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Sponsors:	
Attachments:	

1 ..Title

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

11 ..Body

12 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

13 **SECTION 1. Findings:**

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

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

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

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

29 D. The County appealed the board's May 26, 2020 order to Superior Court, and  
30 the Superior Court reversed and remanded back to the Board, which once again  
31 invalidated Ordinance 19030, Sections 12 through 30 on January 3, 2022. The County's  
32 appeal of the Board's January 3, 2022 order is currently pending at Division I of the  
33 Washington state Court of Appeals. The timing for resolution of the Court of Appeals  
34 litigation is unknown. The Board's compliance deadline is July 1, 2022, and the outcome  
35 of compliance proceedings is also unknown.

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

45 Code.

46 G. In order to provide clarity to residents, business owners and county permit  
47 review and code enforcement staff, the county declared a moratorium that prevents new  
48 wineries, breweries, distilleries and remote tasting rooms as primary uses, as home  
49 occupations and as home industries from locating or being established in unincorporated  
50 King County, while the council and executive determine and carry out the next steps in  
51 responding to the board's order. The moratorium was declared by Ordinance 19122, and  
52 was extended twice, with Ordinances 19217 and 19290.

53 H. The second renewal of the moratorium, Ordinance 19290, expired December  
54 23, 2021.

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

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

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

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

64 M. It is in the public interest, and is the intent of the county, to declare and  
65 establish an additional one-year moratorium on acceptance of applications for or  
66 establishment of new or expansion of existing wineries, breweries, distilleries and remote  
67 tasting rooms in order to prevent unregulated development while substantive issues

68 before the board and the Court of Appeals are still unresolved.

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

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

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

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

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

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

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

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

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

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

104           c. blending wines, cider or brandies;

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

106           3. "Distillery" is as defined by SIC Industry No. 2085.

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

112           SECTION 4. A. During the moratorium under this ordinance, the executive shall  
113 prepare a work plan consistent with RCW 36.70A.390 listing the action items needed to

114 adopt new regulations and the approximate timeline on which the actions are expected to  
115 occur.

116 B. The executive should electronically file the work plan no later than January  
117 31, 2023, with the clerk of the council, who shall retain an electronic copy and provide an  
118 electronic copy to all councilmembers, the council chief of staff and the lead staff for the  
119 local services and land use committee, or its successor.

120 SECTION 5. Severability. If any provision of this ordinance or its application to  
121 any person or circumstance is held invalid, the remainder of the ordinance or the  
122 application of the provision to other persons or circumstances is not affected.