

June 13, 2022

King County Councilmembers,

Please accept the Written Testimony herein related to Agenda Item 7. *Proposed Substitute Ordinance No. 2022-0147.2* that is found on your June 14 Council Meeting Agenda and for which you are convening a Public Hearing.

The Greater Maple Valley Unincorporated Area Council (GMVUAC) has followed the gestation of the Adult Beverage Ordinance (ABO) related to Wineries, Breweries, and Distilleries (WBDs) for many years.

We are very concerned, at this late date, just weeks before the Growth Management Hearings Board (GMHB) July 1 deadline for a revised Ordinance, the new proposed Ordinance, 2022-0147, continues to be *non-compliant* with the State's Growth Management Act (GMA) and seeks to open up King County's Rural Area to manufacturing facilities, as well as retail establishments.

One of the GMVUAC's *Guiding Principles* related to King County's Rural Area is:

*“Do not allow Industrial-scale operations including: Materials Processing Facilities (requires change to KC Code 21A.08.080 — Manufacturing); Composting Facilities; and Winery/Brewery/Distillery retail tasting facilities.”*

No industrial or manufacturing facilities should be sited in King County's Rural Area on RA-zoned parcels. Doing so is in violation to the State's *GMA*, PSRC's *VISION 2050*, King County's *Countywide Planning Policies*, and the *King County Comprehensive Plan*. Such critical planning documents do not allow siting of urban facilities or primarily urban-serving facilities in the Rural Area.

What is most alarming to the GMVUAC, and most likely anyone who lives in King County, is that proposed Ordinance 2022-0147 would relinquish King County Zoning power! The Staff Report provided to the Council's Local Services & Land-Use Committee ahead of its May 24 meeting quoted an RCW that purportedly *pre-empts* a jurisdiction's Zoning authority by the State. That RCW is given below with our highlighting:

***RCW 66.08.120 Preemption of field by state—Exception.***

*No municipality or county shall have power to license the sale of, or impose an excise tax upon, liquor as defined in this title, or to license the sale or distribution thereof in any manner; and any power now conferred by law on any municipality or county to license premises which may be licensed under this section, or to impose an excise tax upon liquor, or to license the sale and distribution thereof, as defined in this title, shall be suspended and shall be of no further effect: municipalities and counties shall have power to adopt police ordinances and PROVIDED, That regulations not in conflict with this title or with the regulations made by the board.*

Apparently, King County's attorneys have provided the Council with an interpretation of this RCW to mean the County has NO ZONING AUTHORITY over ANY BUSINESS to whom the State issues a LIQUOR LICENSE. This is in spite of the fact that this RCW specifically only addresses “*license*” and

"excise taxes," NOT Zoning. Such an interpretation is nonsense. The County's Zoning authority cannot be and is not limited by pre-emption imposed on licensing and taxation powers.

As we highlighted above, the RCW clearly states the County does not have the power to: "*license the sale of, or impose an excise tax upon, liquor....*" That is clear and has nothing to do with the County's Zoning authority. In fact, at the GMVUAC's June Monthly Meeting held on June 6, our District 5 State House Representatives, Bill Ramos and Lisa Callan, when asked about this pre-emption issue stated: "*the State has nothing to do with local Zoning.*"

Further, the Washington State *Constitution* under *Article 11* states:

***"SECTION 11 POLICE AND SANITARY REGULATIONS. Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws."***

The GMVUAC urges you to NOT give up the County's Constitutional Zoning authority based on a flawed interpretation of an RCW. In fact, the Council, at a minimum, should have King County's attorneys seek the opinion of the State Attorney General's Office.

The GMVUAC urges you to NOT open up the entire County Rural Area to manufacturing facilities and retail establishments and NOT ruin the shared environment of all to satisfy an industry that not only belongs in the County's Urban Growth Area (including Rural Cities), but currently is thriving there.

Please make the right choices to vote NO on proposed Ordinance 2022-0147 and to REPEAL Ordinance 19030—twice unanimously invalidated by the GMHB.

Thank you.

Approved by:

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