000</u>
the past twelve months;	
c. violation of notice and orders and stop work orders:	
(1) stop work order basic penalty	\$500
(2) voluntary compliance agreement and notice and order basic	\$25
penalty	
(3) additional initial penalties may be added in the following	
amounts for violations where there is:	
(a) public health risk	\$15
(b) environmental damage risk	\$15
(c) damage to property risk	\$15
(d) one previous similar code violation	\$25
(e) two previous similar code violations	\$50
(f) three or more previous similar code violations	\$75
(g) economic benefit to person responsible for violation	\$25
((e.)) <u>d.</u> cleanup restitution payment: as specified in K.C.C.	
23.02.140.	
((d.)) <u>e.</u> reinspection following the issuance of a notice and	
order, if the violation has not been abated in accordance with the	
notice and order:	
(1) first reinspection, which shall occur no sooner than the day	\$150

following the date compliance is required by the notice and order

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(2) second reinspection, which shall occur no sooner than
 fourteen days following the first reinspection
 (3) third reinspection, which shall occur no sooner than
 fourteen days following the second reinspection
 (4) reinspection after the third reinspection, which shall only be
 conducted immediately preceding an administrative or court
 ordered abatement or at the direction of the prosecuting attorney for
 the purpose of presenting evidence in the course of litigation or
 administrative hearing against the person responsible for code
 compliance

2. For the purposes of this section, previous similar code violations that can serve as a basis for a higher level of civil penalties include violations of the same chapter of the King County Code. Any citation, stop work order or notice and order previously issued by the department shall not constitute a previous code violation for the purposes of this section if that stop work order or notice and order was appealed and subsequently reversed.

B. The penalties assessed pursuant to this section for any failure to comply with a 897 898 notice and order or voluntary compliance agreement shall be assessed daily, according to 899 the schedule in subsection A of this section, for the first thirty days following the date the notice and order or voluntary compliance agreement required the code violations to have 900 been cured. If after thirty days the person responsible for code compliance has failed to 901 satisfy the notice and order or voluntary compliance agreement, penalties shall be 902 903 assessed daily at a rate of double the rate for the first thirty days. Penalties may be 904 assessed daily until the person responsible for code compliance has fully complied with

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905 the notice and order.

906 C. Penalties based on violation of a stop work order shall be assessed, according
907 to the schedule in subsection A. of this section, for each day the department determines
908 that work or activity was done in violation of the stop work order.

D. Citations and cleanup restitution payments shall only be subject to a one-timecivil penalty.

E. The director may suspend the imposition of additional civil penalties if the 911 person responsible for code compliance has entered into a voluntary compliance 912 913 agreement. If the person responsible for code compliance enters into a voluntary compliance agreement and cures the code violations, the director may also waive all or 914 part of the accrued civil penalties in accordance with K.C.C. 23.32.050. Penalties shall 915 916 begin to accrue again pursuant to the terms of the voluntary compliance agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action 917 identified in the voluntary compliance agreement is not completed as specified. 918 F. The civil penalties in this section are in addition to, and not in lieu of, any 919 penalties, sanctions, restitution or fines provided for in any other provisions of law. 920 SECTION 25. Severability. If any provision of this ordinance or its application 921 to any person or circumstance is held invalid, the remainder of the ordinance or the 922 application of the provision to other persons or circumstances is not affected. 923 924

KING COUNTY COUNCIL KING COUNTY, WASHINGTON

ATTEST:

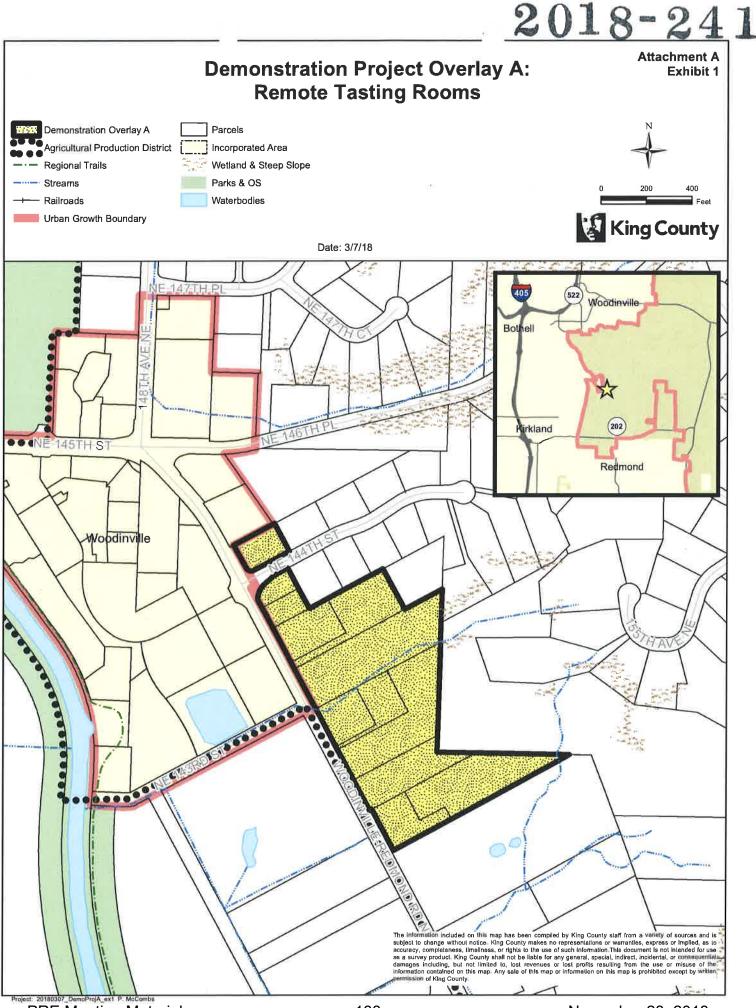
J. Joseph McDermott, Chair

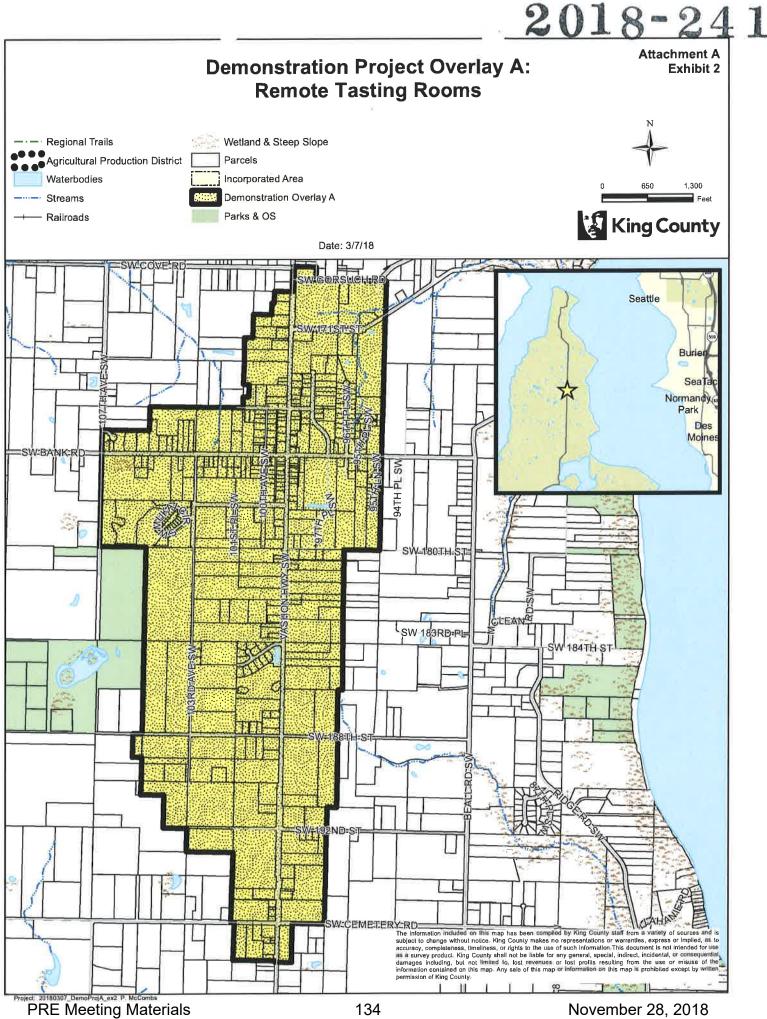
Melani Pedroza, Clerk of the Council

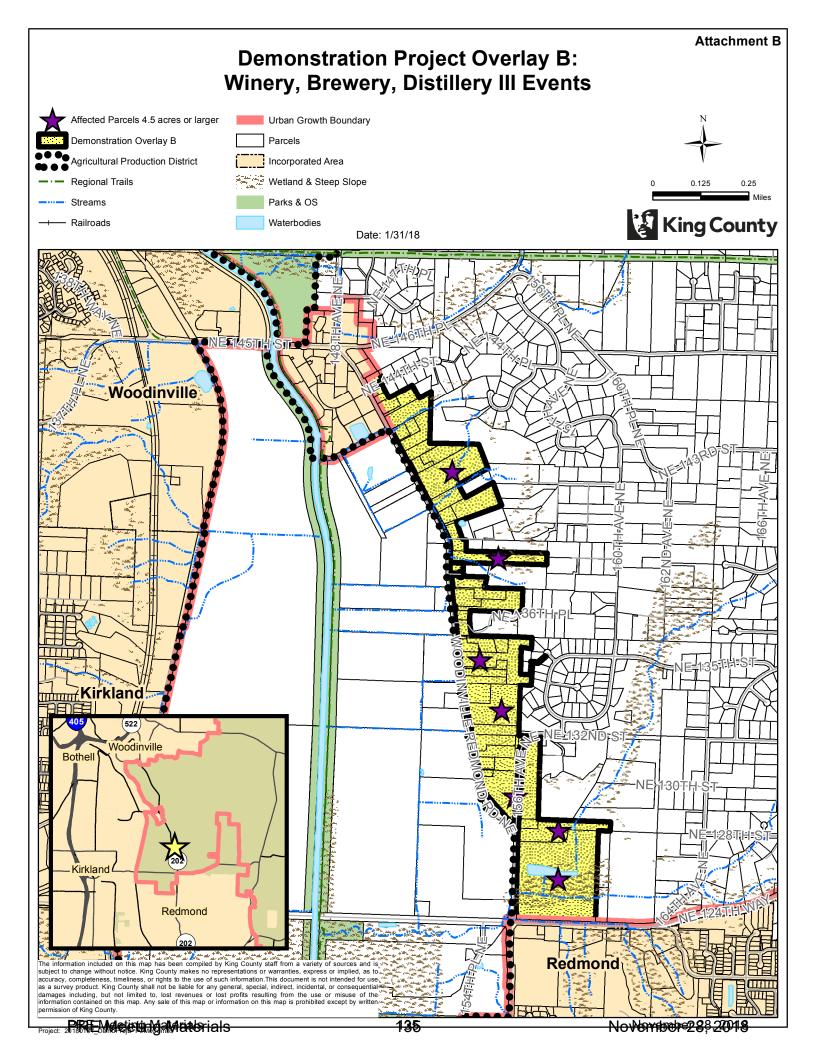
APPROVED this _____ day of _____, ____.

Dow Constantine, County Executive

Attachments: A. Demonstration Project Overlay A - Remote Tasting Rooms Exhibits 1 & 2, B. Demonstration Project Overlay B - Winery, Brewery, Distillery III Events







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April 26, 2018

The Honorable Joe McDermott Chair, King County Council Room 1200 C O U R T H O U S E

Dear Councilmember McDermott:

This letter transmits an ordinance and a report that will enable King County to prepare for and support the future of the wine and adult beverage industry as it grows and evolves in King County while respecting our rural and agricultural areas. We refer to the "wine industry" generally, but our response addresses all adult beverage industry uses including wineries, breweries, distilleries, and cideries.

The ordinance and report are in response to the King County Sammamish Valley Wine and Beverage Study, which was released in September 2016 following a six-month review process with a stakeholder committee and the general public. While the initial motivation for the report was the rapidly growing wine industry in and around the Sammamish Valley, this response addresses the wine industry throughout the rural and agricultural areas of King County.

In Washington, the wine and beverage industry is a fast growing and quickly evolving industry. These businesses support local economic development through the production and sale of wine, beer, and distilled beverages, as well as through tourism. With growth comes concern about enforcement of current land use regulations and the overall impact of the wine and beverage industry on the quality of life and the sense of place not only in the Sammamish Valley, but throughout rural King County. The attached ordinance updates the regulatory structure for wineries, breweries, and distilleries, establishes a business license for these industries, and proposes two short-term demonstration projects in limited areas to test the suitability of tasting rooms and an alternative way to regulate events at the larger wineries.

This proposal integrates the requirements of the state Growth Management Act and the county's Comprehensive Plan as they relate to urban growth areas, farmland preservation, and rural areas using a framework that is based on accommodating the wine and adult beverage industries at a size and scale appropriate for the rural and agricultural areas in King County. The attached report outlines a series of possible actions including an adult beverage

The Honorable Joe McDermott April 26, 2018 Page 2

toolkit, updated signage, and trail connections in the Sammamish Valley. This report advances the Healthy Environment and Economic Vitality goals of the King County Strategic Plan.

Robust stakeholder and community engagement guided our work at each step in the process. Public involvement included: five stakeholder meetings, one large public meeting, an online comment portal, issuance of the public review draft for broad public comment, and 213 emails received over the course of developing the proposal.

We retained a consultant to assist staff in supporting the stakeholder committee, conducting public outreach, and preparing the King County Sammamish Valley Wine and Beverage Study. The consultant contract was \$75,000. In addition, King County staff from several departments contributed to the report over the course of two years. The estimated cost of the staff time spent on preparting the report is \$150,000 for an estimated total cost of \$225,000.

Thank you for your consideration of this ordinance. This important legislation will allow King County to establish a strong foundation for moving the wine and adult beverage industry into the future, while honoring and protecting the rural and agricultural lands in the Sammamish Valley and throughout King County.

If you have any questions, please feel free to contact Rachel Smith, Chief of Staff to the King County Executive, at 206-263-9628.

Sincerely,

Dow Constantine King County Executive

Enclosures

cc:

King County Councilmembers <u>ATTN</u>: Carolyn Busch, Chief of Staff Melani Pedroza, Clerk of the Council Dwight Dively, Director, Office of Performance, Strategy and Budget Rachel Smith, Chief of Staff to the King County Executive

2017-2018 FISCAL NOTE

Ordinance/Motion: Title: Affected Agency and/or Agencies: Department of Permitting and Environmental Review Note Prepared By: Andrew Bauck Date Prepared: June 8, 2017 Note Reviewed By: Warren Cheney Date Reviewed: June 8, 2017

Description of request:

This ordinance implements the recommendations of the Sammamish Valley area wine and beverage industry study by implementing a new annual license for affected businesses and making changes to the regulation of wineries and other alcoholic beverage businesses.

Revenue to:

Agency	Fund Code	Revenue Source	2017-2018	2019-2020	2021-2022
DPER - Permit Administration	1340	Winery licenses	3,000	3,000	3,000
TOTAL			3,000	3,000	3,000

Expenditures from:

Agency	Fund Code	Department	2017-2018	2019-2020	2021-2022
DPER	1340	Permit Admin.	0	0	0
TOTAL			0	0	0

Expenditures by Categories

	2017-2018	2019-2020	2021-2022
TOTAL	0	0	0

Does this legislation require a budget supplemental? No.

Notes and Assumptions:

-Revenue estimate assumes 30 annual licenses per year at a cost of \$100 each.

-Permitting and code enforcement requirements of this ordinance will be done within DPER's existing appropriation.

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Sammamish Valley Winery and Beverage Study

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King County Action Report: Sammamish Valley Wine and Beverage Study Responses

Introduction

This report is a proposed response to the King County Sammamish Valley Wine and Beverage Study that was released in September, 2016. King County supports the wine and adult beverage industry and recognizes the need to establish a strong foundation for moving the industry into the future while respecting our rural and resource communities. The goal is to add more clarity to the current regulations, which were adopted when King County's wine industry was in its infancy. The over arching goal is that the proposed strategies and actions adhere to the framework of the state Growth Management Act and ensure continued protection for Agricultural Production Districts (APD) and support for rural communities.

Background

The Sammamish Valley, located primarily in unincorporated King County is adjacent to the cities of Redmond and Kirkland and contains portions of the City of Woodinville, one of the state's major wine tourism destinations. The valley also contains one of the county's five designated APD's, which are intended to protect and support the continuing presence of agriculture in the county.

The agricultural activity adds to the distinctive character in the area, particularly for visitors to the more than 100 wineries and tasting rooms in Woodinville and the nearby unincorporated areas. This area attracts hundreds of thousands of wine tourists annually. Nearly all of the Woodinville area wineries use grapes grown in Eastern Washington.

The wine industry is a fast growing, and quickly evolving sector in Washington, supporting broadbased economic activity. Wineries support local economic development through the production and sale of wine, as well as through tourism, the latter drawing visitors from outside the region. With growth has come concerns about enforcement of current land use regulations and the overall impact of the wine and beverage industry on the quality of life and the sense of place in the Sammamish Valley.

In the spring of 2016, King County engaged Community Attributes, Inc. (CAI) to assist in the facilitation of a stakeholder group and the development of a report to address the burgeoning wine industry in King County.

The Sammamish Valley Wine and Beverage Study Report – September 2016

The primary objectives of the study were to develop policy and code recommendations for King County to consider in addressing the wine industry as it has evolved in the county based on the following guiding principles:

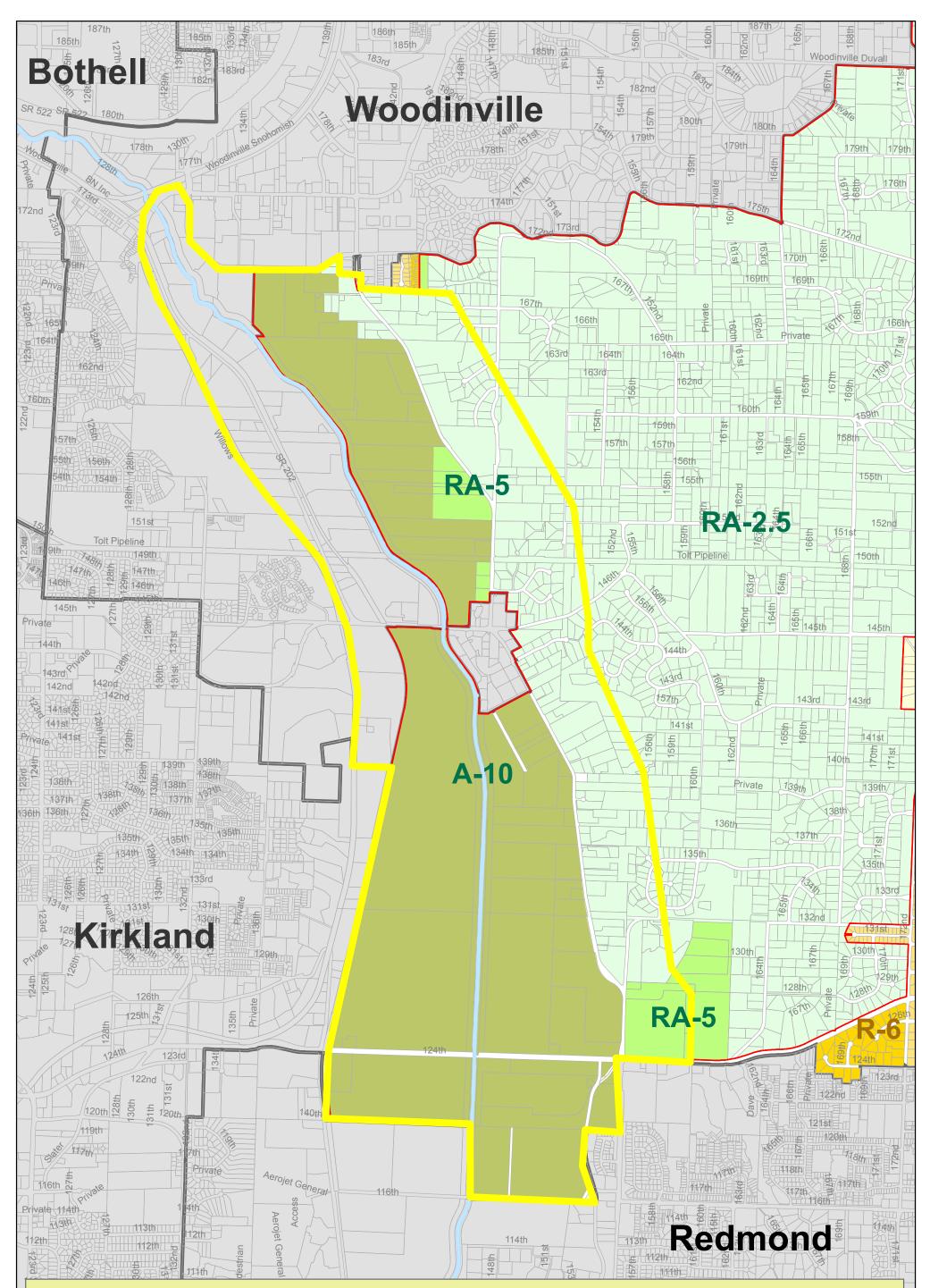
- Nurture the burgeoning wine and beverage industry in King County;
- Improve the interface of wine-related businesses with the surrounding communities; and
- Honor the requirements of the state Growth Management Act and the policies of the county's Comprehensive Plan as they relate to urban growth areas, farmland preservation, and to rural areas.

The policy recommendations incorporate feedback and ideas from the stakeholder working group, public comments received during the workshop and through the online project portal, and analysis of existing conditions.

The King County Action Report

This report is King County's response to the policy recommendations outlined in the report, as described above. The response focuses on those recommendations that received strong or mixed support from the stakeholders. The organization of the action report follows the structure of the policy recommendations in the study report, which are included and use the same numbering system.

The action report addresses issues both specific to the Sammamish Valley and the original study area, and to the county in its entirety. For example, the proposed trail connections outlined in the report are located in the Sammamish Valley while the updated winery regulations will apply countywide.



Sammamish Valley Area Winery Study Urban Growth Boundary

Cities

PRE Meeting Materials

A-10 - Agricultural, one DU per 10 acres
A-35 - Agricultural, one DU per 35 acres
RA-2.5 - Rural Area, one DU per 5 acres
RA-5 - Rural Area, one DU per 5 acres
RA-10 - Rural Area, one DU per 10 acres

145



Map by: Nanette M Lowe Map Date: Oct 16, 2015 File:karenwolf/WooAPD.mxd

November 28, 2018

1 Defining and Implementing

Study Recommendation: Code Enforcement

1.1.1 Review current methods and commit to a more consistent land use enforcement program in the Sammamish Valley.

King County Response:

Once the new regulations are in place, King County will ensure that businesses comply with them. The proposed approach to achieving compliance is to dedicate specific resources using existing staff augmented with a contract resource and implementing a tailored approach for addressing code enforcement for those adult beverage businesses that are out of compliance.

The Department of Permitting and Environmental Review (DPER) proposes to contract with a firm that is experienced in the Washington wine industry. The firm would start the enforcement process with personal visits to adult beverage businesses that are out of compliance to explain the process the County has recently used to update its zoning requirements, why this was necessary, talk about their own non-conformance, and encourage compliance as a way not only to be legal but also as a way to be a good representative of the industry. The aim of this approach is to achieve compliance results faster than the standard code enforcement process, because many such businesses would willingly comply with the new regulations. This process is estimated to last six months.

At the same time, there will be some businesses that are less willing to comply. If DPER finds that to be the case after initial contacts, the cases will be transferred to the County's direct code enforcement staff to take over those files. Also, if there is any legal documentation that is required or interpretation of code—even for willing compliers—direct code enforcement staff will handle those tasks, too.

The proposed approach to code enforcement for adult beverage businesses would not begin until new zoning regulations are adopted by the King County Council. If after six months, this process is not achieving voluntary compliance, cases will be moved through the normal code enforcement process.

Adult beverage businesses compliant with King County regulations prior to the adoption of new regulations would be permissible in the future as a non-conforming use if not compliant with the new regulations. However, an adult beverage business that was not permissible prior to the study must comply with the new regulations, which may result in such a business needing to close, relocate, or change its use.

Study Recommendation: Wine and Beverage Industry Toolkit

1.1.2 Create a wine and beverage industry tool kit and/or bulletin for prospective businesses in unincorporated King County to improve awareness of adopted rules and regulations.

King County Response:

DPER has a number of customer bulletins that provide permit requirements and helpful tips for preparing an application for submittal. DPER would create a new bulletin for the adult beverage business. By way of illustration, a link is provided to the existing bulletin for tenant improvements. A new bulletin for the adult beverage business will be created based on this format once new zoning regulations are adopted by the Council.

The establishment of a mandatory business license (see below) for adult beverage businesses will enable DPER to create a list of all operating businesses and then contact them with information on the new regulations and procedures.

For an example of a bulletin issued by the Department of Permitting and Environmental Review, please refer to the Tenants Improvement <u>Bulletin</u>. http://www.kingcounty.gov/~/media/depts/permitting-environmental-review/dper/documents/bulletins/5.ashx?la=en

Study Recommendation: Business License

1.1.3 Establish a business license for wine and beverage production establishments in unincorporated King County to assist in regulating monitoring growth in the industry.

King County Response:

If approved by the Council, King County will establish a business license requirement for all adult beverage producers in unincorporated King County. Under the proposal, all remote tasting rooms, and wineries, breweries, and distilleries would need to obtain an annual, renewable business license from the DPER. The purpose of the license would be to have greater certainty about where adult beverage producers and tasting rooms are in the County and verify that they are in compliance with the County rules and laws that apply to them. Only adult beverage businesses that are required to obtain a license from the Washington State Liquor and Cannabis Board would be required to obtain a County license, meaning that hobby wineries, breweries, and distilleries that are not selling their products nor making their products available to the general public for sampling would not be required to obtain a County business license. The proposed application process is simple, and has an annual fee of \$100.

April 26, 2018

PRE Meeting Materials

Study Recommendation:

- **2.1.1** Support development of mixed use wine and beverage facilities in Woodinville that support and boost the tourism industry and the area's reputation as a food destination.
- **2.1.2** Engage the Port of Seattle in supporting the wine industry in the Sammamish Valley and Woodinville through, for example, partnerships with the cruise ship industry.
- **2.1.5** Support agriculture in the Sammamish Valley as a synergistic component of the tourism and wine and beverage industries.

King County Response:

Staff from King County met with the City of Woodinville and Port of Seattle representatives in September 2016 to discuss opportunities for cooperative actions that would assist in support of the wine and beverage industry within the Sammamish Valley and the City of Woodinville. At that time, the Port of Seattle was offering a new grant program to cities (Economic Development Partnership Program) for economic development purposes. The City of Woodinville determined their next step would be to seek a grant from the Port to conduct a study to identify issues and barriers facing businesses and visitors. The grant was funded and a community survey was initiated Feb. 1, 2017, with in May 2017. Results of the survey provided the City of Woodinville potential actions to support the tourism industry (Woodinville Tourism Study, May 2017).

King County will continue to engage with the City, as they identify actions from the study, and with representatives from the wine and beverage industry, to determine how the County can support activities that will boost the tourism industry throughout the entire area. Several areas of recommendation in the Woodinville Tourism Study that align with King County priorities relate to supporting local food. The Woodinville study identifies a local food hub, a permanent farmers market facility, food and beverage tours and trails as potential tools to support existing businesses and working farmlands.

King County will continue to support and work with the Sammamish Valley Alliance through the Community Service Area program, Farm King County, the Local Food Initiative and other programs. One simple way to spotlight the area is to identify when visitors are entering the Agricultural Production district by installing distinctive signs around the district. King County has developed prototype signs and will work with the Agriculture Commission and community representatives to refine design and identify the best locations for sign placement in the Agriculture Production District, with the goal of installing the new signs by the end of 2017/early 2018. See a more detailed description of two approaches to signage under the Agriculture section of this report.

Study Recommendation: Alternative Means of Access

- 3.1.1 Study the feasibility of instituting a weekend shuttle service from Downtown Woodinville, Marymoor Park or other park & ride lots through a partnership between King County and the City of Woodinville.
- **3.1.2** Explore the feasibility of a bicycle rental program through partnerships with local companies and/or non-profits and improve biking access from trails to local businesses.

King County Response:

The Metro Community Connections program currently has a project underway in Bothell and Woodinville. This project includes a number of mobility solutions that will serve people traveling to, from, and within these communities. Two of these solutions could address needs identified in the strategies above.

Metro Community Connections: Bothell – Woodinville Project

In the first quarter of 2016, Metro Community Connections (formerly Alternative Services) conducted a community engagement process to understand mobility needs in and around Bothell and Woodinville. During this process community members identified an important transit gap in the Woodinville Tourist District. Many survey respondents and stakeholder group members said the area has no fixed-route service and that they would go to the Woodinville tourism district more often and without driving alone if an alternative service were developed to serve that area. However, these trips are different from the rest of the transportation needs identified through the outreach process. Tourists want to access the area from hotels in Bothell for one-off trips on weekends and evenings. Employees want to reach the area during their work hours, but these work hours may be irregular and fall outside the peak.

Community Van

One of the solutions that Metro will be implementing as part of the Bothell-Woodinville Community Connections project could be well suited to providing group trips to and from the Winery District – A *Community Van*. This new transportation pilot program offers prearranged, recurring, or one-time group trips that meet locally identified transportation needs. Metro owns the vans and provides fuel, maintenance, and vehicle insurance. Metro also vets the volunteer drivers and provides funding for a part-time Community Transportation Coordinator. An Advisory Group comprised of representatives from Metro, UW Bothell/Cascadia College Commuter Services and the cities of Bothell and Woodinville to provide program direction and oversight to the Community Transportation Coordinator. Launch planning and roll-out for the Bothell-Woodinville Community Van is pending hiring of the Community Transportation Coordinator.

PRE Meeting Materials

Bike Share

The Sammamish Valley is currently served by the Sammamish River Trail and in the future will also have the Eastside Rail Corridor system connecting it to the west, south and north. The trail system and connected parks and destinations offer an opportunity to encourage and promote biking as a way to experience the agricultural and beverage industry within the Valley, to downtown Woodinville and the industrial area where the other concentration of wineries are found. As trails and connections are improved, the ability to move around by bike will also improve.

Pairing and promoting bicycling and winery/beverage tours is being done in many areas across the country. For example, Napa has a <u>Napa Valley Vine Trail</u>, and in the Yakima River Valley, there is the <u>Rattlesnake Hills Wine Trail</u>.

The recommendation to explore a bike share program from the winery stakeholder group could provide an added option for visitors to park remotely and ride to the concentrated areas of wineries and tasting rooms in the Sammamish Valley area. It could also serve as a recreational attraction for hotel guests to visit the wineries without having to rely on a car.

A bike share concept that mirrors this recommendation from the winery study stakeholder group is also under consideration as a potential service solution from Metro's Community Connection program. As a next step, Metro staff will be working with staff from the City of Woodinville to discuss development of a framework for a daytime bike sharing concept in order to assess its viability as a solution.

Study Recommendation: Parks and Trails

3.1.4 Develop long term east-west connections--explore Eastside Rail Corridor concepts to develop a shared use path along 145th connecting to the Sammamish River Trail

King County Response:

King County Parks has developed two options for creating an east-west connection between the Eastside Rail Corridor (ERC), Sammamish River Trail and extending into the Hollywood District. The County and the City of Woodinville have begun discussing these plans and will proceed on further feasibility studies and alternatives development. The goal for either option would be to improve trail connectivity between the County's regional trails and directly into wine tourism areas, in particular the Hollywood District from the ERC Trail and Sammamish River Trail. Please refer to the Trails Connection map (located at the end of this section).

The first option would be a connection between the ERC trail spur line and Sammamish River Trail along NE 145th Street, which has been studied during ERC master planning and is another way to integrate trails with the wine and tourism areas. In addition to developing east-west connectivity between the ERC and the Sammamish River Trail, this option would include a trail extension along the NE 145th Street alignment further east from the Sammamish River Trail directly to the Hollywood District. There would be different alternative alignments to achieve these connections that would need to be further studied in coordination with the City of Woodinville, area stakeholders and the community.

Key considerations for an east-west connection along NE 145th Street include whether to place it on the south or north side of the roadway. On the north side there is an existing pathway that would need to be improved. Appropriate improvements to the existing path could include widening, vegetation/tree clearing to avoid further root damage to the trail and limb overhang, and resurfacing. The existing path traverses Red Hook Brewery and Willows Lodge properties, and improvements would require approval from these property owners.

To extend this path into the Hollywood District, a bike path would need to be built between the Sammamish River Trail and 148th Ave. NE along the north side of NE 145th Street, which could impact the parking area to the Northshore Athletic Fields, and could require use of portions of City of Woodinville ROW to extend to 148th Ave. NE.

One benefit to this alignment is that a trail bridge already exists across the Sammamish River and this east-west path already has a direct connection to the Sammamish River Trail. This option would also require the installation of a trail crossing of NE 145th Street along the ERC Spur. The City of Woodinville has expressed a preference to build this as a grade-separated crossing, or bridge, over the roadway. The need for this crossing would exist independently of the east-west connector trail but would otherwise not be developed until the ERC Spur is going to be developed further to the north of NE 145th Street.

If the east-west connection were to be developed on the south side of NE 145th there would be additional technical and environmental challenges that would need further study to determine feasibility. The current understanding of this scenario includes the following factors:

- Topography south of the road drops away quickly so that a trail with adequate separation from the eastbound travel lane would likely require substantial fill.
- The low-lying areas south of the road are within the 100-year floodplain so compensatory storage would likely be required for the substantial fill.
- The low-lying area south of the road has a fish-bearing stream connected to the Sammamish River.
- There are above-ground power poles along the south side of the road that may have to be relocated to accommodate trail.
- The available right of way on the south side of the road may not be wide enough to cover the trail, potential stream relocation, and potential power pole relocations. Any property acquisition will involve agricultural land.
- A new pedestrian/bicycle bridge would be required to cross the Sammamish River.
- The connecting loop to the Sammamish River Trail may require property acquisition to achieve accessible grades.
- A bike path would need to be built between the Sammamish River Trail and 148th Ave. NE along the south side of NE 145th, either reconfiguring a portion of the sidewalk in the City of Woodinville ROW, or acquiring an easement for the path on the northern edge of a privately owned parcel or parcels.

The second option would be to develop an improved, or paved, connection between the Sammamish River Trail and 148th Ave. NE along the existing gravel Tolt Pipeline Trail alignment. The Tolt Pipeline Trail is a gravel and dirt path located in a utility right of way owned by Seattle Public Utilities (SPU). The County's use and actions related to the trail are governed by a Trails Agreement between the parties. The Trails Agreement allows for the trail surface to be improved, but only with prior written consent from the SPU Director, and conditioned by SPU approval of all plans and specifications at 30%, 60% and 90% design. The County's use of the Tolt Pipeline right of way is also subject to all terms and conditions of an easement held by Puget Sound Energy. King County Roads is installing a signalized roadway crossing on 148th Ave. NE at the location where the Tolt Pipeline Trail crosses. This trail connection would be independent of any improvements to the ERC Trail and would not create connections between the ERC and the Sammamish River Trail or between the ERC and the wine tourism area.

For this option to serve as a feasible and appropriate route for winery tourism, there would need to be bike lanes or a separate bike path constructed along 148th Ave. to connect the Tolt Pipeline Trail improvement to the Hollywood Wine District. The approximately 600 foot segment of 148th Ave NE south of the Tolt Pipeline Trail to the city limits of Woodinville is significantly constrained by an adjacent Class 2 salmon-bearing stream, wetlands, and a steep embankment. The feasibility of widening the road to construct a bike lane or pathway is questionable. If it were to be determined feasible after additional technical analysis, there would be significant stream alterations and mitigation needed and cost of the project would likely be more than \$1 million.

King County will continue to explore these trail development options with the City of Woodinville and with involvement from area stakeholders and community members.



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PRE Meeting Materials

Study Recommendation: Road Improvements

- **3.1.6** Conduct an interjurisdictional transportation study to fully vet traffic growth, concurrency, impacts and potential mass transit solutions.
- 3.1.8 Improve the pedestrian environment and overall pedestrian safety in the Sammamish Valley, especially those areas connecting major tourism draws and winery concentrations.

King County Response:

The Road Services Division reviewed the potential for nonmotorized and capacity improvements along the 148th Avenue NE/140th Place NE Corridor. The physical and environmental conditions along the corridor were found to pose several significant challenges.

Right-of-Way: The available right-of-way (approximately 18 feet on each side) is not sufficient to accommodate widening the road from two to four lanes, based on county standards. The right-of-way appears sufficient to accommodate a nonmotorized pathway on one side of the roadway or potentially a turn lane in some locations.

Transportation concurrency: The corridor is currently meeting the county's adopted concurrency level of service standard of "B" for rural areas.

Environmental Issues: The corridor contains numerous wetlands and streams, as well as seismic, steep slope, and landslide hazard areas and buffers. Portions of the corridor are also within a Shoreline Management Act rural shoreline, Critical Aquifer Recharge Area, and Farmland Preservation area. All of these features have stringent regulatory requirements. Construction of a nonmotorized or capacity improvement project would involve impacts to the wetlands, streams, buffers, and other environmentally sensitive features along the corridor. Environmental mitigation and other regulatory compliance efforts would be required. These may include wetland and stream mitigation or payment for mitigation banking, fish passable culvert installation, additional stormwater treatment infrastructure, etc.

The existing open drainage ditches along the roadway would need to be relocated or put into a new piped drainage system to address environmental regulations.

Expanding the roadway for nonmotorized or capacity improvements would require removal or relocation of numerous trees, power poles, fences, landscaping, mailboxes and other public or private features along the roadside.

Cost Estimates: The planning level cost estimate to construct a nonmotorized pathway on one side of the road and meet the associated drainage and environmental regulatory requirements is approximately \$5 million. Capacity improvements could cost upwards of \$20 million. Further study would be necessary to evaluate more specific improvement concepts such as nonmotorized improvements or turn lanes.

4 Agriculture

Study Recommendation: Agriculture Production District (APD)

4.1.1 Continue to support retail sales of locally grown products on agricultural zoned lands

4.1.2 Limit changes to the current agricultural production zone rules and regulations

King County Response:

King County recommends that no changes be made to the boundaries and or primary regulatory structure of the APD. The proposal does change the product content requirement for production to be at least 60% grown on site.

APD History:

Agricultural land in King County had declined by approximately 60% between 1950 and 1969 and was projected to occupy less than 3% of the 1964 coverage by 2000. As a result of the documented loss of significant farmland acreage, King County Council passed Ordinance 1096 in 1972 to recognize and protect agricultural lands as "Open Space Elements" in the revised Comprehensive Plan, which was originally adopted in 1964. Specifically, Ordinance 1096 stated:

Farmlands must be included in the open space system because they provide products for consumption; serve as buffers between urbanizing areas; and provide beautiful and natural scenery. These land areas will be lost to industrial development, subdivision, and to highway development unless they are included in the system."

The following year, that directive was strengthened by Council Ordinance 1839, which stated:

"The Council of King County declares it to be in the public interest to retain prime agricultural lands and certain farmlands within a system of open space. This open space system is recognized as having scenic and aesthetic values that contributes natural buffers within existing and potential urban areas. Furthermore, the retention of agricultural and certain farmlands provide both unique and supplemental food stuffs and contribute to and diversify the economic base."

The 1975 Supplement to the King County Comprehensive Plan called out the Lower Green-Duwamish Valley and Sammamish Valley as being especially threatened from continued urban expansion because "of the valley's proximity to a highly urban area, but because of transportation lines and flood control improvements that make these areas also highly suited for industrial and commercial development." The Supplement combined Ordinance 1839 and others that, together, provided justification for establishing agricultural zones that protected "prime agricultural lands."

The Supplement provided one overarching goal for agricultural land preservation: "To preserve prime agricultural lands and significant other farmlands in the open space system." A suite of criteria were provided to help identify priority agricultural lands, including soil type, size, cropping history, flood risk, public opinion, and lack of water and sewer services. Agricultural zoning (A Zone) was to be applied "wherever appropriate to protect good, agricultural land from incompatible use and development."

In 1977, Council Ordinance 3064 amended the Comprehensive Plan and created eight "King County Agricultural Districts," which were the Snoqualmie Valley/Patterson Creek Agricultural District, the North Creek Agricultural District, the Upper Snoqualmie Agricultural District, the Sammamish Valley/Bear Creek Agricultural District, the Lower Green River Valley Agricultural District, the Upper Green River Valley Agricultural District, the Enumclaw Plateau Agricultural District, and the Vashon Island Agricultural District. The County was directed to use rezoning options, permit reviews and other options to "ensure that to the fullest extent possible the agricultural potential of the District will not be adversely affected."

Ordinance 3064 provided maps of the eight Agricultural Districts as well as the "Agricultural Lands of County Significance," which were the highest priority agricultural lands within those districts. The district boundaries were many times larger than the areas delineated as priority agricultural lands. For example, the Sammamish Valley/Bear Creek Agricultural District included the entire Sammamish River and Bear Creek floodplain, as well as the major tributaries, and stretched from Lake Sammamish to the Snohomish County line. The identified priority agricultural lands comprised less than 20 percent of the delineated district.

The Technical Appendix for the Executive Proposed General Development Guide was released in 1984 to provide further guidance for resource land conservation and use in rural and urban areas. The Guide proposed revised Agricultural Districts, which were based upon a review of the existing Agricultural Districts established by Ordinance 3064. The districts established in Ordinance 3064 included many lands not suited to agriculture and the new districts excluded non-productive lands and land uses differed based upon whether a parcel was within or adjacent to a district. Major changes from the Ordinance 3064 districts included elimination of the Vashon and Bear Creek districts and refining the Sammamish Agricultural District to eliminate the Bear Creek watershed and constricting the remaining boundaries to include the most productive agricultural lands near Woodinville.

The 1989 King County Resource Lands (Area Zoning) document, which further modified the boundaries of the Sammamish and Green River Valley Agricultural Districts, was adopted by King County Council via Ordinance 8848. Ordinance 8848 further recognized the importance of the agricultural districts and established "Agricultural Production Districts" within those agricultural

districts via enhanced agricultural zoning. The current boundaries of the Sammamish APD are very similar to the boundaries outlined in the Area Zoning document.

King County Council passed Ordinance 4341 in June 1979 to provide for the issuance of general obligation bonds to purchase property interest in priority agricultural regions in King County with the Sammamish and Green River valleys specifically identified as first priorities. Proposition 3 on the November 1979 General Election Ballot, which proposed the issuance of up to \$50 million in general obligation bonds for the purpose of "acquiring and preserving voluntarily offered farm and open space lands in the county," was passed by King County voters.

1979 bond money provided the initial capital to support establishment of King County's Farmland Protection Program (FPP), which subsequently has benefited from additional infusion of funding from other sources, most significantly funds generated through the Transfer of Development Rights and grants through the Conservation Futures Tax program. Summary of Sammamish APD conservation activities:

- Total acres in APD: 1,082
- Acres in the APD protected via FPP easements: 779
- Acres in food production within the APD: **305**
- Acres in equestrian, sod, nursery or tree farm: 500
- Acres currently "not farmable": 230

Study Recommendation: Land Conservation in the Agriculture Production District (APD)

4.1.4 Explore and facilitate additional development right purchases for agricultural zoned properties in the Sammamish Valley

King County Response:

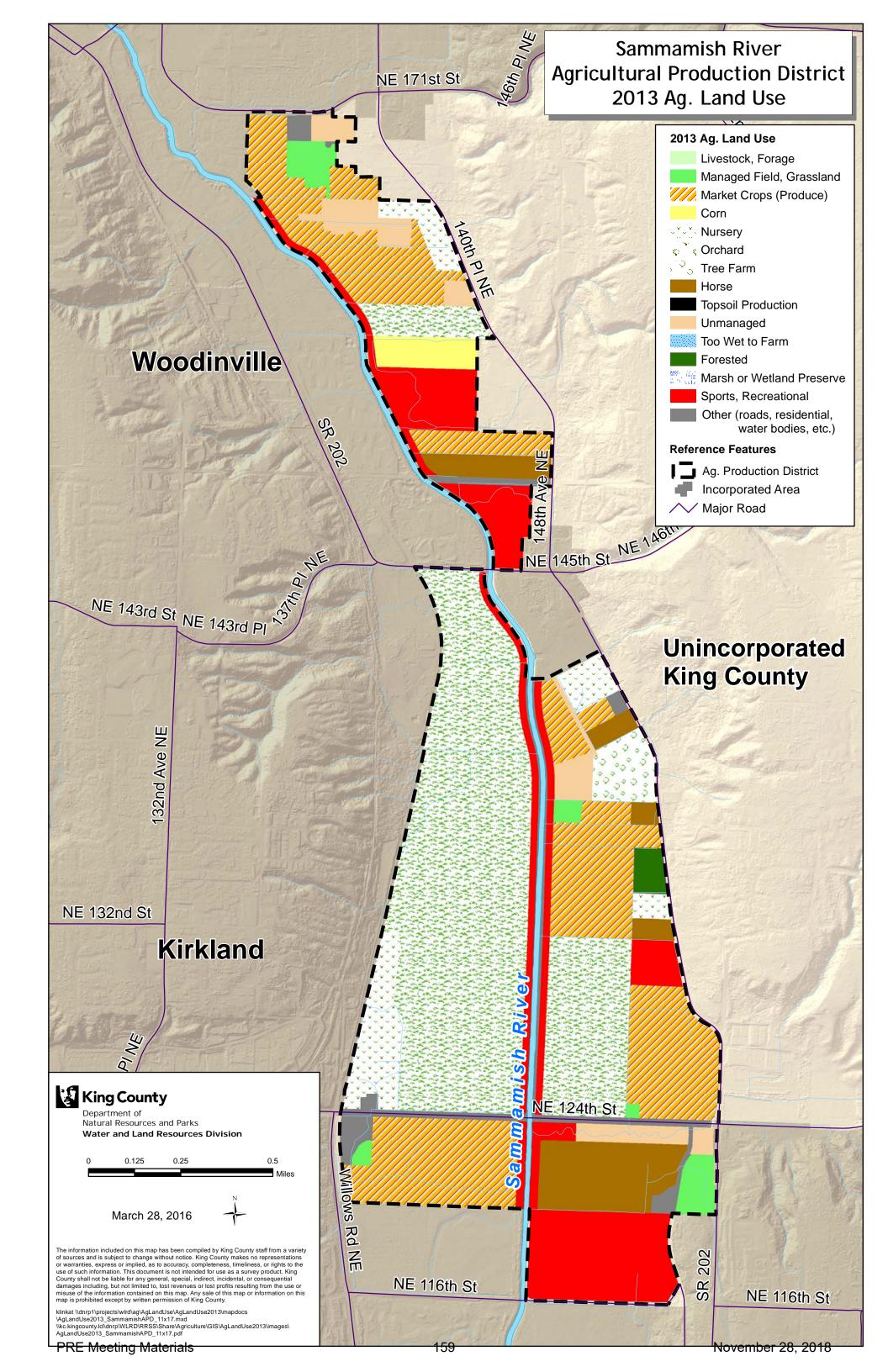
Protecting Remaining Unprotected Acreage in the APD: While King County has been successful in protecting three quarters of the acreage in the Sammamish APD, there are still several parcels that do not have Farmland Preservation Program (FPP) easements protecting them from future development. These parcels, particularly those that are on the boundary between the APD and the City of Woodinville are a high priority for protection by the County.

King County's Farmland Preservation Program will continue to conduct outreach to the owners of these high priority parcels to engage them in a discussion about removing the development rights from their parcel, and preserving it as agricultural land in perpetuity. Preservation of these lands will be a top priority for the County.

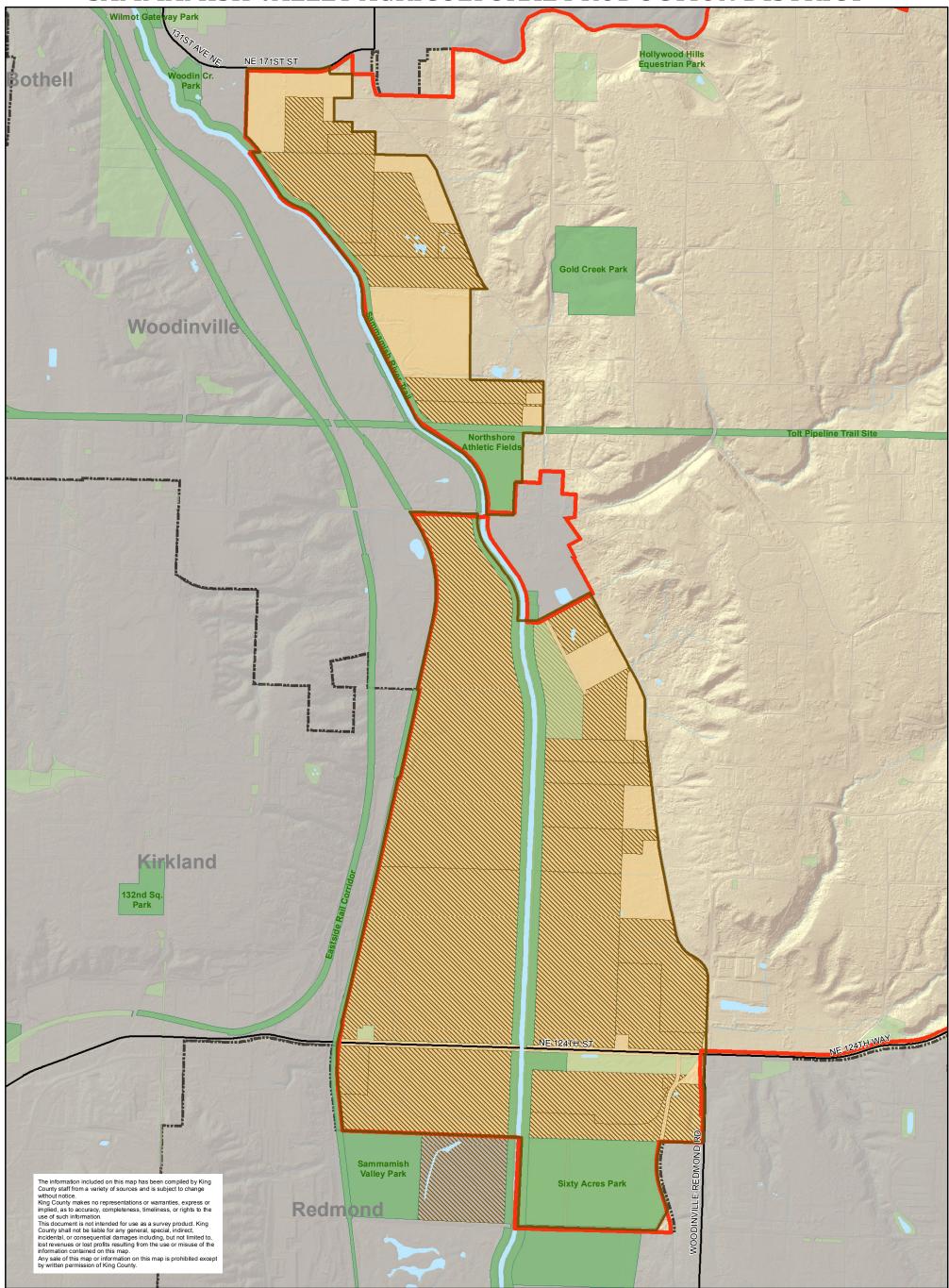
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SAMMAMISH VALLEY AGRICULTURAL PRODUCTION DISTRICT



Legend



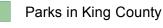
Agricultural Production District



Current King County Urban Growth Boundary

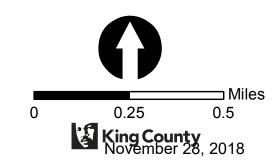


Protected Farmland (FPP)



Other Public Lands

- Incorporated Cities in KC
- Major Roads



PRE Meeting Materials

Study Recommendation: Signage

2.1.5 Support agriculture in the Sammamish Valley as a synergistic component of the tourism and wine and beverage industries

King County Response:

Public Signage for the Agricultural Production District (APD) and Farmland Preservation Program (FPP) Parcels

APD Signage. King County has erected signs identifying some, but not all of the Agricultural Production Districts. Given that these areas are critical to protecting valuable agricultural soils and form the foundation of the King County's agricultural economy they should be clearly signed, with the intent of alerting the public that they are entering an area of natural resource and economic significance. In evaluating a program for placing signage in all of the APDs, the County has developed the following principle to guide development and placement of the signs:

- Signs should be distinctive and readily identifiable as an indication of the boundary for an agricultural zone.
- Signs should be placed in multiple areas of high-visibility.
- Should help avoid incompatible land use decisions that arise out of ignorance of the existence of the APD.
- Signs should have the same basic design, but could be customized for each APD.
- Signs should be readable and aesthetically pleasing.
- King County has developed a "Farm King County" brand to promote the County Executive's Local Food Initiative we may want to consider expanding use of the brand in the APD signs.
- We want to integrate an emphasis on driving safety with an increased awareness of APDs.

The current timeline is to develop several sign options, and present them to the King County Agriculture Commission and solicit input on design and level of community outreach needed to engage the broader agricultural community. Based on feedback from the Commission we will develop final designs and an engagement process.

FPP Signage. King County's Farmland Preservation Program has been successful in protecting almost 15,000 acres of farmland from development. While we have approximately 300 farms across the County enrolled in the program, we have never asked property owners to take any action to acknowledge or celebrate that parcels are permanently protected. King County

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agriculture program staff has been exploring the option of developing signage for all parcels enrolled in the FPP program. Following are principles the staff drafted to guide development of such a program:

- Placement of signs would be contingent on agreement by the landowner. FPP is a voluntary program, and we want to recognize landowner commitment to farmland preservation and sustainable land management.
- Signs would be standardized for FPP program, but we would try to have an option of customizing for individual farms.
- Signs need to be clear that they do not indicate public access FPP parcels remain private property.

The goal would be to develop this program in consultation with the King County Agriculture Commission and a stakeholder group of FPP program participants. We would need to work through issues of design, placement, and how to allocate the cost of the program. This effort would be implemented on a separate timeline from the effort to provide signage in and around the APDs.

5 Rural and Agriculture Zoning – The Regulations

Study Recommendation:

Defining and Implementing

- **1.2.1** Production Facilities-- define based on the size and scale of the facilities and use this definition to scale regulations
- **1.2.2** Limit impacts of tasting rooms through regulation of number of events, size of events, and hours of operation
- **1.2.3** Develop new definitions for tasting rooms, special events, winery production facilities, and other associated uses

Wine, Beverage, and Tourism Industries

3.1.7 Limit the operating hours or size of tasting rooms/event spaces to be outside of the PM peak hour of traffic

Transportation

4.1.5 Direct wine and beverage industry facilities looking to locate in unincorporated portions of the Sammamish Valley to properties located along arterial roads (see 5.2.5)

Agriculture

4.1.6 Explore potential impacts of expanding the locally grown requirement for product sales in agriculture zones (currently at 60% originating from the Puget Sound) to include Washington State

Rural Zoned Areas

- 5.1.1 Differentiate between tasting room only facilities and winery production facilities in terms of land use regulations in unincorporated King County
- 5.1.3 Consider smaller lot size requirements in the study area for smaller production facilities (not applicable to subdivisions of land)

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- 5.1.4 Develop regulations that limit hours of operation, special events, and overall traffic to facilities where appropriate and tailor regulations for distinct neighborhoods within the RA Zone
- 5.2.3 Allow for wine and beverage industry uses through the home occupation regulations and be clear about when tasting rooms/production facilities can exist outside of a home occupation
- 5.2.5 Direct wine and beverage industry facilities looking to locate in unincorporated portions of the Sammamish Valley to properties located along arterial roads (see 4.1.5)

King County Response:

Please refer to the proposed ordinance for specific details on the regulatory structure for Winery, Brewery, Distillery Facilities.

Approach:

Recognize the changing nature of the wine industry in King County. Allow less intensive winery, brewery, distillery uses on smaller lots in the Rural Area and more intensive uses on larger lots with direct access to an arterial. Allow for remote tasting rooms in a very limited area as a pilot project. Prohibit wineries and tasting rooms as home occupations or home industries. In the Rural Area, allow agricultural products being processed to be grown without restriction to location. Limited changes to the current regulations in the Agriculture Production District. (*Reference to Strategy Number in parenthesis*)

Definitions and Allowed Uses:

Remote Tasting Room: (Permitted Use) A 1,000 maximum square foot facility indoor with additional 500 square foot of outdoor space that is remote from the production facility of the winery. Limited to serving wine and minimal food items and sales of merchandise related to products available for tasting. Events are prohibited. Hours are limited as follows: Monday, Tuesdays, Wednesdays, and Thursdays, tasting rooms can be open from 11:00 AM through 5:00 PM. On Fridays, Saturdays, and Sundays tasting rooms can be open from 11:00 AM through 9:00 PM. To be allowed in a very limited area as a pilot program in two areas defined as Demonstration Overlay A, Exhibits 1 and 2. (*1.2.3, 3.1.7, 5.1.1, 5.2.3*)

Winery, Brewery, Distillery Facility I: (Permitted Use) A very small production establishment limited to 1,500 square feet. No on-site product tasting, events, or sales of merchandise would be allowed. The intent is to authorize a small-scale production facility to replace the allowance for a home occupation but with more conditions of operations to limit impacts to neighboring properties. (1.2.1, 5.1.1, 5.1.3, 5.2.3)

Winery, Brewery, Distillery Facility II: (Permitted Use) A small-scale production facility located on at least 2.5 acres and limited to 3,500 square feet. Product tasting and sales of related merchandise would be allowed. Events subject to a Temporary Use Permit. No growing requirement in the RA and UR zones. In the A zones, 60% of products produced required to be grown on-site. (1.2.1, 1.2.3, 4.1.5, 4.1.6, 5.1.3, 5.2.3, 5.2.5)

Winery, Brewery, Distillery Facility III: (Conditional Use) A larger-scale production facility located on at least 4.5 acres and limited to 6,000 square feet, or up to 8,000 square feet on properties of at least 10 acres. Product tasting and sales of related merchandise would be allowed. Remove square footage limitation for Vashon Island so same as rest of the Rural Area. No growing requirement in the RA and UR zones. In the A zones, 60% of products required to be grown on-site. Events subject to a Temporary Use Permit. In a very limited area, as a pilot program in the area defined as Demonstration Overlay B, events will be allowed as a condition of acquiring the Conditional Use Permit. (1.2.1, 1.2.3, 4.1.5, 4.1.6, 5.1.3, 5.2.3, 5.2.5)

Demonstration Overlays: King County is proposing two Demonstration Overlays as pilot projects for new concepts regarding wine and beverage facilities that will be evaluated annually and then expire after three years. DPER will compile a list of demonstration project applications submitted and any related code complaints. At the end of the three-year period, the concepts will be evaluated for expansion to other areas of King County.

- **Demonstration Overlay A:** Two distinct areas in unincorporated King County. One is a very small area directly east of the Woodinville city boundaries ranging from one property north of NE 144th street south for approximately .25 miles. In this area, remote tasting rooms will be allowed. The second area is within the boundaries of the Vashon Town Center.(*1.2.2*)
- **Demonstration Overlay B:** a defined area directly east of the Sammamish Valley Agriculture Production District as it extends south from Woodinville city limits along SR 202 to the Redmond city limits. In this area, a facility with a Conditional Use Permit to operate as a Winery, Brewery, Distillery III can hold events without being subject to a Temporary Use Permit. (5.1.4)

Special Events: Temporary Use Permit (TUP) required for events beyond regular promotion and sales of the product being produced and tasted. In the RA zones, the number of events for Winery, Brewery, Distillery Facility II & III will be limited to 24 events per year. In the A zones, the number of events will remain as currently defined at two per month. All events will be limited in size: 125 guests for a Winery, Brewery, Distillery Facility II and 250 guests for a Winery, Brewery, Distillery Facility III. For Winery, Brewery, Distillery III in the area defined as Demonstration Overlay B, east of the Sammamish Valley Agricultural Production District, events allowed as integral to the Conditional Use Permit, as a pilot program.

Summary of Proposed Regulations for Winery/Brewery/Distillery Uses in the Rural Area and the Agriculture Zones

Issue/Condition	Rural Area			Agriculture Zones		Demonstration Projects – Rural Area		Comments
	Winery I	Winery II	Winery III	Winery II	Winery III	Tasting Room in Overlay A Exhibit 1: Sammamish Valley Exhibit: Vashon Town Center	Winery III in Overlay B	
Type of Permit	Permitted	Permitted ¹ Conditional Use ²	Conditional Use	Permitted	Conditional Use	Permitted	Conditional Use	Allowed square footage remains the same (except that tasting rooms & Winery I's are new uses)
Min. Lot Size	n/a	2.5 acres	4.5 acres [*] 10 acres ^{**}	2.5 acres	4.5 acres [*] 10 acres ^{**}	n/a	4.5 acres ⁺ 10 acres ⁺⁺	Reduction in lot size for Winery II from current 4.5 acres
Max. Building Size	1,500 sf	3,500 sf	6,000 sf [*] 8,000 sf ^{**}	3,500 sf	6,000 sf [*] 8,000 sf ^{**}	1,000 sf + 500 sf outdoors	6,000 sf ⁺ 8,000 sf ⁺⁺	Same square footage as currently allowed (except for tasting rooms & Winery I's are new uses)
Tastings	Not allowed	Allowed with ltd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Allowed with ltd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Allowed with ltd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Allowed with ltd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9pm	Allowed with Itd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9pm	Allowed with ltd. hrs: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Remote tasting rooms not currently allowed; establish hours of operation.
Home Occupations	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Currently allowed – to be replaced with Winery I
Events	Not allowed	Up to 24/year with TUP – max. size = 125 guests; parking accommodated on- site or managed through parking plan	Up to 24/year with TUP – max. size = 250 guests; parking accommodated on- site or managed through parking plan	Up to 2/month with TUP – max. size = 125 guests; parking accommodated on- site or managed through parking plan	Up to 2/month with TUP- max. size = 250 guests; parking accommodated on-site or managed through parking plan	Not allowed	No specific limit – conditions set with CUP w/ annual monitoring of impacts	Current limit is 2/month with Temporary Use Permit with no limit on number of guests
Water	Adhere to Public Health standards	Adhere to Public Health standards	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	Adhere to Public Health standards	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	Adhere to Public Health standards	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	New condition: Winery III's must hook-up to an existing domestic public water system – preference for existing Group A systems
Access	Not specified	¹ Direct access from an arterial ² Can be modified through CUP	Direct access from an arterial	Direct access from an arterial	Direct access from an arterial	Direct access from an arterial	Direct access from an arterial	New condition
Product Content	Not specified	Not specified	Not specified	60% of product to be processed to be grown on site.	60% of product to be processed to be grown on site.	Not specified	Not specified	Currently, require 60% of product to be processed to be grown in Puget Sound counties for all wineries in both RA & A-zones – requirement changed for wineries in A-zone to be grown on site
Production	Required	Required	Required	Required	Required	Not allowed	Required	Production defined as including one or more of the following: crushing, fermentation, barrel/tank aging, and finishing
Parking	Not allowed	Limited to 150% of minimum required (e.g. 8-9 spaces)	Determined through CUP	Limited to 150% of minimum required (e.g. 8-9 spaces)	Determined through CUP	Limited to 150% of minimum required (e.g. 7-8 spaces)	Determined through CUP	New requirement – changing code requirement to be consistent with ratio for other retail uses (from 1/50 sq. ft. to 1/300 sq. ft.)
Setbacks	75'	75'	75'	75'	75'	Not specified	75'	Current standard
KC Bus. License	Required	Required	Required	Required	Required	Required	Required	New requirement. \$100/year.
Fines & Penalties	\$500/\$1,000	\$500/\$1,000	\$500/\$1,000	\$500/\$1,000	\$500/\$1,000	\$500/\$1,000	\$500/\$1,000	Increase from \$100 for 1 st & \$500 for subsequent violations
Demonstration Project Review	n/a	n/a	n/a	n/a	n/a	3 years with annual review	3 years with annual review	Demon. project can be stopped prior to 3 yr. period if annual data indicates problems; can be extended to other areas if data positive

Issue/Condition	Agriculture Zones						
	Existing		Proposed Or	dina			
	-		Winery II (DC#3)	Wi			
Type of Permit	Permitted – as an accessory to agricultural use	Conditional Use	Permitted – only as an accessory to agricultural use	Со			
Min. Lot Size	None	4.5 acres when floor area is less than 6,000 sf	2.5 acres (NOTE: transmitted ordinance has an error and says 4.5 acres)	4.5			
		Except if floor area is over 6,000 sf, the minimum lot size is 10 acres and a minimum 2.5 acres must be used to grow products		Ex(
Max. Building Size	3,500 sf, except historic buildings	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage	3,500 sf (historic buildings maximum is 5,000 sf)	Ma un			
		On Vashon-Maury Island, maximum floor area 6,000 sf, including underground storage					
Tastings	Tasting of products produced on-site, and no extra floor area allowed for tasting	Tasting of products produced on-site, and no extra floor area allowed for tasting	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting:	Ta: flo Ho			
			Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Mo F-S			
Events	For wineries: Up to 2/month with TUP; parking accommodated on-site	For wineries: Up to 2/month with TUP; parking accommodated on-site	Up to 2 events/month with TUP. Max. size = 125 guests; parking accommodated on-site or	Up gu			
	For breweries and distilleries: 60 days in a one-year period	For breweries and distilleries: 60 days in a one- year period	managed through parking plan	thr			
Water	Not specified	Meet requirements for water and wastewater; water meters required for use of wells	Not specified	Mi exi			
Access	Not specified	Not specified	Direct access from an arterial	sys Dir			
Product Content	60% of product content required to be grown in Puget Sound counties	Limited to processing of agricultural products and 60 percent of the products must be from Puget Sound counties	60% of product to be processed must be grown on site.	60 site			
Production/ Facility Location	Not specified	Not specified	Required	Re			
			Non-agricultural facility uses must be on portion of the property unsuitable for agricultural production purposes.	No the pu			
Parking	.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area	De			
		Parking maximum 150% of minimum requirement	Limited to 150% of minimum required	mi			
Setbacks	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	75 bu pa			
KC Bus. License	None	None	Required	Re			

ATTACHMENT 5

ance 2018-0241
Winery III (DC#12)
Conditional Use
1.5 acres
Except if floor area is over 6,000 square feet, the minimum lot size is 10 acres
Maximum floor area 8,000 sf; additional 8,000 sf for underground storage
Fasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm
Jp to 2 events/month with TUP. Max. size = 250 guests; parking accommodated on-site or managed hrough parking plan
Must connect to existing Group A water system, or existing Group B water system if Group A water system not available
Direct access from an arterial
50% of product to be processed must be grown on site.
Required
Non-agricultural facility uses must be on portion of the property unsuitable for agricultural production purposes.
Determined through CUP (NOTE: transmitted ordinance has an error and says limited to 150% of minimum required)
75 feet from RA and R zones, except historic puildings; 5 or 10 feet from all other zones. Includes parking areas.
Required

Issue/Condition	Rural Area Zones						
	Exist	ing Code					
			Winery I (DC#30)	Proposed Ordinance 2018-0241 Winery II (DC#3 and DC#31)	Winery III (DC#12)		
Type of Permit	Permitted	Conditional Use	Permitted – only one nonresident employee allowed	Permitted Conditional Use	Conditional Use		
Min. Lot Size	4.5 acres	4.5 acres Except if floor area is over 6,000 sf, the minimum lot size is 10 acres and a minimum 2.5 acres must be used to grow products	None	P and C: 2.5 acres (NOTE: transmitted ordinance has an error and says 4.5 acres)	4.5 acres Except if floor area is over 6,000 square feet, the minimum lot size is 10 acres		
Max. Building Size	3,500 sf, except historic buildings	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage On Vashon-Maury Island, maximum floor area 6,000 sf, including underground storage	1,500 sf	P and C: 3,500 sf (historic buildings maximum is 5,000 sf)	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage		
Tastings	Tasting of products produced on- site, and no extra floor area allowed for tasting	Tasting of products produced on- site, and no extra floor area allowed for tasting	Not allowed	P and C: Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm		
Events	For wineries: Up to 2/month with TUP; parking accommodated on- site For breweries and distilleries: 60 days in a one-year period	For wineries: Up to 2/month with TUP; parking accommodated on-site For breweries and distilleries: 60 days in a one-year period	Not allowed	Up to 24 days/year with TUP. Max. size = 125 guests; parking accommodated on-site or managed through parking plan	Up to 24 days/year with TUP Max. size = 250 guests; parking accommodated on-site or managed through parking plan		
Water	Not specified	Meet requirements for water and wastewater; water meters required for use of wells	Not specified	Not specified	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available		
Access	Not specified	Not specified	Not specified	P: Direct access from an arterial C: Direct access from public roadway. Can be modified through CUP (NOTE: transmitted ordinance has an error and does not include this)	Direct access from an arterial		
Product Content	60% of product content required to be grown in Puget Sound counties	Limited to processing of agricultural products and 60% percent of the products must be from Puget Sound counties	None	None	None		
Production/ Facility Location	Not specified	Not specified	Required	Required	Required		

Proposed Ordinance 2018-0241 – Substantive Summary of Changes by Zoning District

Parking	.9 per 1,000 square feet, plus 1 per	.9 per 1,000 square feet, plus 1 per	One parking stall allowed for nonresident	0.9 per 1,000 square feet, plus 1 per 300	Determined through CUP (NOTE: transmitted
	50 square feet of tasting area	50 square feet of tasting area	employee	square feet of tasting area	ordinance has an error and says limited to
					150% of minimum required)
		Parking maximum 150% of		P: Limited to 150% of minimum required	
		minimum requirement			
				C: Limited to 150% of minimum required	
Setbacks	75 feet from RA and R zones,	75 feet from RA and R zones, except	75 feet from RA and R zones, except	P and C: 75 feet from RA and R zones,	75 feet from RA and R zones, except historic
	except historic buildings; 5 or 10	historic buildings; 5 or 10 feet from	historic buildings; 5 or 10 feet from all	except historic buildings; 5 or 10 feet	buildings; 5 or 10 feet from all other zones.
	feet from all other zones.	all other zones.	other zones. Includes parking areas.	from all other zones. Includes parking	Includes parking areas.
				areas.	
KC Bus. License	None	None	Required	P and C: Required	Required

Issue/Condition	Urban Reserve Zone						
	Existing Code Proposed Ordinance 2018-				241		
			Winery I (DC#30)	Winery II (DC#3)	Winery III (DC#12)		
Type of Permit		Conditional Use – No separate authorization for a CUP in UR zone	Permitted – only one nonresident employee allowed	Permitted	Conditional Use		
Min. Lot Size	4.5 acres		None	2.5 acres (NOTE: transmitted ordinance has an error and says 4.5 acres)	4.5 acres Except if floor area is over 6,000 square feet, the minimum lot size is 10 acres		
Max. Building Size	3,500 sf, except historic buildings		1,500 sf	3,500 sf (historic buildings maximum is 5,000 sf)	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage		
Tastings	Tasting of products produced on- site, and no extra floor area allowed for tasting		Not allowed	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 5pm F-Sun: 11am – 9 pm		
Events	60 days in a one-year period		Not allowed	60 days in a one-year period Max. size = no limit Parking not specified	60 days in a one-year period Max. size = no limit Parking not specified		
Water	Not specified		Not specified	Not specified	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available		
Access	Not specified		Not specified	Direct access from an arterial	Direct access from an arterial		
Product Content	60% of product content required to be grown in Puget Sound counties		None	None	None		
Production/ Facility Location	Not specified		Required	Required	Required		
Parking	.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area		One parking stall allowed for nonresident employee	0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area Limited to 150% of minimum required	Determined through CUP (NOTE: transmitted ordinance has an error and says limited to 150% of minimum required)		
Setbacks	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones.		75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.		
KC Bus. License	None		Required	Required	Required		

Issue/Condition	Commercial and Industrial Zones					
	Existing	Code	Proposed Ordinance 2018-0241			
	NB and CB	RB and I	NB and CB	RB and I		
Type of Permit	Permitted	Permitted	WBD I – not permitted WBD II – permitted (DC#17) WBD III – conditional use (DC#29)	WBD I – not permitted WBD II – permitted (DC#29) WBD III – conditional use (DC#29)		
Min. Lot Size	None	None	None	None		
Max. Building Size	3,500 sf, except historic buildings	None	WBD II – 3,500 sf, except historic buildings are 5,000 sf	None		
Tastings	Tasting of products produced on-site, and no extra floor area allowed for tasting	Not specified	WBD II – Tasting of products produced on-site, and no extra floor area allowed for tasting	Not specified		
Events	60 days in a one-year period	60 days in a one-year period	WBD II and III – 60 days in a one-year period Max. size = no limit Parking not specified	WBD II and III – 60 days in a one-year period Max. size = no limit Parking not specified		
Water	None	None	None	None		
Access	None	None	None	None		
Product Content	None	None	None	None		
Production/Facility Location	Not specified	Not specified	Not specified	Not specified		
Parking	0.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	0.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	WBD II – 0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area WBD III – not specified	WBD II – 0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area WBD III – not specified		
Setbacks	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones.	5 or 10 feet	WBD II – 75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas. WBD III – 5 or 10 feet	5 or 10 feet		
KC Bus. License	None	None	WBD II and III– Required	WBD II and III– Required		

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ATTACHMENT 6

Public Comments on Proposed Ordinance 2018-0241 Winery/Brewery/Distillery Code Update Received through November 26, 2018

Auzins, Erin

From: Sent: To:	Rimbos Peter <primbos@comcast.net> Friday, November 9, 2018 10:00 AM Lambert, Kathy; Upthegrove, Dave; Gossett, Larry; McDermott, Joe; von Reichbauer, Pete</primbos@comcast.net>
Cc:	Constantine, Dow; Dembowski, Rod; Kohl-Welles, Jeanne; Balducci, Claudia; Dunn,
	Reagan; Taylor, John; Painter, Alan; Chan, Jim; Miller, Ivan; Auzins, Erin
Subject:	Proposed Ordinance 2018-0241: Responding to the King County Sammamish Valley
	Wine and Beverage Study
Attachments:	RA UAC Adult Beverage Comment Ltr.pdf; CM Lambert - Overall - no permitted use
	tables - FoSV Added.pdf

King County Council PRE Committee Chair and Members,

Please accept the attached letter from the Greater Maple Valley Unincorporated Area Council (GMVUAC), Hollywood Hill Association (HHA); and Upper Bear Creek Unincorporated Area Council (UBCUAC), along with accompanying detailed comments on proposed *Ordinance 2018-0241*.

Thank you, in advance, for your consideration to our collective comments.

Transmitted on behalf of the GMVUAC, HHA, and UBCUAC by:

Peter Rimbos Corresponding Secretary Greater Maple Valley Unincorporated Area Council (GMVUAC) primbos@comcast.net

"To know and not to do is not to know."-- Chinese proverb

Please consider our shared environment before printing.

Proposed Ordinance 2018-0241

Responding to the King County Sammamish Valley Wine and Beverage Study

Public Comment

November 9, 2018

GMVUAC, HHA, and UBCUAC







- To: King County Council PRE Committee Chairwoman Kathy Lambert: <u>kathy.lambert@kingcounty.gov</u> and Committee Members: Dave Upthegrove: <u>Dave.Upthegrove@kingcounty.gov</u>; Larry Gossett <u>Larry.Gossett@kingcounty.gov</u>; Joe McDermott joe.mcdermott@kingcounty.gov; and Pete von Reichbauer <u>Pete.vonReichbauer@kingcounty.gov</u>
- Re: Proposed Ordinance 2018-0241: Responding to the King County Sammamish Valley Wine and Beverage Study

PRE Committee Chairwoman Lambert and Members,

Please accept comments herein on the subject Ordinance from King County Rural Area Unincorporated Area Councils (UACs) / Associations: Greater Maple Valley UAC (GMVUAC), Hollywood Hill Association (HHA); and Upper Bear Creek UAC (UBCUAC). As you are aware, we research and develop solutions on issues of interest to people who live in King County's Rural Area.

We ask you to support the attached draft amendment for proposed King County Ordinance #2018-0241 developed by Friends of Sammamish Valley, which responds to the King County Sammamish Valley Wine and Beverage Study.

Keeping all of the Rural Area of King County rural provides many benefits to the citizens and businesses of King County, urban and rural alike. As this ordinance will apply county-wide, we have concerns over certain provisions in the council's current version which would open the doors to retail and industrial uses across the Rural Area. The result will be increased traffic, parking lots on rural land, pedestrian safety issues, water runoff that damages agricultural areas, lighting and noise pollution, and more.

We also recognize the Sammamish Valley in particular as a unique asset to King County. Not only is its rural ambiance vital to the continued success of the wine-related economy around Woodinville, it is also a crucial front in our efforts to contain urban sprawl. Wineries and related businesses have become important elements of our region's economy and culture. We support continuing to permit small wineries to be established in the Rural Areas. However, remote tasting rooms and so-called event centers clearly belong in the Urban Growth Area, where the vast majority already operate legally.

The attached draft amendment would clarify and strengthen regulations for beverage industries in ways that align with King County's Comprehensive Plan and Planning Policies under the state Growth Management Act. It retains positive elements in the proposed ordinance (business license, improved tools for code enforcement, etc) and seeks to balance the needs of the Rural Area and Agricultural Production Districts (APDs).

The draft amendment provides the following changes to the proposed ordinance:

- 1. <u>Removes the Demonstration Project Overlays A and B from the Sammamish Valley</u>. These overlays threaten the the Rural Area and APDs by permanently allowing urban-area commercial and retail businesses, such as bars and event centers, to operate in these, areas.
- 2. <u>Improve certain provisions</u>. Closes loopholes that would allow drinking establishments and event centers to function as wineries even when little or no product is produced on-site.
- 3. <u>Provides a 12-mo grace period</u>. This would allow the *illegally* operating tasting rooms, retail sales outlets, and event centers to move to a new *legal* location.

We welcome the committee's thorough review of the attached draft amendment to proposed Ordinance #2018-0241. We wish to continue an open dialogue with King County officials on the subject Ordinance. Thank you in advance for your careful consideration of our comments.

Steve Hiester info@gmvuac.org Chair, GMVUAC Michael Tanksley wmtanksley@hollywoodhillassoc.org President, HHA

Nancy Stafford nm.staff@outlook.com Chair, UBCUAC

 cc: Dow Constantine, KC Executive: <u>dow.Constantine@kingcounty.gov</u> KC Councilmembers: <u>rod.dembowski@kingcounty.gov</u>, <u>jeanne.kohl-welles@kingcounty.gov</u>, <u>claudia.balducci@kingcounty.gov</u>, <u>reagan.dunn@kingcounty.gov</u>
 John Taylor, Director-Appointee, KC Dept. of Local Services: <u>john.taylor@kingcounty.gov</u>
 Alan Painter, Manager, KC Community Service Areas: <u>alan.painter@kingcounty.gov</u>
 Jim Chan, Asst. Dir. for Permitting, KC Dept. of Permitting & Environmental Review: <u>jim.chan@kingcounty.gov</u>
 Ivan Miller, Comprehensive Planning Mgr., KC: <u>ivan.miller@kingcounty.gov</u>
 Erin Auzins, Lead Staff, KC Council PRE Committee: <u>erin.Auzins@kingcounty.gov</u>

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
1	Sections 3 through 9 add a new chapter in Title 6 – business licenses This adds a new requirement to get a business license for wineries, breweries, and distilleries, and remote tasting rooms. The business license fee would be \$100 for initial and renewal of licenses.	 It is a policy choice whether to require a business license for these uses. Executive staff expect this fee to generate up to \$6000 annually. DPER staff state that business license reviews do not include an in depth review, and are used for tracking purposes. In depth review, for compliance with development regulations is done as part of construction permit and land use applications. 	 6/28 – consider other methods: 1 time registration, once every 5 years. Asked for follow up from staff: what do other licenses require? 7/3 Council staff: most licenses require a fee every year. Some licenses require renewals more frequently than once a year (close out sales). Shooting ranges are every 5 years. Need further direction from CM Lambert. 	Support requirement for annual licenses. Revenue should go to enforcement.
2	Section 10: Repeals existing definition of winery: 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.	No issues identified. This definition is replaced by the new definitions for WBD I, II, III.	6/28 – ok with change.	Repeal of existing definition is acceptable. Real issue is adequacy of new definitions.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
quo	Section 11: Adds a definition for adult beverage business: An adult beverage business means a winery, brewery, distillery or cidery, and remote tasting rooms for any of those businesses.	No issues identified.	6/28 – ok with change.	Definition of adult beverage business is needed for the licensing requirement. This is acceptable.
4	Section 12: Adds a definition for remote tasting room: A small facility approved by the Washington state Liquor and Cannabis Board as a remote tasting room for a licensed winery, brewery or distillery that is operating at a location other than the licensed winery, brewery or distillery production facility, for the purpose of the retail sale and sampling of the licensed product.	 The LCB does not use the term "remote tasting room". Instead, the term is "Tasting Room – Additional Location". Executive staff agree that the LCB term should be used. This license is only allowed for in-state wineries. Out-of-state wineries will not be allowed to operate a remote tasting room within the Overlay A area demonstration project. In addition, this allowance for a tasting room by the LCB is only allowed for wineries. Breweries and distilleries do not have a comparable state license, and would not be able to locate in the Overlay A demonstration project. 	6/28 – revise the language so that breweries and distilleries can participate in the demonstration project.	KCC 21A.55 defines the scope of the Council's authority to establish "demonstration projects". Allowing tasting rooms in zones where they are not allowed by the current code is outside of the scope of the council's authority under KCC 21A.55. The definition should include the size limitation; A small facility with total space devoted to tasting and retail activity not to exceed one thousand square feet of gross floor area, that is approved by the Washington state Liquor and Cannabis Board as a remote tasting room for a licensed winery, brewery or distillery that is operating at a location other than the licensed winery, brewery or distillery production facility, for the purpose of the retail sale and sampling of the licensed product.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
	Section 13: Adds a definition for winery, brewery, distillery facility I: A very small establishment licensed by the state of Washington to produce adult beverages such as wine, cider, beer and distilled spirits and where on-site product tasting or retail sale of merchandise does not occur.	1. The Council may want to consider whether using "very small", "small" or no qualifier is sufficient in the definitions. The parameters separating the three WBD facilities are in the development conditions in the permitted uses section. Another option would be to call out the maximum square footage in the definition, if the Council wants to be more specific.	6/28 – add the size qualifiers	Proposed definition: A winery, brewery or distillery as those terms are defined by KCC 21A.06, with gross floor area devoted to processing not to exceed one thousand five hundred square, licensed by the State of Washington to produce adult beverages such as wine, cider, beer or distilled spirits and where on- site product tasting or retail sale of merchandise does not occur.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
5	Section 14: Adds a definition for winery, brewery, distillery facility II: A small scale production facility licensed by the state of Washington to produce adult beverages such as wine, cider, beer and distilled spirits and that includes an adult beverage production use such as crushing, fermentation, barrel or tank aging, and finishing. A winery, brewery, distillery facility II may include additional product-related uses such as vineyards, orchards, wine cellars or similar product- storage areas as authorized by state law, on-site product tasting and sales as authorized by state law, and sales of merchandise related to products available for tasting as authorized by state law.	Same issue as above on size qualifier.	6/28 – add the size qualifiers	Proposed definition: A winery, brewery, or distillery as those terms are defined by KCC 21A.06, that meets the size limitations of the zoning district in which it is located for a winery, brewery, distillery facility II, licensed by the State of Washington to produce adult beverages such as wine, cider, beer or distilled spirits. A Winery, brewery, distillery facility II may include on-site tasting and sales of products produced on-site only.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
6	Section 15: Adds a definition for winery, brewery, distillery facility III: An establishment licensed by the state of Washington to produce adult beverages such as wine, cider, beer and distilled spirits and that includes an adult beverage production use such as crushing, fermentation, barrel or tank aging, and finishing. A winery, brewery, distillery facility III may include additional product-related uses such as vineyards, orchards, wine cellars or similar product- storage areas as authorized by state law, on-site product tasting as authorized by state law, and sales of merchandise related to products available as authorized by state law.		6/28 – add the size qualifiers (Erin's note – this may not make sense for III)	Proposed definition: A winery, brewery, or distillery as those terms are defined by KCC 21A.06, that meets the size limitations of the zoning district in which it is located for a winery, brewery, distillery facility III, licensed by the State of Washington to produce adult beverages such as wine, cider, beer or distilled spirits. A winery, brewery, distillery facility III may include on-site tasting and sales of products produced on-site only

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
7	Section 17: Modifies parking requirements: Requires for WBD II facilities, 0.9 per 1,000 square feet plus 1 per 300 square feet of tasting area (existing code is 1 per 50 square feet of tasting area). Does not specify parking requirements for other WBD facilities.	 This change would reduce the number of parking spaces required, and therefore the maximum number of parking spaces allowed, for WBD III facilities. 	6/28 – keep existing ratio for tasting. Add language to the demonstration projects to evaluate parking needs/impacts.	Support Proposed Ordinance provisions on parking.
8	Section 18: Modifies home occupation requirements (R, UR, NB, CB and RB zones): Prohibits all WBD facilities and remote tasting rooms.	This is a policy choice for the Council.	6/28 – ok with change	Support proposed ordinance.
9	Section 19: Modifies home occupation requirements (A, F and RA zones): Prohibits all WBD facilities and remote tasting rooms.	This is a policy choice for the Council.	6/28 – ok with change	Support proposed ordinance.
10	Section 20: Modifies home industry requirements: Prohibits all WBD facilities and remote tasting rooms.	This is a policy choice for the Council.	6/28 – allow WBD as a home industry. (see modified conditions in HIP section).	Support proposed ordinance.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
11	 Section 21: Modifies temporary use permit requirements: For WBD II and III in A zones, events limited to 2 per month and all parking must be accommodated on site or through a plan approved by the director. For WBD II and III in RA zones, events limited to 24 within a one-year period and all parking must be accommodated on site or through a plan approved by the director. For WBD II in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 125 guests. For WBD III in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 250 guests. 	 Executive staff continue to work on a definition of a "special event". In practice, it will need to be based on criteria that an inspector could easily see if they visit the site. Initial thoughts include: any tents, portable toilets, stages on-site; and need for additional parking over the permitted number of maximum spaces. The Council may want to consider whether the criteria for what is included within normal business operations as a WBD, and what is outside of the normal operations that needs a special event TUP. Executive staff indicate that closing during allowed tasting hours for a private event would not trigger a TUP unless it meets the criteria above, although that is not clearly stated in the PO. For some allowances, the number of events is specified, and for others, the number of days events are allowed is specified? When the number of days is specified, more than one event would be allowed. 	 6/28 – add language that specifies when a TUP is required. Include building occupancy, portable toilets and additional parking as criteria, but exclude stage and tents. Include language that events within the normal business hours do not require a TUP. Allow 24 events per year in Ag zone. WBD II allowed 150 guests (WBD III ok with 250) 	Add definition of winery, brewery, distillery facility special event: A private event such as a wedding, anniversary party, office gathering or other event not open to the public, conducted at a winery, brewery, distillery facility II or III, with attendance limited to the occupancy load permitted for the primary structure on the site by the fire code, conducted not more frequently than two times per month, and authorized by a temporary use permit. No amplified outdoor sound allowed. No other special events or uses are allowed to be conducted in, or on the site of a winery, brewery, distillery facility II or III. No special events or uses shall be conducted in a Remote Tasting Room or a winery, brewery or distillery I. Winery, brewery, distillery facility special events as defined in KCC 21A. 06 may be allowed not more frequently than two times per month with an approved temporary use permit under K.C.C. chapter 21A.32. No outdoor amplified sound allowed. No other special events or temporary uses are allowed.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
12	 Section 22: Adds a Sammamish Valley and Vashon Town Center wine and adult beverage remote tasting room demonstration project A. Administrative approval by DPER – as a Type I land use decision May apply for approval simultaneously as business license application Allowed uses under the demonstration project limited to remote tasting room. Adds criteria for remote tasting room: One or more WBD I, II or III may operate Total space for tasting and retail is 1,000sf plus storage, restroom, back-of-the-house uses Additional 500sf of outdoor space allowed Direct access to an arterial No production allowed 	 Vashon-Maury Island. The PO would allow remote tasting rooms on any property within the Rural Town boundary. When/if the Council makes permanent changes to remote tasting rooms, then allowing them, or WBD generally, would require an amendment to the VMI Subarea Plan/P-suffix conditions. As a precedent, Council should consider whether it meets their policy goals to allow uses through a demonstration project that would otherwise not be allowed by a P-suffix or SDO (or equivalent). This would allow tasting rooms on land that the underlying zoning would not allow WBD in any form (Residential zones) elsewhere in the County. The purpose of a demonstration project is to "test and evaluate alternative development standards and processes prior to amending King County policies and regulations." The Council may want to consider whether the reporting requirements for the demonstration projects, as transmitted by the Executive, provide sufficient evaluation for the Council to make an informed decision on future permanent code changes. The PO states that DPER cannot accept applications after 3 years from the effective date of the Ordinance. However, this will still be a codified section of Code after that date, as it doesn't have an official expiration date. The Council may want to consider making this expiration date more clear. 	 6/28 – Add Fall City Rural Town as third area. Add language to the demonstration projects to evaluate parking needs/ impacts. Add more robust evaluation language. Include the nearby City's, and CSA groups, opinions of the overlays. Require a Council action to end the overlay. Remove the provision that has DPER stop accepting applications automatically after 3 years. Executive staff suggest that the allowance be narrowed to either the Town Core, or the CB zoned land within the Rural Town. Need further direction on Vashon overlay from CM Lambert/McDermott. 	The Sammamish Valley must be eliminated from Overlay A. Making retail sales uses—tasting rooms— permitted uses in the Sammamish Valley violates the GMA. These are urban uses. The A and RA zoned land in the Valley is not suitable for urban uses. This violates the KC Comp. Plan mandate to preserve the character of the Rural Area. Bar hopping is an urban activity. Signage, parking areas, serving of alcoholic beverages and food require urban services—sewers, storm sewer systems, adequate roads, police, fire and code enforcement services. They do not belong in Rural Areas and in particular do not belong in buffers to the Sammamish Valley APD. There is more than adequate land in the surrounding city urban areas to accommodate growth in tasting rooms. The interests of the rural residents who live in and around these areas are being ignored to serve the interests of a small number of operators of illegal business.

# Proposed Change	Council Staff Comments	Chair's Direction	FoSV
 13 Section 23: Adds a Sammamish Valley wine and adult beverage tourist district events demonstration project B. Administrative approval by DPER, using review procedures in 21A.42 and decision criteria in 21A. 44.040 (for CUPs) Allowed for WBD III Waives requirements in 21A.32.100 through .140; 21A.44.020 and 21A. 08.080.B.12.I Allowed to obtain authorization for on-site weddings and similar uses under the CUP No waiver from other requirements (including review procedures) Only allowed with an application for a new or modified CUP for WBD III, either in conjunction with that application or before. Must demonstrate compliance with 21A. 44.040. CUPs are a Type II land use decision Only allowed in area identified in Attachment B 	 The Council may want to consider whether the reporting requirements for the demonstration project provide sufficient evaluation for the Council to make an informed decision on future permanent code changes. The PO states that DPER cannot accept applications after 3 years from the effective date of the Ordinance. However, this will still be a codified section of Code after that date, as it doesn't have an official expiration date. The Council may want to consider making this expiration date more clear. 	 6/28 – Add more robust evaluation language. Include the nearby City's, and CSA groups, opinions of the overlays. Require a Council action to end the overlay. Remove the provision that has DPER stop accepting applications automatically after 3 years. 	The Sammamish Valley must be eliminating from Overlay B. The proposed overlay converts special events to a conditional uses. Once a conditional use permit is issued it is permanent. Under current permitting, special uses are approved on an annual basis. If the events do not adhere to permit conditions or otherwise become incompatible with the surrounding rural residences and farms the permit can be further conditioned, limited or denied. There is no public disclosure of what is going on here. Overlay B looks like just minor change in the type of permitting but it is a very major shift to make special events allowed in the rural and agricultural areas by virtue of a one- time administrative permit that transforms them into permanently allowed land uses.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
14	Section 24: Modifies citation penalty: Adds specific citations for WBD I, II, II and remote tasting rooms: \$500 for first violation, and \$1,000 for subsequent violations (existing code is \$100 for first violation, \$500 for subsequent violations)	 The Council should consider whether these citation penalty amounts are sufficient to deter violations, and that the amounts are not TOO high and unnecessarily punitive. After this six month period, enforcement of the provisions would follow the established code enforcement process. The Council may want to take into consideration enforcement of the provisions over the longer term, especially considering the task force recommendations and report initially focused on the Sammamish Valley and the industry and proposed development regulations encompasses the entire County. The County has limited code enforcement resources, in terms of: 1) number of code enforcement officers, 2) ability under the code to get to voluntary compliance quickly, and 3) to get resolution on cases through the judicial system. 		The penalties are far too low to create real incentive to adhere to the law. Enforcement must be a priority. Currently there is essentially no enforcement. See specific revisions in penalty amounts in the FoSV proposed revisions to the ordinance.

#	Proposed Change	Council Staff Comments	Chair's Direction	FoSV
15	Section 16: Modifies the Manufacturing land use table: Adds WBD I, WBD II, and WBD III to the permitted use table and permits them in multiple zones, either as permitted outright with development conditions or with a conditional use permit with development conditions in several zones. Modifies development conditions for WBD facilities related to minimum lot size, floor area, parking area, setbacks, product content, location of facilities on farmland, tasting hours, site access, business license, events, connection to water supply, growing requirements, and employee maximums.	 See separate table for description of substantive changes. As described in the background section, the transmitted Proposed Ordinance was the result of a years long process to address the proliferation of wineries within the Sammamish Valley. However, except for the demonstration projects, the Proposed Ordinance would apply countywide, and would apply to breweries and distilleries. The Council may want to consider whether sufficient input from other industries, including breweries and distilleries, has been taken, and whether further input is necessary before code changes are adopted. Executive staff are aware of 54 wineries, breweries, and distilleries in unincorporated King County. Of those, only 4 are legally permitted today and all 4 would become legally nonconforming under the Proposed Ordinance as transmitted. The other 50 are operating without permits or in violation of the County's development regulations. Executive staff estimate that 8 businesses will not be able to comply with the new regulations at their current locations – they all appear to be within Agriculture zoned areas. Of note, lands that have Farmland Preservation Program (FPP) status would not be permitted by the associated covenants to operate a winery, brewery or distillery facility or a remote tasting room on-site. For the businesses that are expected to not be able to comply, DPER states that they will start the enforcement process upon the ordinance becoming effective. DPER staff state that the plan would be to allow the businesses the same 6 month compliance period that other businesses will receive, but these businesses would not receive technical support through the 		WBDs belong in manufacturing and industrial areas. FoSV has not taken any positions on the proposed ordinance with respect to manufacturing and industrial areas.

ATTACHMENT 7

October 3, 2018

OFFICE OF THE HEARING EXAMINER KING COUNTY, WASHINGTON

King County Courthouse 516 Third Avenue Room 1200 Seattle, Washington 98104 Telephone (206) 477-0860 <u>hearingexaminer@kingcounty.gov</u> www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Department of Permitting and Environmental Review file no. PREA170313

FOUR HORSEMEN BREWERY

Preliminary Determination Appeal

- Location: 30221 148th Avenue SE, Kent
- Appellants: Donna Hinds-Scarimbolo, Dane Scarimbolo, and Dominique and Justin Torgerson 30221 148th Avenue SE Kent, WA 98042 Telephone: (253) 332-2829 Email: <u>dane_scarimbolo@hotmail.com</u>
- King County: Department of Permitting and Environmental Review represented by Jake Tracy 35030 SE Douglas Street Suite 210 Snoqualmie, WA 98065 Telephone: (206) 263-0875 Email: jtracy@kingcounty.gov

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Grant appeal in part; deny appeal in part

EXAMINER PROCEEDINGS:

Hearing Opened: Hearing Closed: September 6, 2018 September 19, 2018 Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, the examiner hereby makes the following findings, conclusions, and decision.

FINDINGS AND CONCLUSIONS:

<u>Overview</u>

1. The operators of the Four Horsemen Brewery (Appellants) challenge a preliminary determination by the Department of Permitting and Environmental Review (DPER) that no tasting areas—no matter how limited in scope—are allowed in connection with a home occupation brewery. Although DPER is correct that the tasting area Appellants sought to operate exceeded the limited-scale uses allowed for a home occupation, DPER is incorrect that current law categorically prohibits all such home occupation tasting areas. Accordingly we grant, in part, Appellants' petition.

Background

- 2. Appellants, the four brewery operators, live in the residence on the subject property. They installed a brewery and tasting areas without the necessary permits. Code Enforcement received a complaint and began administrative proceedings. In response, Appellants began the permitting process. DPER informed them that while their brewery operations were likely legalizeable through the permit process, on-site home occupation tasting areas were prohibited, county-wide.
- 3. When, at or after a pre-application conference, DPER issues a preliminary determination that a proposed development is not permissible, an applicant has the option to appeal that determination to us. KCC 20.20.030.D. Appellants filed a timely challenge, and we went to hearing on September 6. We announced at the close of that hearing that we would hold the record open until September 19, to allow the parties to submit additional argument. With the record now closed, we turn to our analysis.

<u>Analysis</u>

4. The distinction between the way courts treat "facial" challenges versus "as-applied" challenges provides a useful framework for our analysis. Because DPER has adopted a blanket (facial) position "that it is not possible to condition a tasting room to be a limited use, subordinate and incidental to a residence," Ex. A16 at 002, we must reject DPER's position "unless there exists no set of circumstances in which" a tasting area can meet the home occupation standards. *Cf. Tunstall ex rel. Tunstall v. Bergeson*, 141 Wn.2d 201, 221, 5 P.3d 691 (2000). This also means that we devote less space to making detailed factual findings than we would if, for example, DPER had determined that while tasting areas were generally amenable to home occupation status, *specific* attributes of Appellants' operations went too far.

- 5. The current zoning code allows commercial breweries—along with any state-allowed tasting area for products produced on site—on Rural Area (RA) zoned properties. KCC 21A.08.080.B.3.g. However, such activities are only allowed on parcels of at least 4.5 acres. *Id.* at c. Appellants' property is approximately half the required size.
- 6. Home occupations and home industries do offer a "catch all" avenue for legalization. Certain uses, prohibited as the primary use of a residential property, may nonetheless be conducted by a resident(s) if certain criteria are met. DPER agrees that a brewery itself, if sufficiently limited, is amenable to home occupation treatment. Our question is whether DPER is correct that no tasting areas, no matter how limited, can be allowed as part of a home occupation brewery.
- 7. We render our decision in the shadow of pending code changes that would overhaul the standards for adult beverage businesses (including both breweries and tasting areas) and would exclude breweries and tasting areas from being eligible for home occupation status. Prop. Ord. 2018-0241. Yet a proposal is not a law, we decide cases based on the actual law, not on the law as it may become.
- 8. We start with the low-hanging fruit, before turning to the more involved analysis.
- 9. Appellants make multiple references to the comprehensive plan (Comp Plan). A county's comprehensive plan is a "guide" and "blueprint"; it is typically <u>not</u> appropriate for making specific land use decisions. *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 873–74, 947 P.2d 1208 (1997). The Comp Plan would be relevant in our consideration of a home *industry*, because a home industry here would require a conditional use permit, and the code controlling the conditional use analysis explicitly requires inquiry into whether a proposed use conflicts with the Comp Plan. KCC 21A.44.040.G. But today's case is about whether a tasting room is permissible as a home *occupation* under the current wording of KCC 21A.30.085, which does not incorporate any Comp Plan component. The Comp Plan may provide fodder for how Appellants' lobby Council to shape the proposed ordinance, but it does not impact our decision.¹
- 10. Appellants next assert that they should be allowed a tasting room because the Washington State Liquor and Cannabis Board (Board) permits this without requiring an additional tasting room or retail license (on top of a brewery license), and so Appellants should be allowed to exercise these state-granted "privileges." WAC 314-20-015(1) ("A licensed brewer may sell: (a) Beer of its own production at retail on the brewery premises"); Ex. A16-002. That the Board may authorize something as a matter of state *licensing* law does not mean that the County allows (or has to allow) it as a matter of local *zoning* law.

¹ Even if the Comp Plan were relevant, Appellants' citation to ED-602.g would be unavailing. That subsection states that the County will "explore opportunities to support agricultural tourism and value-added program(s) related to the production of ... specialty beverages (including beer, distilled beverages, and wine) in the county." The pending ordinance is the result of that exploration, via a King County Sammamish Valley Wine and Beverage Study released in September 2016. Prop. Ord. 208-0241. If Appellants do not like that result, they can lobby for an amendment to the legislation. But ED-602.g did not promise any specific result, only an exploration.

- 11. In the words of our most recent appellate decision interpreting the analogous question of whether a county must sanction marijuana businesses the Board accepts, "the fact that an activity can be licensed under state law does not mean that the activity must be allowed under local law." *Emerald Enterprises, LLC v. Clark County*, 2 Wn. App. 2d 794, 805, 413 P.3d 92 (2018). The Board's powers are "distinct from the County's zoning authority," and a Board license is "an additional requirement for opening a new business." *Id.* at 817, 806. We assume, for purposes of our discussion, that the Board would license any of the alternatives in today's discussion. Our question is what KCC Title 21A allows.
- 12. DPER argues that, if we decide that a tasting area can be allowed, DPER should have the discretion to decide whether that proposal should fit under the home occupation or home industry rubric. Ex. A16 at 004. DPER can *suggest* an appropriate avenue for legalizing something, and often DPER helpfully does just that. But where a party applies for X, DPER (and we) must analyze X. A home industry might be a viable alternative, if we decide that tasting cannot occur—in any form—in conjunction with a home occupation brewery. But DPER (and we) have to analyze the question actually asked. And here that involves a proposal for a brewery/tasting area as a home occupation, not as a home industry.
- 13. Our final preliminary point recognizes that DPER has been consistent in interpreting the code as barring tasting areas as a component of a home occupation brewery; its position here is not one crafted for an adversarial proceeding. Ex. D5. That would be important if we were determining whether (and how much) to grant DPER deference, given that courts accord more weight to agency interpretations that are consistent with that agency's prior administrative practice. *Skamania County v. Columbia River Gorge Com'n*, 144 Wn.2d 30, 43, 26 P.3d 241 (2001). But it is the examiner, not the agency, who gets any deference in today's case. *Durland v. San Juan County*, 174 Wn. App. 1, 11, 298 P.3d 757 (2012). Our rules reflect this: barring some special directive to the contrary, the examiner does not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3.
- 14. Turning to the crux of the matter, DPER initially argues that—in addition to the specific, occupational requirements of KCC 21A.30.085—a would-be home occupier also has to meet the limitations coming directly from KCC chapter 21A.06's definitions, including "a limited-scale service or fabrication activity...subordinate to the primary use of the site as a residence" and being "[c]ustomarily associated with a principal use" and "[s]ubordinate and incidental to the principal use." KCC 21A.06.610, .013.
- 15. However, then DPER essentially reverses course and asserts that these definitional limits are actually no limits at all, and that if we allow any type of tasting area, all hell would break loose. *E.g.*, Ex. D1 at 005 (asserting that nothing would "prevent four fifteen-person conversion vans from arriving on site each hour, on the hour...and would not prevent the owners from using shuttle buses to ferry large groups of customers to the site"). Appellants unwittingly support DPER's argument, alleging that without a precise definition DPER is barred from establishing guidelines for what can be considered subordinate or limited-scale. Ex. A16 at 001. This adds fuel to DPER's claim that if we overturn its blanket interpretation that a tasting area is never allowed as a home

occupation, DPER can set no limits, Exhibit A16-001, and the sky (truly) would be falling.

- 16. The answer is that DPER's first point is correct, rendering the second point moot.
- 17. We were initially skeptical that a general definition would add any limitations on top of those specifically enumerated in the operative section, KCC 21A.30.085. That is, as long as one meets KCC 21A.30.085's checklist, anything that does not violate one of those specific restrictions is legal. Yet after more contemplation, we agree with DPER that KCC chapter 21A.06 adds operative restrictions. Because KCC 21A.30.085 starts off (underscore added) by noting that residents "may conduct one or more home occupations as accessory activities, under the following provisions," the limitations included in the definitions of "home occupation" and "accessory activity" are explicitly incorporated into .085.
- 18. The statutory interpretation principle that a "general statutory provision normally yields to a more specific statutory provision," *Western Plaza, LLC v. Tison*, 184 Wn.2d 702, 712, 364 P.3d 76 (2015), still applies. So, for example, in answering the question of how many employees could work in the business or how long operating hours can be, and still qualify as "limited-scale" and "accessory" to a residential use, we would look solely to KCC 21A.30.085's detailed answers, and not to KCC 21A.06.013's and .610's general principles. But the definitions remain functional.
- 19. Turning to those definitions, DPER argues that Appellants' tasting area would be a "sales-based" business and thus not allowed, given KCC 21A.06.610's definition of home occupations as limited-scale service or fabrication activities. Ex. D1 at 004. DPER's argument is accurate for home occupations in the Urban Residential (R) and Urban Reserve (UR) zones, where sales are limited to mail order, electronic, and sales to patrons who receive services onsite. KCC 21A.30.080.G. However the code applicable to Rural Area (RA) home occupations explicitly adds to this list sales of "[i]tems grown, produced or fabricated on-site." KCC 21A.30.080.K. That specific allowance trumps the general prohibition. Appellants produce their beer on their RA-zoned site, and provided they sell only what they produce on site, this particular component creates no prohibition.
- 20. Whether Appellants' specific activities actually qualify as "limited-scale" is discussed below. But DPER argues that that there are certain activities that simply cannot be considered "limited-scale," even if an applicant could demonstrate compliance with all the requirements of KCC 21A.30.085. That is correct, insofar as subsection J lists several uses the Council has determined "by the nature of their operation or investment, tend to increase beyond the limits permitted for home occupations" and therefore "shall not be permitted as home occupations." On that list are lodgings, dry cleaning, and certain automotive services, automotive wrecking services and tow-in parking lots. Most recently, the Council added marijuana-related businesses to the list. Ord. 17710 at § 11 (2013). The Council appears poised to do this again for breweries/tasting rooms in the proposed ordinance 2018-0241.

- 21. DPER offers sound arguments for why, by the nature of its operations, a tasting room tends to increase beyond the limits permitted for home occupations and therefore *should* be prohibited from being part of a home occupation. Given the current legislation, Council might go there. But neither DPER nor we have the authority to constructively amend KCC 21A.30.085.J and insert alcohol-related businesses after marijuana-related businesses on the list of prohibited home occupations. We do not get to "add words where the legislature has chosen not to include them." *Nelson v. Department of Labor & Industries*, 198 Wn. App. 101, 110, 392 P.3d 1138 (2017).
- 22. In addition to the massive-scale crowds DPER claims could follow our unfavorable decision, DPER argues that while commercial breweries are limited to a combined brewery/tasting area of 3,500 square feet, nothing would prevent Appellants from constructing over 3,500 square feet of brewery/tasting in connection to a home occupation business. Ex. D1 at 006. However, a square footage that exceeded (or even approached) the maximum square footage of a full-scale (as the primary use of a property) would not qualify as a "limited-scale" endeavor (as an accessory use of a residential property).
- 23. As discussed above, either the KCC 21A.06.013 and .610 definitions act as an actual check, or they do not. If they do not, then Appellants can do whatever they want so long as they meet all the enumerated parts of KCC 21A.30.085. Because we conclude that these definitions are operative, they are checks on the extreme examples DPER presents. And to the extent DPER has experience that such checks are insufficient for keeping particular subcategories of home occupations from expanding inappropriately or creating undue neighborhood controversy, it should (as it is done here) propose adding these to KCC 21A.30.085.J's and .080.E's lists of uses ineligible for home occupation treatment.
- 24. In addition to the "limited-scale" check from KCC 21A.06.610 discussed above, .013.C requires that an accessory use be "subordinate and incidental to the principal use." A large-scale tasting area would not be subordinate (having a lower or less important position) and incidental (accompanying but not a major part of) to the principal use of the property as a residence. In general, the examples DPER presents for how large Appellants' business could grow sound less like a commercial use subordinate and incidental to a residential use, and more like a primary commercial use with some subordinate and incidental on-site housing for employees. That the latter would be disallowed does not mean that no tasting area could be permissible.²
- 25. DPER argues that because fully-outdoor tasting operations would not necessarily require a permit from DPER, DPER would not necessarily have any mechanism to ensure that businesses are subordinate and incidental to the primary residential use. Ex. A16 at 004. The same could be said for a whole host of home occupations, beyond adult beverages,

 $^{^2}$ DPER points to KCC 21A.06.013.A's requirement that an accessory use be "[c]ustomarily associated with a principal use." DPER is correct that allowing customers to purchase and consume beverages on site is not customarily associated with a residence. But neither is brewing beer for sale on site, a use DPER agrees can (if property limited) qualify as a legal home occupation. We can think of a host of other home occupation businesses that are not "customarily associated" with a residential use. This general requirement would, if broadly interpreted, completely swamp KCC 21A.30.080 and .085.

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that are not on KCC 21A.30.080.E's and 085.J's prohibited lists. More importantly, the Code Enforcement program is DPER's existing mechanism for ensuring that, even where a permit is not required, a use does not violate the code's limits. In fact, DPER actually has an open (but stayed) enforcement case on the subject property.

- 26. That does not mean that the already over-stretched Code Enforcement program provides an ideal review mechanism going forward. Proposed ordinance 2018-0241 provides regulatory and licensing for small-scale and very small-scale production facilities—including extensive provisions regarding tasting areas. Without offering any commentary on those *specific* provisions, it makes sense to handle small/limited-scale adult beverage operations via some system of reviewable permits and licenses, instead of relying on a catch-all provision for limited-scale uses often reviewable only after neighborhood tensions boil over to the point a complaint is lodged. Yet that does not give us the leeway to interpret the current code to have already accomplished this. Instead, our role is to interpret the codes "as they are written, and not as we would like them to be written." *Brown v. State*, 155 Wn.2d 254, 268, 119 P.3d 341 (2005) (citations omitted).
- 27. DPER is correct that Appellants' initial tasting room plans went far beyond a limited-scale service activity subordinate to the primary use of the site as a residence, and also violated some specific prohibitions, such as KCC 21A.30.085.I's hours of operations. Appellants advertised that their location would be "great for big gatherings" and "could fit over 80 vehicles." Ex. D7. That is way beyond a limited-scale home occupation. Viewing the aerial map with significant outdoor seating, DPER analogizing Appellants' past operational capacity to a "beer garden" seems accurate. Ex. D4. Even under Appellants' somewhat scaled-back scenario, they testified that they still have seating for 28 patrons at any given time. This would far exceed the number of customers one would expect from the four allowable, additional vehicles referenced in KCC 21A.30.085.H.3.³ Appellants did not challenge DPER's assertion that the square footage Appellants devoted to tasting and customer parking combined are larger than the house itself.⁴
- 28. But that is not our basic question. Instead, we are reviewing DPER's determination that tasting rooms adjacent to a home occupation brewery are simply not allowed as home occupations, *period*, essentially adding tasting areas to KCC 21A.30.085.J's list of uses prohibited from achieving home occupation status. As noted above, we must reject DPER's position unless there are no set of circumstances in which a tasting area can meet the home occupation standards. We can certainly envisions such circumstances—a home occupation brewery with capacity for only a few carloads of customers to come, purchase and consume samples, and then purchase growlers to take off–site—that could meet this. To this extent, we grant Appellants' challenge.

³ Even assuming that vehicles bringing customers to the site would have more than the American average of 1.2 to 1.3 people-per-vehicle, <u>http://overflow.solutions/demographic-data/how-many-people-are-there-per-automobile-in-the-us/</u>, accommodations for 28 customers anticipates far more than four additional vehicles on site at any one time. ⁴ Although there was no testimony on how much total outdoor area was devoted to the business, a quick eyeball of the maps appears to show this in excess of the 998 square feet allowed for a property of the subject parcel's size. KCC 21A.30.085,C.2.

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- 29. We deny Appellants' challenge in that they will need to significantly scale back. Looking forward, DPER raises some good points, such as how Appellants—situated in proximity to Pacific Raceways—can structure operations so that they do not increase the average vehicular traffic by more than four additional vehicles at any given time. KCC 21A.30.085.H.3. But those are "as-applied" issues specific to Appellants' actual operations, reviewable through either the building permit or Code Enforcement review processes, and ultimately via an appeal to the Examiner. They do not create a "facial" bar to every home occupation tasting area in King County.
- 30. Finally, a word about vested rights. DPER states that because its *interpretation* of the code (as creating a blanket bar to tasting areas as home occupations) was in place prior to Appellants' operations starting up, Appellants are not vested. Ex. A16 at 001. Vesting relates to the right to have a proposal processed under "regulations" in effect at the time an application is submitted. *See Snohomish County v. Pollution Control Hearings Board*, 187 Wn. 2d 346, 358, 386 P.3d 1064 (2016). While our code is more generous (to developers) than state law in terms of what applications are covered by the doctrine, our local vesting statute still pegs the analysis to the "land use control ordinances." KCC 20.20.070.A. An agency interpretation of an ordinance, even if correct, is not an actual ordinance. In any event, DPER's interpretation (that KCC 21A.30.085 bars every on-site tasting area for products brewed on site) is incorrect.
- 31. In our prehearing order, we referenced the pending code change that would make a brewery/tasting room like Appellants' illegal. We observed that it would waste everyone's time for Appellants to rush submit a second application for DPER to review and (given its consistent legal position) deny, for Appellants to file a second appeal, and for us to start processing a second appeal, solely to protect against the scenario that in between then and the time we issued today's decision, the code would change. We noted that we would consider Appellants' tasting room "vested" to today's code, if we require them to re-apply.
- 32. The code still has not changed, so there is no need to look backwards. Quite apart from whether a tasting area is allowed, we were slightly surprised to see that the plans did not seem to include any reference to a tasting area, such as where on the site map such tasting would occur.⁵ That could be problematic for Appellants. Vesting does not apply to "potential, but unexpressed, use[s] the owner desires." *Alliance Inv. Group of Ellensburg, LLC v. City of Ellensburg*, 189 Wn. App. 763, 772, 358 P.3d 1227 (2015) (*interpreting Noble Manor Co. v. Pierce County*, 133 Wn.2d 269, 943 P.2d 1378 (1997)). To be protected, Appellants should lay out a specific tasting area(s) in their next submittal.
- 33. As to that next submittal, both DPER's and Appellants' post-hearing briefs discuss what type of occupancy (B versus F) applies. DPER acknowledged an earlier mistake. Ex. A16-003. Appellants seem to treat DPER's initial categorization as binding. Ex. A16-003. That would likely be true if DPER had issued an actual permit and later (after the appeal window closed) tried to rescind that permit. *Cf. Chelan County v. Nykreim*, 146 Wn.2d 904,

⁵ We understood Appellants' contention that their state license entitled them to have a tasting room as part of brewery operations, but we did not understand that tasting areas would not even be shown on a site map (the same way, for example, that something like a driveway would).

926, 932, 52 P.3d 1 (2002). Contra City of Mercer Island v. Steinmann, 9 Wn. App. 479, 481-83, 513 P.2d 80 (1973). But that is not our scenario.

- 34. DPER's argument that it reviews a tasting area (where the public gathers) under different standards than a manufacturing area makes some logical sense, but we do not decide the correct coding. DPER should process the application correctly, consistent with today's decision. And if DPER initially mis-categorized the project, and if it performed work it would not have under the proper categorization, then those hours should be credited to Appellants' account. But a mistake in DPER's initial analysis does not entitle Appellants to have their application continue to be processed incorrectly.
- 35. If—either during DPER's processing of Appellants' revised application or thereafter the code changes to outlaw the type of activities Appellants want to conduct, that change would not make Appellants' use illegal, only a legal nonconforming use. On the negative side, legal nonconforming use status comes with some restrictions, such as allowable modifications and expansions. KCC 21A.32.020–.085. On the positive side, Appellants would enjoy decreased competition, as no similarly situated, would-be rival business could subsequently open up. Regardless, a code change would not retroactively outlaw Appellants' operations, so long as Appellants' have resubmitted something showing a limited-scale brewery/tasting area subordinate and incidental to the principal use of the property as a residence and meeting the other requirements of KCC 21A.30.085, prior to the code change becoming effective.

DECISION:

- 1. Appellants' appeal is DENIED, in the sense that Appellants' tasting room activities exceed that allowed under the home occupancy requirements.
- 2. Appellants' appeal is GRANTED, in that DPER's interpretation that the current code bars tasting areas for home occupancy breweries, across the board, is incorrect.

ORDERED October 3, 2018.

David Spohr Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE SEPTEMBER 6, 2018, HEARING IN THE APPEAL OF FOUR HORSEMEN BREWERY, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. PREA170313

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Dane Scarimbolo, Jake Tracy, Dominique Torgerson, and Justin Torgerson.

The following exhibits were offered and entered into the record:

Department-offered exhibits:

Exhibit no. D1	Department of Permitting and Environmental Review staff report to the
	Hearing Examiner for file no. PREA170313
Exhibit no. D2	Pre-application preliminary determination, dated June 1, 2018
Exhibit no. D3	Notice and statement of appeal, received July 2, 2018
Exhibit no. D4	Aerial map of subject property
Exhibit no. D5	Excerpts of Washington State Liquor and Cannabis Board notice of liquor
	license applications
Exhibit no. D6	"Four Horsemen Brewery Opens This Weekend" article from
	Washington Beer Blog, dated August 5, 2016
Exhibit no. D7	Four Horsemen website
Exhibit no. D8	DPER file no. PREA170313
Exhibit no. D9	Washington Administrative Code 314-20-015
Exhibit no. D10	Email from Howard Esping to Sara Smith, dated June 11, 2018

Appellant-offered exhibits:

Exhibit no. A1	Washington State Liquor Control Board notice of liquor license
	application, dated February 19, 2014;
Exhibit no. A2	Letter from Washington State Liquor and Cannabis Board, dated
	November 6, 2017; and
	Internal DPER emails, dated November 7, 2017
Exhibit no. A3	Email correspondence between Dominique Torgerson and DPER
Exhibit no. A4	King County Codes
Exhibit no. A5	Revised Codes of Washington
Exhibit no. A6	Traffic counts from 2013 through 2017
Exhibit no. A7	"100% Made in Washington" article by Larry Clark in Washington State
	Magazine, dated Fall 2017
Exhibit no. A8	King County Comprehensive Plan 2017; Occupational Safety and Health
	Administrative 5813
Exhibit no. A9	Code enforcement case no. ENFR170930 record details
Exhibit no. A10	Schedule of standard building construction values, dated February 6, 2018
Exhibit no. A11	Permit no. ADDC180462 summary of charges, dated June 29, 2018
Exhibit no. A12	KCC 27.10.020 and KCC 27.10.320
Exhibit no. A13	Discussion of King County Comprehensive Plan
Exhibit no. A14	WAC 314-02-035; RCW 66.40.010, RCW 66.40.020, RCW 66.40.030,
	RCW 66.40.040, RCW 66.40.100, RCW 66.08.200
Exhibit no. A15	Appellants' rebuttal to DPER staff report

The following exhibit was offered and entered into the record on September 13, 2018:

Department-offered exhibit: Exhibit no. D11 DPER's response to Appellant's rebuttal

The following exhibit was offered and entered into the record on September 17, 2018:

Appellant-offered exhibit:Exhibit no. A16Appellants' reply to DPER's response

DS/ld

October 3, 2018

OFFICE OF THE HEARING EXAMINER KING COUNTY, WASHINGTON

King County Courthouse 516 Third Avenue Room 1200 Seattle, Washington 98104 Telephone (206) 477-0860 <u>hearingexaminer@kingcounty.gov</u> www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **PREA170313**

FOUR HORSEMEN BREWERY

Preliminary Determination Appeal

I, Vonetta Mangaoang, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

☑ placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 3, 2018.

Vonetta Mangaoang

Vonetta Mangaoang Senior Administrator

lssue #	Proposed Change	Chair's Direction
1	Sections 3 through 9 add a new chapter in Title 6 – business licenses	7/11 – ok with Executive's proposal.
	This adds a new requirement to get a business license for wineries, breweries, and distilleries, and remote tasting rooms.	
	The business license fee would be \$100 for initial and renewal of licenses.	
2	Section 10: Repeals existing definition of winery:	6/28 – ok with Executive's proposal.
	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; andC. Blending wines, cider or brandies.	
3	Section 11: Adds a definition for adult beverage business:	6/28 – ok with Executive's proposal.
	An adult beverage business means a winery, brewery, distillery or cidery, and remote tasting	
	rooms for any of those businesses.	

lssue #	Proposed Change	Chair's Direction
4	Section 12: Adds a definition for remote tasting room: A small facility approved by the Washington state Liquor and Cannabis Board as a remote tasting room for a licensed winery, brewery or distillery that is operating at a location other than the licensed winery, brewery or distillery production facility, for the purpose of the retail sale and sampling of the licensed product.	6/28 – revise the language so that breweries and distilleries can participate in the demonstration project. Be clear that additional endorsements, and other retail liquor licenses (bars and restaurants) would not be allowed
5	Section 13: Adds a definition for winery, brewery, distillery facility I: A very small establishment licensed by the state of Washington to produce adult beverages such as wine, cider, beer and distilled spirits and where on- site product tasting or retail sale of merchandise does not occur.	11/9 – add language that non-retail liquor licenses are not allowed. Make technical edits for consistency.
6	Section 14: Adds a definition for winery, brewery, distillery facility II: A small scale production facility licensed by the state of Washington to produce adult beverages such as wine, cider, beer and distilled spirits and that includes an adult beverage production use such as crushing, fermentation, barrel or tank aging, and finishing. A winery, brewery, distillery facility II may include additional product-related uses such as vineyards, orchards, wine cellars or similar product-	11/9 – add language that non-retail liquor licenses are not allowed. Make technical edits for consistency.

lssue #	Proposed Change	Chair's Direction
	storage areas as authorized by state law, on-site product tasting and sales as authorized by state law, and sales of merchandise related to products available for tasting as authorized by state law.	
7	Section 15: Adds a definition for winery, brewery, distillery facility III: An establishment licensed by the state of	11/9 – add language that non-retail liquor licenses are not allowed. Make technical edits for consistency.
	Washington to produce adult beverages such as wine, cider, beer and distilled spirits and that includes an adult beverage production use such as	
	crushing, fermentation, barrel or tank aging, and finishing. A winery, brewery, distillery facility III may include additional product-related uses such as vineyards, orchards, wine cellars or similar product- storage areas as authorized by state law, on-site	
	product tasting as authorized by state law, and sales of merchandise related to products available as authorized by state law.	
8	Section 20: Modifies parking requirements:	6/28 – keep existing parking ratio of 1:50sf for tasting and retail areas.
	Requires for WBD II facilities, 0.9 per 1,000 square feet plus 1 per 300 square feet of tasting area (existing code is 1 per 50 square feet of tasting area).	 11/9 – 1. Apply the WBD parking ratios to facilities II and III 2. Add a parking ratio for remote tasting room of 1:50sf of
	Does not specify parking requirements for other WBD facilities.	tasting and retail areas

lssue #	Proposed Change	Chair's Direction				
9	Section 18: Modifies home occupation requirements (R, UR, NB, CB and RB zones):	11/9 – remove this from the ordinance. Add a study requirement instead.				
	Prohibits all WBD facilities and remote tasting rooms.					
10	Section 19: Modifies home occupation requirements (A, F and RA zones):	11/9 – remove this from the ordinance. Add a study requirement instead.				
	Prohibits all WBD facilities and remote tasting rooms.					
11	Section 20: Modifies home industry requirements:	11/9 – remove this from the ordinance. Add a study requirement instead.				
	Prohibits all WBD facilities and remote tasting rooms.					
12	Section 21 and 22: Modifies temporary use permit requirements:	 6/28 – add language that specifies when a TUP is required. Include events that exceed the building occupancy, that 				
	For WBD II and III in A zones, events limited to 2 per month and all parking must be accommodated on site or through a plan approved by the director.	 require portable toilets and additional parking as criteria, but exclude those that have stages or tents. (in K.C.C. 21A.32.100) Allow 24 events per year in Ag zone. 				
	For WBD II and III in RA zones, events limited to 24 within a one-year period and all parking must be accommodated on site or through a plan approved by the director.	 WBD II allowed 150 guests (WBD III ok with 250) For WBD I, nonconforming home occupations and hon industries, 2 events per year, maximum 50 people, without a TUP is allowed. 				

lssue #	Proposed Change	Chair's Direction
	For WBD II in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 125 guests.	
	For WBD III in A and RA zones, consider building occupancy limits and parking limitations during permit review, shall condition the number of guests and shall not be more than 250 guests.	
	No events or temporary use permits for WBD I, nonconforming home occupations, home industries.	
	WBD II and III in other zones are allowed 60 days a year	
13	 Section 23: Adds a Sammamish Valley and Vashon Town Center wine and adult beverage remote tasting room demonstration project A. Administrative approval by DPER – as a Type I land use decision 	 6/28 – Add Fall City Rural Town, CB zoning only, as third area. Add language to the demonstration projects to evaluate parking needs/impacts. Add more robust evaluation language. Include the nearby City's, and CSA groups, views of the overlays.
	 May apply for approval simultaneously as business license application Allowed uses under the demonstration project limited to remote tasting room. Adds criteria for remote tasting room: One or more WBD I, II or III may operate 	 Include evaluation of the businesses to survive/profit with the regulations. Require an ordinance to end the overlay. Remove the provision that has DPER stop accepting applications automatically after 3 years.

lssue #	Proposed Change	Chair's Direction
 ordination Mustiand v Supervised Demonstration Demonstration Annutisubm The Elegist 	Total space for tasting and retail is 1,000sf plus storage, restroom, back-of-the-house uses Additional 500sf of outdoor space allowed Direct access to an arterial No production allowed Incidental retail sales of products related to products tasted allowed Hours of operation M-Th 11am-5pm, F-S 11am-9pm Need a liquor license No events or temporary use permits Parking maximum of 150 percent of minimum required allowed in area identified in Attachment A to ance. be consistent with general health, safety velfare. rsedes other variance, modification and er criteria in Title 21A. onstration project A is in effect for 3 years effective date of the ordinance, after which emote tasting rooms would become onforming. ally, DPER compiles a list of applications itted and related code complaints. Executive may submit additional proposed ation extending or amending this ordinance in the 3 year demonstration project.	 6/29 - Executive staff suggest that the allowance be narrowed to either the Town Core, or the CB zoned land within the Rural Town. 7/11 - will reduce the scope of the Vashon overlay to either the Town Core or CB zoning in the Rural Town. 11/9 - Extend the demonstration project to 5 years Add evaluation of tasting hours Add evaluation of permit review timelines for decision of demonstration project applications.

lssue #	Proposed Change	Chair's Direction
14	 Section 24: Adds a Sammamish Valley wine and adult beverage tourist district events demonstration project B. Administrative approval by DPER, using review procedures in 21A.42 and decision criteria in 21A.44.040 (for CUPs) Allowed for WBD III Waives requirements in 21A.32.100 through .140; 21A.44.020 and 21A.08.080.B.12.I Allowed to obtain authorization for on-site weddings and similar uses under the CUP No waiver from other requirements (including review procedures) Only allowed with an application for a new or modified CUP for WBD III, either in conjunction with that application or before. Must demonstrate compliance with 21A.44.040. CUPs are a Type II land use decision Only allowed in area identified in Attachment B to ordinance. Must be consistent with general health, safety and welfare. Demonstration project B is in effect for 3 years from effective date of the ordinance (plus any time for appeal timelines), after which the CUPs would become nonconforming. 	 6/28 - During the 3-year demonstration period properties in overlay B cannot be consolidate to create a winery. Evaluate water use and compliance with Hirst. During the course of the counties work to comply with Hirst Legislation we will also evaluate the impact of various types of businesses on water evaluation. Add more robust evaluation language. Include the nearby City's, and CSA groups, opinions of the overlays. Include evaluation of the businesses to survive/profit with the regulations. Require an ordinance to end the overlay. Remove the provision that has DPER stop accepting applications automatically after 3 years. 11/9 - Extend the demonstration project to 5 years Add language to the demonstration projects to evaluate parking needs/impacts. Add evaluation of permit review timelines for decision of demonstration project applications, and TUP permit review timelines comparison with WBD III's that don't use the demonstration project.

lssue #	Proposed Change	Chair's Direction
	 Annually, DPER compiles a list of applications submitted, evaluation of impacts of events authorized by the demonstration project, and related code complaints. The Executive may submit additional proposed legislation within the 3 year demonstration project. 	
15		6/28 -
	Section 25: Modifies citation penalty:	 Modify the citation penalties: 1st violation – written warning plus discretion to fine up to \$100
	Adds specific citations for WBD I, II, II and remote tasting rooms: \$500 for first violation, and \$1,000 for	2 nd violation - written warning plus discretion to fine up to \$200
	subsequent violations	3 rd violation - written warning plus discretion to fine up to \$500
	(existing code is \$100 for first violation, \$500 for subsequent violations)	4 th violation - \$750 5 th violation - \$1,000 Subsequent: Double the previous penalty and consider
		Notice and Order if one has not been issued

lssue #	Proposed Change	Chair's Direction
16	Section 18: Modifies the Manufacturing land use table: Adds WBD I, WBD II, and WBD III to the permitted	See separate tables on following pages for changes to this table.
	use table and permits them in multiple zones, either as permitted outright with development conditions or with a conditional use permit with development conditions in several zones.	
	Modifies development conditions for WBD facilities related to minimum lot size, floor area, parking area, setbacks, product content, location of facilities on farmland, tasting hours, site access, business license, events, connection to water supply, growing requirements, and employee maximums.	

Manufacturing Table - Agriculture Zones – Production Facilities

Note: if the Chair's Direction cell is blank, then the Executive's transmittal is agreed to

lssue #	Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018-0241	Chair's Direction
		WBD II permitted (DC#3) conditional use (DC#1)		WBD III (DC#12)	
17	Type of Permit	Permitted		Conditional Use	
18	Min. Lot Size	2.5 acres		4.5 acres Except if floor area is over 6,000 square feet, the minimum lot size is	
19	Max. Building Size	3,500 sf (historic buildings maximum is 5,000 sf)	Decks that are not occupied and not open to the public are excluded from the calculation for aggregated floor area.	10 acres Maximum floor area 8,000 sf; additional 8,000 sf for underground storage	Decks that are not occupied and not open to the public are excluded from the calculation for aggregated floor area.
20	Tastings	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	Remove specified hours. Test the hours in the demonstration project A.	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	Remove specified hours. Test the hours in the demonstration project A.
22	Water	Not specified		Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	Maintain existing code: Meet requirements for water and wastewater; water meters required for use of wells

lssue #	Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018-0241	Chair's Direction
		WBD II permitted (DC#3) conditional use (DC#1)		WBD III (DC#12)	
23	Access	Direct access from an arterial	Access may not use local streets that abut residential uses. With a CUP, access to a public street required	Direct access from an arterial	Access may not use local streets that abut residential uses.
24	Product Content	60% of product to be processed must be grown on site.	In the A zone, WBD are an accessory use to agriculture. Specific limitations are set.	60% of product to be processed must be grown on site.	In the A zone, WBD are an accessory use to agriculture. Specific limitations are set.
25	Production/ Facility Location	Required Non-agricultural facility uses must be on portion of the property unsuitable for agricultural production purposes.	Non-agricultural facility uses must be on portion of the property least suitable for agricultural production purposes.	Required Non-agricultural facility uses must be on portion of the property unsuitable for agricultural production purposes.	Non-agricultural facility uses must be on portion of the property least suitable for agricultural production purposes.
26	Parking	0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area Limited to 150% of minimum required	Tasting ratio is 1 per 50 square feet	Determined through CUP	
27			Allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Setbacks only apply to interior lot lines.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	Allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Setbacks only apply to interior lot lines.

Manufacturing Table – Rural Area Zones – Production Facilities

Note: if the Chair's Direction cell is blank, then the Executive's transmittal is agreed to

lssue	Issue/Condition	Proposed	Chair's Direction	Proposed	Chair's	Proposed	Chair's Direction	
#		Ordinance 2018-0241		Ordinance 2018- 0241	Direction	Ordinance 2018- 0241		
		WBD I	WBD I (DC#17 in Residential table)	WBD II (DC#3 and DC#30)		WBD III (DC#12)		
29	Type of Permit	Permitted – only one nonresident employee allowed	Move WBD I to a residential accessory use. Allow in RA and A zones.	Permitted Conditional Use		Conditional Use		
30	Min. Lot Size	None		P and C: 2.5 acres		4.5 acres Except if floor area is over 6,000 square feet, the minimum lot size is 10 acres		
31	Max. Building Size	1,500 sf		P and C: 3,500 sf (historic buildings maximum is 5,000 sf)	Decks that are not occupied and not open to the public are excluded from the calculation for aggregated floor area.	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage	Decks that not occupied and are not open to the public are excluded from the calculation for aggregated floor area.	

Issue #	Issue/Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018- 0241	Chair's Direction	Proposed Ordinance 2018- 0241	Chair's Direction
		WBD I	WBD I (DC#17 in Residential table)	WBD II (DC#3 and DC#30)		WBD III (DC#12)	
32	Tastings	Not allowed	Tastings allowed by appointment only. Allow on-site sales of items produced on- site and incidental items.	P and C: Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	Remove specified hours. Test the hours in the demonstration projects.	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	Remove specified hours. Test the hours in the demonstration projects.
34	Water	Not specified		Not specified		Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	Maintain existing code: Meet requirements for water and wastewater; water meters required for use of wells
35	Access	Not specified		P: Direct access from an arterial C: Direct access from public roadway.	P: Access may not use local streets that abut residential uses.	Direct access from an arterial	P: Access may not use local streets that abut residential uses.
36	Product Content	None	In the A zone, WBD are an accessory use to agriculture. Specific limitations are set.	None		None	

lssue #	Issue/Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018- 0241	Chair's Direction	Proposed Ordinance 2018- 0241	Chair's Direction
		WBD I	WBD I (DC#17 in Residential table)	WBD II (DC#3 and DC#30)		WBD III (DC#12)	
37	Production/ Facility Location	Required		Required		Required	
38	Parking	One parking stall allowed for nonresident employee	Add parking for customers: minimum 1, plus 1:1,000sf of area dedicated to WBD facility uses, with a maximum of 150% of the minimum required.	0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area P/C: Limited to 150% of minimum required C: Determined through CUP	Tasting ratio is 1 per 50 square feet	Determined through CUP	
39	Setbacks	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	Allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Setbacks only apply to interior lot lines.	P and C: 75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	Allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Setbacks only apply to interior lot lines.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	Allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Setbacks only apply to interior lot lines.

Manufacturing Table – Urban Reserve Zone – Production Facilities

Issue #	Issue/Condition	Pro	posed Ordinance 2018	-0241	Chair's Direction
41		WBD I (DC#30)	WBD II (DC#3)	WBD III (DC#12)	Remove allowance for WBD in the UR zone. These facilities would not be permitted in the UR zone. Don't want to bind the Cities to these regulations, want to learn from the pilot first, and each UR zone is unique (one-size regulations may not work).
	Type of Permit	Permitted – only one nonresident employee allowed	Permitted	Conditional Use	
	Min. Lot Size	None	2.5 acres	4.5 acres Except if floor area is over 6,000 square feet, the minimum lot size is 10 acres	
	Max. Building Size	1,500 sf	3,500 sf (historic buildings maximum is 5,000 sf)	Maximum floor area 8,000 sf; additional 8,000 sf for underground storage	
	Tastings	Not allowed	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	Tasting of products produced on-site, and no extra floor area allowed for tasting Hours for on-site tasting: Mon-Th: 11am – 7pm F-Sun: 11am – 9 pm	
	Events	Not allowed	60 days in a one-year period Max. size = no limit Parking not specified	60 days in a one-year period Max. size = no limit Parking not specified	

lssue #	Issue/Condition	Proposed Ordinance 2018-0241			Chair's Direction
41		WBD I (DC#30)	WBD II (DC#3)	WBD III (DC#12)	Remove allowance for WBD in the UR zone. These facilities would not be permitted in the UR zone. Don't want to bind the Cities to these regulations, want to learn from the pilot first, and each UR zone is unique (one-size regulations may not work).
	Water	Not specified	Not specified	Must connect to existing Group A water system, or existing Group B water system if Group A water system not available	
	Access	Not specified	Direct access from an arterial	Direct access from an arterial	
	Product Content	None	None	None	
	Production/ Facility Location	Required	Required	Required	
	Parking	One parking stall allowed for nonresident employee	0.9 per 1,000 square feet, plus 1 per 300 square feet of tasting area Limited to 150% of minimum required	Determined through CUP	
	Setbacks	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas.	

Manufacturing Table – Commercial and Industrial Zones – Production Facilities

Note: if the Chair's Direction cell is blank, then the Executive's transmittal is agreed to

Issue #	Issue/Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018-0241	Chair's Direction
		NB and CB		RB (DC#29) and I (DC#31)	
42	Type of Permit	WBD I – not permitted WBD II – permitted and conditional use (DC#17) WBD III – conditional use (DC#29)		WBD I – not permitted WBD II – permitted and conditional use WBD III – conditional use	In I zone, limit to breweries and distilleries. No wineries or remote tasting rooms.
43	Min. Lot Size	None		None	
44	Max. Building Size	WBD II – 3,500 sf, except historic buildings are 5,000 sf	Decks that are not occupied and not open to the public are excluded from the calculation for aggregated floor area.	None	
45	Tastings	WBD II – Tasting of products produced on- site, and no extra floor area allowed for tasting	Add tasting allowance to WBD III for consistency.	Not specified	Add tasting allowance to II and III for consistency. Prohibit remote tasting rooms in I zone (tasting with production okay) Add a limitation on tasting size in the I zone to 1,500sf.
46	Events	WBD II and III – with a TUP, 60 days in a one- year period Max. size = no limit Parking not specified		WBD II and III – with a TUP, 60 days in a one- year period Max. size = no limit Parking not specified	
47	Water	None		None	
48	Access	None		None	
49	Product Content	None		None	
50	Production/Facility Location	Not specified		Not specified	

PRE Meeting Materials

Issue #	Issue/Condition	Proposed Ordinance 2018-0241	Chair's Direction	Proposed Ordinance 2018-0241	Chair's Direction
		NB and CB		RB (DC#29) and I (DC#31)	
51	Parking	WBD II – 0.9 per 1,000 square feet, plus 1 per 300 square feet of	Tasting ratio is 1 per 50 square feet	WBD II – 0.9 per 1,000 square feet, plus 1 per 300 square feet of	Tasting ratio is 1 per 50 square feet
		tasting area WBD III – not specified	Parking ratio applies to all facilities	tasting area WBD III – not specified	Parking ratio applies to all facilities
52	Setbacks	WBD II – 75 feet from RA and R zones, except historic buildings; 5 or 10 feet from all other zones. Includes parking areas. WBD III – 5 or 10 feet	Require 75', but allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25' Add 75'/25' with CUP for	5 or 10 feet	For WBD II and III: Require 75', but allow the setback to be modified through a CUP. Require screening and other mitigation to reduce it to 25'.
			WBD III Setbacks only apply to interior lot lines.		Setbacks only apply to interior lot lines.

Retail Table – Commercial Zones – Remote Tasting Rooms Countywide

Issue #	Issue/Condition	Proposed Ordinance 2018-0241	Chair's Direction
		CB and RB	CB and RB
54	Type of Permit	Not proposed by Executive's transmittal	Permitted in CB and RB outright. Also permitted within the demonstration project areas subject to the requirements in 21A.55.
55	Min. Lot Size		None
56	Max. Building Size		None
57	Tastings		Allowed
58	Events		Subject to standard TUP requirements (60 days per/year, maximum guests determined through review process)
59	Water		Not specified
60	Access		Not specified
61	Product Content		None
62	Production/Facility Location		Not required
63	Parking		Add this use to table, require 1 per 50sf of tasting and retail area
64	Setbacks		Specified by underlying zoning

Demonstration Projects – Remote Tasting Room Overlay A and Special Events Overlay B

Note: if the Chair's Direction cell is blank, then the Executive's transmittal is agreed to

lssue #		Remote Tasting Room Overlay A	Chair's Direction	Special Events Overlay B	Chair's Direction
82	Use	Allows a remote tasting room One or more WBD I, II, III allowed to operate		On-site weddings and similar uses with a WBD III	Special events normally permitted through the Temporary Use Permit process, with a WBD III Conditional Use Permit
83	Type of Permit	Permitted – Type 1 land use permit		Conditional Use	
84	Areas allowed	Sammamish Valley area Vashon Rural Town (map provided)	Extend Sammamish Valley north from Woodinville City limits (up to just north of Tolt Pipeline) Vashon Town Center or CB zoning, not entire Rural Town Add CB zoning in Fall City Rural Town	Sammamish Valley area	
85	Min. Lot Size	Specified by underlying zoning		Specified by underlying zoning	
86	Max. Building Size	1,000 sf for tasting and retail only 500 sf outdoors		Specified by underlying zoning	
87	Tastings	Tasting hours: Mon-Th: 11am – 7pm F-Sun: 11am – 9pm	Tasting hours Sun-Th: 11am – 9pm F-Sat: 11am – 11pm (but no outdoors tasting past 10pm)	Specified by underlying zoning	
88	Sales	Incidental retail sales of products related to tasting allowed		Specified by underlying zoning	

Issue #		Remote Tasting Room Overlay A	Chair's Direction	Special Events Overlay B	Chair's Direction
89	Events	Not allowed	2/year. Max 50 people. No TUP required.	No specific limit – conditions set with CUP w/ annual monitoring of impacts	
90	Water	Not specified		Specified by underlying zoning	
91	Access	Direct access from an arterial	Not specified	Specified by underlying zoning	
92	Product Content	None		Specified by underlying zoning	
93	Production	Not allowed	Not specified	Specified by underlying zoning	
94	Parking	1 space per 300 square feet of public tasting and retail area Limited to 150% of minimum required	1 per 50sf of tasting/retail area	Specified by underlying zoning	
95	Setbacks	Not specified		Specified by underlying zoning	
97	Demonstration Project Review	3 years with annual review. Code amendments within 3 years of this ordinance.	5 years with annual review. Code amendments within 5 years of this ordinance.	3 years with annual review. Code amendments within 3 years of this ordinance.	5 years with annual review. Code amendments within 5 years of this ordinance.

Home occupation and Home Industry – Existing standards

Standards	Home Occupation - R, UR, NB, CB and RB zones	Home Occupation - A, F and RA zones	Home Industry - A, RA, UR, R1-8 zones
Definition	a limited-scale service or fabrication activity undertaken for financial gain, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the site as a residence	a limited-scale service or fabrication activity undertaken for financial gain, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the site as a residence	a limited-scale sales, service or fabrication activity undertaken for financial gain, which occurs in a dwelling unit or residential accessory building, or in a barn or other resource accessory building and is subordinate to the primary use of the site as a residence
Number of	One or more	One or more	One
businesses			
Minimum lot size			1 acre
Total floor area	20% of dwelling unit floor area, plus garages and storage buildings	20% of dwelling unit floor area, plus garages and storage buildings	50% of dwelling unit floor area, plus garages and storage buildings
Indoor/Outdoor Requirements	Indoors, except growing or storing plants used for the business	Outdoor areas allowed: 440 square feet on lots less than 1 acres, 1% of the lot, up to 5,000 sf on lots 1 acre or greater Outdoor storage and parking: setback from 25' from all property lines, screened from adjacent parcels or roadways	Setbacks and screening determined by permit review to protect adjacent residences. Outdoor storage and parking: screened from adjacent properties or public ROW
Employees	Off-site – unlimited On-site – Maximum 1 nonresident employee	Off-site – unlimited On-site – Maximum 3 nonresident employees who work on-site at the same time and no more than 3 who report to the site but primarily provide services off-site	On-site – Maximum 6 nonresident employee

Standards	Home Occupation - R, UR, NB, CB and RB zones	Home Occupation - A, F and RA zones	Home Industry - A, RA, UR, R1-8 zones
Prohibited uses	 Automobile, truck and heavy equipment repair Auto body work or painting Parking and storage of heavy equipment Storage of building materials for use on other properties Hotels, motels or organizational lodging Dry cleaning Towing services Trucking, storage or self service, except for parking or storage of one commercial vehicle used in home occupation Veterinary clinic Recreational marijuana processor, recreational marijuana producer or recreational marijuana retailer 	 Hotels, motels or organizational lodging Dry cleaning Automotive towing services, automotive wrecking services and tow-in parking lots Recreational marijuana processor, recreational marijuana producer or recreational marijuana retailer 	 Recreational marijuana processors, recreational marijuana producers and recreational marijuana retailers
Parking	1 stall for each nonresident employee 1 stall for patrons for on-site services	1 stall for each nonresident employee 1 stall for patrons for on-site services	1 stall for each nonresident employee 1 stall for customers, plus 1 stall per 1,000 sf of floor area plus 1 stall per 2,000 sf of outdoor area

Standards	Home Occupation - R, UR, NB, CB and RB zones	Home Occupation - A, F and RA zones	Home Industry - A, RA, UR, R1-8 zones
Sales	Limited to: mail orders, telephone or electronic sales with off-site delivery, or accessory items for services provided on-site	Limited to: mail orders, telephone or electronic sales with off-site delivery, or accessory items for services provided on-site Items grown, produced or fabricated	On-site sales limited to items produced on-site, except collectors (coins, stamps, antiques)
		on-site; On sites 5 acres or larger, items that support agriculture, equestrian or forestry uses (except motor vehicles and parts, electronics and appliances, and building material and garden equipment and supplies)	
On-site Services	By appointment		
Vehicle Storage	1 vehicle for distribution of products from the site allowed, cannot be stored in required setbacks or on the street, maximum 1 ton	Lots five acres or less: 2 vehicles Lot between five and ten acres: 3 vehicles Lots greater than ten acres: 4 vehicles Cannot be stored in required setbacks or on the street, not considered part of the outdoor storage area	
Electrical/equipment restrictions	No equipment that changes the occupancy types of the structure No interference with radio or television receivers, or equipment located off-site,	No equipment that changes the occupancy types of the structure No interference with radio or television receivers, or equipment located off-site,	Equipment must be compatible with surrounding neighborhood.
	or fluctuations in line voltage off-site	or fluctuations in line voltage off-site	

Standards	Home Occupation - R, UR, NB, CB and	Home Occupation - A, F and RA zones	Home Industry - A, RA, UR, R1-8 zones
	RB zones		
Exterior evidence	No lighting, noise, fumes, vibrations		Appropriate levels of lighting, sound
	from the lot line		levels/tests determined in permit
			review.
Traffic impacts	May not increase of traffic by more than	May not increase of traffic by more than	
	4 vehicles at any time	4 vehicles at any time	
Visits to site	Customers and deliveries limited to	Customers and deliveries limited to	Hours of operation determined in
	8am-7pm on weekdays, and 9am-5pm	8am-7pm on weekdays, and 9am-5pm	permit review.
	on weekends	on weekends	