

Public Comments on Proposed Ordinance 2018-0241

Winery/Brewery/Distillery Code Update

Received through November 26, 2018

Auzins, Erin

From: Rimbos Peter <primbos@comcast.net>
Sent: Friday, November 9, 2018 10:00 AM
To: Lambert, Kathy; Upthegrove, Dave; Gossett, Larry; McDermott, Joe; von Reichbauer, Pete
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
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"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



November 9, 2018

To: King County Council PRE Committee Chairwoman Kathy Lambert: kathy.lambert@kingcounty.gov and Committee Members: Dave Upthegrove: Dave.Upthegrove@kingcounty.gov; Larry Gossett Larry.Gossett@kingcounty.gov; Joe McDermott joe.mcdermott@kingcounty.gov; and Pete von Reichbauer Pete.vonReichbauer@kingcounty.gov

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. Removes the Demonstration Project Overlays A and B from the Sammamish Valley. 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. Improve certain provisions. 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. Provides a 12-mo grace period. 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.

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**PROPOSED ORDINANCE 2018-0241 – WINERY/BREWERY/DISTILLERY CODE UPDATE
DECISION MATRIX FOR PRE CHAIR LAMBERT**

#	Proposed Change	Council Staff Comments	Chair’s Direction	FoSV
1	<p>Sections 3 through 9 add a new chapter in Title 6 – business licenses</p> <p>This adds a new requirement to get a business license for wineries, breweries, and distilleries, and remote tasting rooms.</p> <p>The business license fee would be \$100 for initial and renewal of licenses.</p>	<ol style="list-style-type: none"> 1. It is a policy choice whether to require a business license for these uses. 2. 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. 	<p>6/28 – consider other methods: 1 time registration, once every 5 years. Asked for follow up from staff: what do other licenses require?</p> <p>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.</p> <p>Need further direction from CM Lambert.</p>	<p>Support requirement for annual licenses. Revenue should go to enforcement.</p>
2	<p>Section 10: Repeals existing definition of winery:</p> <p>An establishment primarily engaged in one or more of the following:</p> <ol style="list-style-type: none"> 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. 	<p>No issues identified. This definition is replaced by the new definitions for WBD I, II, III.</p>	<p>6/28 – ok with change.</p>	<p>Repeal of existing definition is acceptable. Real issue is adequacy of new definitions.</p>

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quq	<p>Section 11: Adds a definition for adult beverage business:</p> <p>An adult beverage business means a winery, brewery, distillery or cidery, and remote tasting rooms for any of those businesses.</p>	No issues identified.	6/28 – ok with change.	Definition of adult beverage business is needed for the licensing requirement. This is acceptable.
4	<p>Section 12: Adds a definition for remote tasting room:</p> <p>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.</p>	<ol style="list-style-type: none"> 1. 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. 2. 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. 3. 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.	<p>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.</p> <p>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.</p>

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	<p>Section 13: Adds a definition for winery, brewery, distillery facility I:</p> <p>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.</p>	<p>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.</p>	<p>6/28 – add the size qualifiers</p>	<p>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.</p>

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5	<p>Section 14: Adds a definition for winery, brewery, distillery facility II:</p> <p>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.</p>	Same issue as above on size qualifier.	6/28 – add the size qualifiers	<p>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.</p>

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6	<p>Section 15: Adds a definition for winery, brewery, distillery facility III:</p> <p>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.</p>	Same issue as above on size qualifier.	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

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7	<p>Section 17: Modifies parking requirements:</p> <p>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).</p> <p>Does not specify parking requirements for other WBD facilities.</p>	<p>1. This change would reduce the number of parking spaces required, and therefore the maximum number of parking spaces allowed, for WBD III facilities.</p>	<p>6/28 – keep existing ratio for tasting. Add language to the demonstration projects to evaluate parking needs/impacts.</p>	<p>Support Proposed Ordinance provisions on parking.</p>
8	<p>Section 18: Modifies home occupation requirements (R, UR, NB, CB and RB zones):</p> <p>Prohibits all WBD facilities and remote tasting rooms.</p>	<p>This is a policy choice for the Council.</p>	<p>6/28 – ok with change</p>	<p>Support proposed ordinance.</p>
9	<p>Section 19: Modifies home occupation requirements (A, F and RA zones):</p> <p>Prohibits all WBD facilities and remote tasting rooms.</p>	<p>This is a policy choice for the Council.</p>	<p>6/28 – ok with change</p>	<p>Support proposed ordinance.</p>
10	<p>Section 20: Modifies home industry requirements:</p> <p>Prohibits all WBD facilities and remote tasting rooms.</p>	<p>This is a policy choice for the Council.</p>	<p>6/28 – allow WBD as a home industry. (see modified conditions in HIP section).</p>	<p>Support proposed ordinance.</p>

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11	<p>Section 21: Modifies temporary use permit requirements:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<ol style="list-style-type: none"> 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. 	<p>6/28 –</p> <ul style="list-style-type: none"> 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) 	<p>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.</p> <p>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.</p>

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12	<p>Section 22: Adds a Sammamish Valley and Vashon Town Center wine and adult beverage remote tasting room demonstration project A.</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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 	<ol style="list-style-type: none"> 1. Vashon-Maury Island. The PO would allow remote tasting rooms on any property within the Rural Town boundary. <ol style="list-style-type: none"> a. 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). b. This would allow tasting rooms on land that the underlying zoning would not allow WBD in any form (Residential zones) elsewhere in the County. 2. 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. 3. 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. 	<p>6/28 –</p> <ul style="list-style-type: none"> • 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. <p>Executive staff suggest that the allowance be narrowed to either the Town Core, or the CB zoned land within the Rural Town.</p> <p>Need further direction on Vashon overlay from CM Lambert/McDermott.</p>	<p>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.</p>

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13	<p>Section 23: Adds a Sammamish Valley wine and adult beverage tourist district events demonstration project B.</p> <ul style="list-style-type: none"> • 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 	<ol style="list-style-type: none"> 1. 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. 2. 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. 	<p>6/28 –</p> <ul style="list-style-type: none"> • 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. 	<p>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.</p>

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14	<p>Section 24: Modifies citation penalty:</p> <p>Adds specific citations for WBD I, II, III and remote tasting rooms: \$500 for first violation, and \$1,000 for subsequent violations</p> <p>(existing code is \$100 for first violation, \$500 for subsequent violations)</p>	<ol style="list-style-type: none"> 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. 	<p>6/28 –</p> <ul style="list-style-type: none"> Modify the citation penalties: 1st violation – written warning plus discretion to fine up to \$100 2nd violation - \$200 3rd violation - \$500 4th - \$750 5th - \$1000 Subsequent: Notice and Order process with civil penalties. Potential suspend or revoke license 	<p>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.</p>

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15	<p>Section 16: Modifies the Manufacturing land use table:</p> <p>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.</p> <p>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.</p>	<p>See separate table for description of substantive changes.</p> <ol style="list-style-type: none"> 1. 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. 2. 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 	See separate table for changes to this table.	WBDs belong in manufacturing and industrial areas. FoSV has not taken any positions on the proposed ordinance with respect to manufacturing and industrial areas.

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