

2024 KCCP Major Update

Joint Team A.I. 9-2 — REVIEW KC CODE TITLE 21A32 — GENERAL PROVISIONS - NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES.

SUMMARY

We seek KC Code changes that place “events” in a separate category such that the people who have a few events per year are allowed, while those who essentially run Event Centers in the Rural Area and Agricultural zones as a *business* (since one cannot make a *business* out of a small number of events per year), are disallowed.

Consequently, we recommend revisions to **Title 21A.32** such that, at least in RA and A zones, it only pertains to small, infrequent events as eligible for Temporary-Use Permits (TUPs). Our concerns focus on KC Code language highlighted in red below—note we’ve removed paragraphs/subparagraphs pertaining to Wineries/Breweries/Distilleries (WBDs):

21A.32.100 Temporary use permits - uses requiring permits. Except as provided by K.C.C. 21A.32.110, a temporary use permit shall be required for any of the following:

- A. A use not otherwise permitted in the zone that can be made compatible for a period of up to sixty days a year;
- B. The expansion of an established use that:
 1. Is otherwise allowed in the zone;
 2. Is not inconsistent with the original land use approval;
 3. Exceeds the scope of the original land use approval; and
 4. Can be made compatible with the zone for a period of up to sixty days a year;

21A.32.120 Temporary use permits - duration and frequency. Except as otherwise provided in this chapter or in K.C.C. chapter 21A.45, temporary use permits shall be limited in duration and frequency as follows:

- A. The temporary use permit shall be effective for one year from the date of issuance and may be renewed annually as provided in subsection D. of this section;
- B.
 1. The temporary use shall not exceed a total of sixty days in any three-hundred- sixty-five-day period. This subsection B.1. applies only to the days that the event or events actually take place.

Unfortunately, both of these do not address numbers of people, parking, or septic systems. In fact, the key phrase, at least in **Title 21A.32.100**, is: “that can be made compatible” in the zone. That could be too open to interpretation. Fortunately, to serve as a basis for change, other parts of KC Code and KCCP Policies (and even the GMA-related RCW sections) clearly define *“Rural Character”* (as well as other rural-related attributes) and that is what we believe should be used to interpret what “can be made compatible” in the zone actually means.

Clearly, some *basic* revisions to **Titles 21A.32.100** and **21A.32.120** are needed, but without touching the WBD-related subparagraphs (we suspect the County will want to wait until *after* Court cases are resolved, which should happen *before* the KC Council adopts the 2024 KCCP Major Update in December 2024). One way to do so is to suggest revisions to the **Title 21A.08 PERMITTED USES** tables with specific focus on:

TUPs vs. CUPs, etc.

- *“Temporary”* should be temporary, not 60 days per year (~7 months of Saturdays and Sundays)—why not 10, e.g., 5 Summer weekends on Saturdays and Sundays?
- *“Conditional”* should have *real* conditions that are enforced.

Compatibility with *“Rural Character,”* Rural Area non-residential uses, etc., Cite specific sections of:

- Growth Management Act: **RCW 36.70.070 Comprehensive plans—Mandatory elements. (5) Rural element.**
- **VISION 2050 MPPs** (e.g., **RGS 13, 14; DP-37; & PS-5**) and **Countywide Planning Policies** (e.g., **DP-47**).
- Related **KC Code** and **KCCP Policies** (e.g., **R-201 & R-324**).

BACKGROUND

Event Centers

“Businesses” that hold events such as weddings, and family or group reunions should not be granted a TUP, but rather should fall under **Title 21A.06.958 Recreation, active**, as large-scale gatherings or social events.* In addition, **Title 21A.08.040 Recreational/cultural land uses** already allows certain activities in the Rural Area either outright or with a Conditional Use Permit (CUP). A CUP must be consistent with the King County Comprehensive Plan (KCCP) rules for the Rural Area. The **Title 21A.44.040** criteria for CUP approval include the requirement that: *H. The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title.* TUPs are for uses *not otherwise*

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permitted in the zone that can be made compatible, as per **Title 21A.32.100 Temporary use permits - uses requiring permits.** **

*** 21A.06.958 Recreation, active.** *Recreation, active: structured individual or team activity that requires the use of special facilities, courses, fields or equipment. Active recreation requires a significant level of development, use and programming. Active recreation includes, but is not limited to organized sporting events, such as baseball, football, soccer, golf, hockey, tennis and skateboarding, and to large-scale group picnics, gatherings and social events. (Ord. 15606 § 8, 2006).*

**** 21A.32.100 Temporary use permits - uses requiring permits.** *Except as provided by K.C.C. 21A.32.110, a temporary use permit shall be required for any of the following:*

- A. *A use not otherwise permitted in the zone that can be made compatible for a period of up to sixty days a year;*
- B. *The expansion of an established use that :*
 1. *Is otherwise allowed in the zone;*
 2. *Is not inconsistent with the original land use approval;*
 3. *Exceeds the scope of the original land use approval; and*
 4. *Can be made compatible with the zone for a period of up to sixty days a year;*

Allowable Use in the Rural Area

The KCCP includes a **R-324**, which limits, on a mandatory basis (“shall”), *nonresidential uses* in the Rural Area:

Nonresidential uses in the Rural Area shall be limited to those that:

1. *Provide convenient local products and services for nearby residents;*
2. *Require location in a Rural Area;*
3. *Support natural resource-based industries;*
4. *Provide adaptive reuse of significant historic resources; or*
5. *Provide recreational and tourism opportunities that are compatible with the surrounding Rural Area.*

Event Centers, hosting weddings and reunions for up to 60 days a year with 100’s of attendees each, are *not* targeted at nearby rural residents, whose small numbers would never sustain such types of business, but to urban customers. Furthermore, nearby residents to such rural parcels can already find numerous venues for weddings and reunions in the nearby Urban Areas. Event Centers do *not* require a Rural Area location, nor are they *compatible* with the Rural Area.

Rural Character

RCW 36.70A.030.23 defines “Rural Character”:

Rural character refers to the pattern of land use and development established by a county in the rural element of its comprehensive plan:

- (a) *In which open space, the natural landscape, and vegetation predominate over the built environment;*
- (b) *That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in Rural Areas;*
- (c) *That provide visual landscapes that are traditionally found in Rural Areas and communities;*
- (d) *That are compatible with the use of the land by wildlife and for fish and wildlife habitat;*
- (e) *That reduce the inappropriate conversion of undeveloped land into sprawling, low-density Development;*
- (f) *That generally do not require the extension of urban governmental services; and*
- (g) *That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.*

Washington State bSupreme Court rulings state that protection of rural areas is *not* discretionary—a county must protect the rural character of land it has designated as rural. For example:

The GMA provides counties with the discretion to designate an area as rural or to designate it differently to allow for increased growth and development. However, where a county, in its discretion, opts to designate land as part of its

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rural element, it must protect the character of the land as required by RCW 36.70A.070(5)© [Ref.: Kittitas County v. Eastern Washington Growth Management Hearings Board, 172 Wn.2d 144, 256 P3d 1193 (2011).]

The KCCP, per state law, requires that the County protect the Rural Area and Agricultural lands. Strong policies designed to protect the character of the Rural Area include:

R-201 *It is a fundamental objective of the King County Comprehensive Plan to maintain the character of its designated Rural Area... In order to implement Growth Management Act, it is necessary to define the development patterns that are considered rural, historical or traditional and do not encourage urban growth or create pressure for urban facilities and service. Therefore, King County's land use regulations and development standards shall protect and enhance the following attributes associated with rural character and the Rural Area:*

- a. *The natural environment, particularly as evidenced by the health of wildlife and fisheries (especially salmon and trout), aquifers used for potable water, surface water bodies including Puget Sound and natural drainage systems and their riparian corridors;*
- b. *Commercial and noncommercial farming, forestry, fisheries, mining, home- occupations and home industries;*
- c. *Historic resources, historical character and continuity important to local communities, as well as archaeological and cultural sites important to tribes;*
- d. *Community small-town atmosphere, safety, and locally owned small businesses;*
- e. *Economically and fiscally healthy Rural Towns and Rural Neighborhood Commercial Centers with clearly defined identities compatible with adjacent rural, agricultural, forestry and mining uses;*
- f. *Regionally significant parks, trails and open space;*
- g. *A variety of low-density housing choices compatible with adjacent farming, forestry and mining and not needing urban facilities and services;*
- h. *Traditional rural land uses of a size and scale that blend with historic rural development; and*
- i. *Rural uses that do not include primarily urban-serving facilities.*

Event Centers are *visually incompatible* with Rural Character. Such Centers calling for large outdoor tents, large stages, portable toilets, and a parking lot for many cars, for 60 days/nights per year are *completely incompatible* with Rural Character. In fact, typical stages for such Event Centers typically have amplified sound from musicians and other types of entertainment, and along with usual noises from cars and people being entertained, create noise pollution in quiet Rural Area areas. Lights from cars and lighting of the tents, portable toilets, and other structures cause light pollution for nearby neighbors. An Event Center primarily is an urban-serving facility and does not protect and enhance Rural Character in any way. They should not be allowed under KCCP Policy **R-201**.

Environmental Impact

Event Centers call for usage of residential septic systems in an outbuilding to serve parties often in the 100's of people (along with portable toilets). Septic systems are not designed for this volume of use resulting in eventual drainfield failures. Seepage from an overtaxed septic systems also contaminates groundwater and nearby streams.

Event Centers with lots of cars and people will compact soils and cause increased amounts of warmer, toxin-laden runoff to rush downslope into the ditch and directly onto farmland. Often conversion to a parking lot would require fill material to be brought in, further disrupting the natural topography and drainage of the hillside. Compaction from cars and people disrupts rather than protects natural surface water flows and groundwater recharge and will cause increased runoff in the spring rushing downhill, picking up toxins from cars and people on the way. Disruptions to natural watersheds causes harm to nearby farms, streams, and wildlife that depends on the watershed.

Part of the definition of "Rural Character" includes land uses: "That are compatible with the use of the land by wildlife and for fish and wildlife habitat." Event Centers serving large numbers of people and cars causing noise, artificial lighting, disruption to the watershed, groundwater contamination, and increased toxic runoff are *not compatible* with wildlife. Human activity destroys habitat and makes nearby habitat less desirable for animals. Lighting and noise disrupt animal activities and can be especially damaging to farms that rely on insects and other animals for pollination. Toxins and refuse from human activity kills wildlife, particularly critical soil microbes and insects in the lower levels of the food chain that are necessary for food production and the survival of larger animals. Large numbers of partying humans (and their associated cars) are *not compatible* with wildlife and efforts to preserve biodiversity and food production. Event Centers and all they bring belong *inside* the Urban Growth Area (UGA).

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Extension of Urban Governmental Services

Event Centers create the need for extension of urban governmental services, which could include sewers, storm drainage, gas lines, upgraded water service, sidewalks, traffic control, street widening, street lighting, police protection and code enforcement. Further, Rural Area roads are not designed (or maintained) to handle the traffic created by Event Centers.

Legal Event Centers Located in the UGA

Establishing an urban use, commercial business on Rural or Resource lands is less expensive. Due to restrictions on land usage — and a lack of commercial infrastructure such as sewer hookup, parking lots, and sidewalks — the costs to purchase or lease such lands are lower. Permitting costs are lower. Commercial requirements such as frontage improvements do not exist. Allowing Event Centers in an area with a lower cost basis is unfair to Event Center business owners *inside* the UGA, who follow the laws and set up their urban-serving businesses in the proper commercial zones. There is plenty of space available inside the nearby UGAs for additional Event Centers.

TUPs Are Not for Event Centers

Here are the criteria for granting a TUP:

21A.44.010 Purpose. *The purposes of this chapter are to allow for consistent evaluation of land use applications and to protect nearby properties from the possible effects of such requests by:*

- A. Providing clear criteria on which to base a decision;*
- B. Recognizing the effects of unique circumstances upon the development potential of a property;*
- E. Requiring that the design, scope and intensity of development is in keeping with the physical aspects of a site and adopted land use policies for the area; and*
- C. Avoiding the granting of special privileges;*
- D. Avoiding development which may be unnecessarily detrimental to neighboring properties;*
- F. Providing criteria which emphasize protection of the general character of neighborhoods. (Ord. 10870 § 622, 1993).*

21A.44.020 Temporary use permit. *A temporary use permit shall be granted by the county, only if the applicant demonstrates that:*

- A. The proposed temporary use will not be materially detrimental to the public welfare;*
- B. The proposed temporary use is compatible with existing land uses in the immediate vicinity in terms of noise and hours of operation;*
- C. The proposed temporary use, if located in a resource zone, will not be materially detrimental to the use of the land for resource purposes and will provide adequate off-site parking if necessary to protect against soil compaction;*
- D. Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and*
- E. The proposed temporary use is not otherwise permitted in the zone in which it is proposed. (Ord. 10870 § 623, 1993).*

Event Centers do not meet the above criteria for a TUP.

Conclusions

Event Centers do not belong in the Rural Area. Granting TUPs for Event Centers in the Rural Area allows special-interest commercialization of the Rural Area. State and County laws that protect rural and resource lands must be upheld. County actions should be consistent with its own Code, Plans, and practice and protect resource and rural lands from illegal, special-interest, and unnecessary urban-use commercial development. Allowing Event Centers in the Rural Area essentially grants special privileges to the few, at the expense of the many: farm businesses, rural residents, the environment, and taxpayers. Such urban-serving businesses belong in the UGA, not the Rural Area.