

## **Proposed Draft Winery Ordinance**

Board of Supervisors direction of September 11, 2007

Note: Section "C.1.a" modified for clarification.

### 17.14.190 Wineries.

- A. Purpose. The purpose of this section is to provide for the orderly development of wineries and accessory uses, within agricultural zone districts and certain residential zone districts; to encourage the economic development of the local agricultural industry; to provide for the sales of value added products, and to promote tourism, while protecting the agricultural character and long-term agricultural production of agricultural lands and provide for compatibility with adjacent land uses.
- B. Definitions. The following definitions are for the purposes of Section 17.14.190.
1. "Agriculturally Zoned Parcel(s)" means parcels zoned Agriculture (A), Exclusive Agriculture (AE), Planned Agriculture (PA), Select Agriculture (SA) or Agricultural Preserve (AP), without regard to whether the parcel lies inside or outside a General Plan Agricultural District.
  2. "Charitable Event" shall be defined as an event involving not more than 250 people at any given time in which the property owner, winery or winery owner does not receive a fee for the use of the facility and in which the proceeds of the event are donated to a federally recognized not-for-profit organization (501(c)).
  3. "Commercial Vineyard" means that a minimum of five acres of wine grapes are planted and are capable of producing a commercial crop. Five acres shall mean a planting of wine grapes spanning an area of at least 218,000 square feet and consisting of a minimum of 2,200 grape vines that are properly maintained to produce a commercial crop as determined and verified by the Agricultural Commissioner. Properly maintained as used in this section shall mean that the planted grapes are tended in a manner consistent with proper and accepted customs and standards of the agricultural industry including but not limited to the provision of irrigation, the control of pests and diseases, and the protection against deer depredation. Should the minimum acreage of wine grapes cease to be maintained, as determined by the Agricultural Commissioner, the right to operate the winery and all accessory uses shall immediately cease until such time as the required five acres of wine grapes are re-established to the satisfaction of the Agricultural Commissioner. A determination by the Agricultural Commissioner may be appealed to the Agricultural Commission whose decision shall be final and not subject to further appeal.
  4. "Distillery" means a production facility for purposes of distilling wine to produce high proof or similar distilled spirits which is bonded through Alcohol, Tobacco Tax and Trade Bureau and has a current California Alcohol Beverage Control License. Related activities include, but are not limited to, blending, aging, storage, bottling, administrative functions, and warehousing operations.
  5. "General Plan Agricultural District" means those areas of the County designated under the adopted 2004 General Plan as Agricultural Districts and any other areas that have been added to the 2004 General Plan Agricultural Districts pursuant to the General Plan Policies 8.1.1.1 and 8.1.1.7.

6. “Marketing Event” means an event sponsored by a winery facility intended for the promotion and sale of the facility’s products. Activities of a marketing event may include, but are not limited to, live music, catered food, food prepared on premises, winemaker dinners, releases, library wines, discounted sales, “bottle-your-own” and similar activities, including amplified outdoor music subject to the county noise ordinance but may not include concerts or events which include more than one facility, or events sponsored by or for the benefit of an organization other than the facility.
7. “Parcel” means a legal parcel, not an administrative parcel used by the Assessor for tax purposes.
8. “Production Facility” means those areas of a winery where grapes are crushed, fermented or pressed, where bulk wine is stored in tanks or barrels, or where winery operations such as racking, filtering, blending or bottling of wines are carried out, and on-site case goods storage.
9. “Promotional Event” means an event, sponsored by multiple wineries, a group of wineries, an association of agricultural property owners, or similar organizations formed to assist the agricultural industry in the area, to promote the sale of El Dorado County wines which is intended for the direct marketing and sales of wines produced on the premises.
10. “Special Event” means those functions occurring at a winery for a purpose other than the promotion of the agricultural industry or the sale of agricultural products. Special events include, fund raising, meetings, conferences, social events, weddings, or other celebrations in which the full or partial use of the facility or premise is rented.
11. “Tasting Facility” or “Tasting Facilities” mean those areas of the winery that are open to the public and are utilized for wine tasting, sales, wine and food education, and wine promotion. Multiple areas are allowed to facilitate visitor management and control, and to permit simultaneous functions to proceed efficiently. According to the business plan of the winery, the following areas, among others, may be designated:
  - Public tasting area with no tasting fees charged
  - Public tasting area with tasting fees charged
  - Areas for special groups or tours that are too large to accommodate in a public tasting room
  - Private tasting area
  - Areas for wine dinners and wine/food paring demonstrations
  - Areas for charity and promotional events
12. “Winery” means an agricultural processing facility producing wine from fruit or fruit juices through fermentation or the refermenting of still wine into sparkling wine which is bonded through the Alcohol, Tobacco Tax and Trade Bureau and has a current California Alcohol Beverage Control Type 2 Winegrower’s License.

13. “Winery Building Size” means the actual square footage of a building structure(s) that functions as a winery.

C. Wineries and Accessory Uses. Wineries and the accessory uses are allowed as set forth below. The permit requirement needed for such uses vary based on: (1) the zone district the parcel is located in; (2) the size of the parcel; (3) if the parcel contains a qualified Commercial Vineyard; and (4) if the parcel is located in or outside a General Plan Agricultural District.

1. Agriculturally Zoned Parcels.

a. If the parcel is a minimum of 20 acres and has a commercial vineyard as defined herein, wineries and the following accessory uses are allowed in all agriculturally zoned parcels, ~~except the Agricultural Preserve Zoned parcels (AP) of 10 acres or more and/or a parcel is less than 20 acres but at least 10 acres and is located outside of a General Plan Agricultural District, a conditional use permit is required.~~

Agriculturally zoned parcels that have a commercial vineyard, with less than 20 acres, but a minimum of 10 acres, located outside of a General Plan Agricultural District, require a conditional use permit for the following uses.

Agricultural Preserve (AP) zoned parcels of 10 acres or more (whether in or out of the General Plan Agricultural District) that has a commercial vineyard require a conditional use permit for the following uses.

- i. Tasting facilities for only one bonded winery.
- ii. Wholesale and retail sales of wine and grape products produced, vinted, cellared or bottled on the premises;
- iii. Retail sales of merchandise and art, subject to the provisions set forth in Subsection D.8.b.;
- iv. Public tours;
- v. Picnic areas;
- vi. Marketing events;
- vii. Promotional events, subject to the provisions set forth in Subsection D.10;
- viii. Agricultural related museums;
- ix. Commercial kitchen facilities or food preparation facilities for on-premises functions only; and
- x. Charitable events subject to the provisions set forth in Subsection D.11.

- xi. Special events subject to the provisions set forth in Subsection D.12.
- b. The following accessory uses are allowed by conditional use permit in all Agriculturally Zoned parcels that are 10 acres or greater with a commercial vineyard as defined herein.
  - i. Commercial kitchen facilities or food preparation facilities for the owner to cater off-premises functions;
  - ii. Distilleries, subject to the standards set forth in Section D.9.;
  - iii. Special events that exceed the provisions set forth in Subsection D.12.;
  - iv. Dining facilities.
- c. If the parcel is less than 20 acres and at least 10 acres, has a commercial vineyard as defined herein, and is located in a General Plan Agricultural District, wineries and the following accessory uses are allowed in all Agriculturally Zoned parcels except the Agricultural Preserve Zoned parcels in which case a conditional use permit is required:
  - i. Tasting facilities for only one bonded winery.
  - ii. Wholesale and retail sales of wine and grape products produced, vinted, cellared or bottled on the premises;
  - iii. Marketing events;
  - iv. Picnic areas;
  - v. Public tours; and
  - vi. Retail sales of merchandise and art, subject to the provisions set forth in Subsection D.8.b.
  - vii. Special events subject to the provisions set forth in Subsection D.12.
- d. If the parcel is less than 20 acres and at least 10 acres, has a commercial vineyard as defined herein, and is located in a General Plan Agricultural District, the following accessory uses are allowed by conditional use permit on parcels located in all Agriculturally Zoned parcels including wineries on the Agricultural Preserve Zoned parcels:
  - i. Promotional events, subject to the provisions set forth in Subsection D.10.;
  - ii. Agricultural related museums;

- iii. Commercial kitchen facilities or food preparation facilities for on-premises functions only; and
  - iv. Charitable events.
  - v. Special events that exceed the provisions set forth in Subsection D.12;
2. Residential Agricultural (RA) and Estate Residential (RE) Parcels.
- a. Within a General Plan Agricultural District, if the parcel is zoned residential agricultural (RA) or estate residential (RE), has a commercial vineyard as defined herein and is 10 acres or greater, the following accessory uses are allowed. All other uses listed under Section 17.14.190.C.1.a. & b. above, are allowed by conditional use permit.
    - i. Wineries;
    - ii. Tasting facilities for only one bonded winery.
    - iii. Wholesale and retail sales of wine and grape products produced, vinted, cellared or bottled on the premises;
    - iv. Picnic areas;
    - v. Public tours;
    - vi. Retail sales of merchandise and art, subject to the provisions set forth in Subsection D.8.b.; and
    - vii. Marketing events
  - b. Outside a General Plan Agricultural District, wineries and the accessory uses listed under Section 17.14.190.C.1.a., above are allowed by conditional use permit on parcels zoned residential agricultural (RA) if the parcel is 10 acres or greater and has a commercial vineyard as defined herein.
  - c. Conditional Use Permit Required. Outside a General Plan Agricultural District, wineries and the following accessory uses at a winery are allowed by conditional use permit on parcels zoned estate residential (RE) if the parcel is 10 acres or greater and has a commercial vineyard as defined herein.
    - i. Tasting facilities for only one bonded winery.
    - ii. Wholesale and retail sales of wine and grape products produced, vinted, cellared or bottled on the premises;
    - iii. Retail sales of merchandise and art, subject to the provisions set forth in Subsection D.8.b.;

- iv. Public tours;
- v. Picnic areas; and
- vi. Marketing events.

D. Development and Operational Standards. The following development and operational standards shall apply to all wineries, winery accessory structures and uses allowed in Agriculturally Zoned parcel(s), parcels zoned residential agricultural (RA), and estate residential (RE). These standards are the minimum required. Additional requirements may be added through the discretionary permitting process.

1. General.

- a. The primary purpose of the winery shall be to process fruit grown on the winery lot or on other local agricultural lands. No more than 50 percent of the fruit processed shall be imported from outside El Dorado County.
- b. Retail sales of wine fruit products shall be limited to those produced, vinted, cellared or bottled by the winery operator or grown on the winery lot, or custom crushed at another facility for the winery operator (an ABC Type 2 Winegrower's license requires that at least 50% of the wine sold be produced by the winery).
- c. Wineries may be permitted by conditional use permit without a Commercial Vineyard as defined herein, however, such wineries shall not be open to the public nor have any accessory uses. Conditional use permit applications for wineries without a Commercial Vineyard shall only be considered on Agriculturally Zoned parcel(s) and residential agricultural (RA) zoned parcels located within a General Plan Agricultural District. At least 75 percent of the grapes used by the winery shall be grown within El Dorado County.
- d. The limitation on the number of events permitted by right under this section may not be considered in addition or combined with those permitted by right under Section 17.14.180, Ranch Marketing.
- e. The use of the commercial kitchens, food preparation facilities, and sale of prepackaged food items must comply with the California Health and Safety Code and be permitted by Environmental Management.

2. Setbacks.

- a. Within a General Plan Agricultural District. All production facilities, tasting facilities, and outdoor use areas, excluding parking lots and picnic areas, shall be a minimum of 50 feet from all property lines.
- b. Outside a General Plan Agricultural District. All production facilities, tasting facilities, and outdoor use areas, excluding parking lots and picnic areas, shall be a minimum of 100 feet from all property lines.

3. Signs. One unlighted on-site sign and/or one off-site sign with the property owner's permission which requires an administrative permit with specific findings regarding the need, proximity to the winery, zoning and the need for the off-site sign due to the location of the access road, advertising authorized activities not to exceed 32 square feet on either sign face, with a total not to exceed 64 square feet for a double-faced sign. Off-site directional signs, not exceeding 6 square feet, may also be approved with the property owner's permission through the administrative permit process with the submittal of a plan showing the location of each sign and the need for each of the directional signs. Additional signage may be permitted by conditional use permit. Industry association signs as approved by the Board of Supervisors, such as Farm Bureau, Farm Trails, Apple Hill, Fairplay Winery Association, and El Dorado Winery Association, shall be exempt from these provisions.
4. Parking. The following parking standards shall apply to wineries, tasting rooms, and accessory uses:
  - a. Permanent parking spaces shall be provided for wineries, tasting room, and retail sales areas pursuant to Chapter 17.18, Parking. Parking surfaces shall be surfaced with a Class 2 aggregate base or equivalent,
  - b. Temporary parking for promotional events, charitable events, marketing events or special events may utilize overflow parking areas. Limitations on the number of guests may be based on availability of off-street parking. On-street parking shall not be permitted on county maintained roads.
5. Access.
  - a. The access driveway to the winery and tasting room facilities shall connect directly to a publicly maintained (or County maintained) road, except as provided below. (Access via a private road for purposes of this subsection is to mean that access to the winery utilizes any portion of a private road whether or not the private road utilized is located on or off-site.)
    - i. A winery open to the public accessed by a privately maintained (or non-County maintained) road, if located within an Agricultural District, shall be subject to the review and approval of a site plan review by the Development Services Director, following a recommendation by the Agricultural Commission.
    - ii. A winery without on-site sales and not open to the public may be accessed by a private road if located outside of an Agricultural District. If the winery will have on-site sales or a tasting room, a conditional use permit shall be required.
    - iii. If the winery utilizes a privately maintained (or non-County maintained) road, the winery shall participate in a road maintenance entity or agreement.

- b. Access to a winery with public access shall meet the minimum fire safe requirements of the applicable fire protection district.
  - i. Fire Safe access to a winery with on-site sales or open to the public shall be demonstrated through the Site Plan Review process including written comments from the applicable fire protection district.
  - ii. Fire Safe access includes both on-and off-site access roads. Exceptions to standards may be allowed by the Fire Department and subject to appeals processes identified in the SRA Fire Safe Regulations.

6. Building Standards.

- a. Winery Building Size. In agricultural, agricultural residential and estate residential zoned parcels located in a General Plan Agricultural District, the winery building size shall not exceed the square footage shown in the Table A. In agricultural, agricultural residential and estate residential zoned parcels outside of a General Plan Agricultural District, the winery building size shall not exceed the square footage shown in the Table B. Any winery building size exceeding the square footage in the Tables A and B below shall require a conditional use permit.

**TABLE A**

<b>PARCEL IN AG DISTRICT ON WHICH THE WINERY IS LOCATED</b>	<b>MAXIMUM ALLOWABLE WINERY SIZE</b>
10 acres to less than 20.0 acres	10,000square feet
Equal to or larger than 20 acres but less than 40.0 acres	40,000 square feet
Equal to or larger than 40.0 acres	60,000 square feet

**TABLE B**

<b>PARCEL OUTSIDE AG DISTRICT ON WHICH THE WINERY IS LOCATED</b>	<b>MAXIMUM ALLOWABLE WINERY SIZE</b>
10 acres to less than 20.0 acres	10,000 square feet
Equal to or larger than 20 acres	25,000 square feet

7. Waste Disposal.



- a. Solid Waste. All solid waste must be stored in a manner that prevents the propagation, harborage, or attraction of flies, rodents, vector, or other nuisance conditions and must be removed at least once every seven days in accordance with Chapter 8.42 of the County Code. Pomace, culls, lees, and stems maybe recycled onsite in accordance with the Report of Waste Discharge approved for each individual winery by the Regional Water Quality Control Board
  - b. Winery Production Waste. Standards will be set, where applicable, by the Regional Water Quality Control Board and will be stipulated in the Report of Waste Discharge.
8. Tasting Facilities.
- a. Tasting facilities shall be clearly related, and subordinate to the primary operation of the bonded winery as a production facility. The primary focus of the tasting facilities shall be the marketing and sale of the wine and grape or fruit products produced, vinted, cellared or bottled at the winery.
  - b. Retail Sales. Retail sales of merchandise, prepackaged food items properly labeled in accordance with the California Health and Safety Code and art shall only be permitted within the tasting facilities and shall not be under any circumstances located in a separate structure.
  - c. Food Service. Snack foods that are consumed during wine tasting are allowed.
9. Distilleries. In agricultural and residential agricultural zone districts, distilleries are only permitted in conjunction with a winery on the same parcel with a conditional use permit. Allowed activities include, but are not limited to, blending, aging, storage, bottling, administrative functions, warehousing operations, wholesale sales, retail sales, tasting facilities and related promotional events.
10. Promotional Events.
- a. Limitations on Use. Promotional events are limited to 24 events per calendar year and not more than 250 persons in attendance at any given time. No single event shall exceed more than three consecutive days. Any promotional event proposing outdoor amplified music shall conform to the County Noise Ordinance (These limitations do not include regular patronage of the tasting facilities.)
    - i. Minor Use Permit or Conditional Use Permit Requirement. Where the Agricultural Commission has determined through a public hearing that the promotional events have exceeded the limitations of use as stated in subsection 10. a., a minor use permit or a conditional use permit shall be required.

- ii. Temporary Use Permit. Promotional events where a single event is longer than three (3) consecutive days and/or where the number of attendees will exceed 250 persons at any given time and determined to be of an infrequent nature not normally conducted at the winery facility or grounds may be permitted by temporary use permit in accordance with Chapter 17.23. Infrequent nature, as used herein, shall mean no greater than three events per calendar year not exceeding one event per month.
- iii. Setbacks. Promotional events shall conform to the setback standards of Subsection D.2.

11. Charitable Events

- a. Limitation on Use. Charitable events are limited to 12 events per calendar year and not more than 250 persons are in attendance at any given time. No single event shall exceed more than three consecutive days. Any charitable event proposing outdoor amplified music shall conform to the County Noise Ordinance (These limitations do not include regular patronage of the tasting facilities.)

12. Special Events.

- a. Limitation on Use. Special events are limited to 52 events per calendar year and not more than 150 persons are in attendance at any given time. Multiple events, such as social gatherings or weddings, held during a single day shall be considered a single event for purposes of establishing the number of events. No single event shall exceed more than three consecutive days.
- b. Temporary Use Permit. Special events such as fundraisers, concerts, or other special functions where the number of attendees will exceed 150 persons at any given time and determined to be of an infrequent nature not normally conducted at the winery facility or grounds may be permitted by temporary use permit in accordance with Chapter 17.23. Infrequent nature, as used herein, shall mean no greater than three events per calendar year not exceeding one event per month. Events provided at a greater frequency shall be subject to a conditional use permit as an outdoor events center if allowed by the zone district.
- c. Setbacks. Special events shall conform to the setback standards of Subsection D.2.
- d. Effect on Existing Promotional and Special Events. All unpermitted promotional and special events in existence on the effective date of this section (**date**) shall be subject to the standards specified in this Subsection. Existing promotional and special events may be continued subject to an Administrative Review Permit only when the scope and frequency of the existing promotional and special events can be adequately documented in the application for the Administrative Review Permit. If an applicant

wishes to expand the scope or frequency of the existing promotional and/or special events, a Minor Use Permit or a Conditional Use Permit will be required. The required Administrative Review Permit, Minor Use Permit or Conditional Use Permit shall be requested from the county within one year of the effective date specified above. All existing uses shall be allowed to continue for one year from the application date of any of the above specified permits. If the required permit has not been requested within the time frames set forth in this section, the penalties of Chapter 17.12 (Enforcement) of this Title shall apply.

E. Micro-Winery Located on Agricultural and Residential Districts.

Micro-winerries shall be allowed by use permit in the Agricultural (A), Select Agricultural (SA-10), Planned Agricultural (PA), Exclusive Agricultural (AE), Agriculture Preserve (AP), RE-5 (Estate Residential 5-acre), Estate Residential 10-acre (RE-10) and all RA (Residential Agricultural) zone districts.

All micro-winerries are subject to all of the following provisions:

1. All micro -wineries shall be located on a parcel of five (5) acres or more.
2. All Micro-winerries shall have a minimum of one (1) acre of planted wine grapes on the same parcel. These wine grapes shall be properly maintained and cared for to produce a commercial crop. Should the proper maintenance and care of the required minimum wine grapes acreage cease, as determined by the El Dorado County Agricultural Commissioner, the right to operate the micro-winery becomes void.
3. Wine sales shall be by internet, mail order, or off-site only. No on-site sales, tasting, or public access is permitted.
4. No other accessory uses described in this Winery Ordinance is permissible on the site. In no circumstances is wine tasting allowed on-site. No special use permit can be approved that permits wine tasting or wine tasting by appointment.
5. All other local, State, and federal laws shall apply and compliance shall be verified prior to issuance of a business license. At a minimum:
  - A. Fire Department shall review the facility for consistency with Fire Safe Regulations.
  - B. Waste Discharge permit or Waiver of Discharge Permit from Regional Water Quality Control Board.
  - C. Winegrower license from ABC (Alcoholic Beverage Control).
  - D. Building Permit (Building, Planning, Environmental Management)
  - E. Verification of one acre vineyard, properly maintained (Agricultural Department.)
6. The capacity of the micro winery shall not exceed 250 cases (595 gallons) for each acre of wine grapes grown on the parcel with a total capacity not to exceed 1,250 cases (2,972 gallons).

7. Signs are limited to one on-site unlighted sign, six square feet in area, eight feet in height, advertising the name of the winery and owner. The sign must also state “not open to the public.”

F. All wineries in residential or agricultural zones must meet the provisions of this section and shall not be authorized under the “home occupation” provisions of the zone. The provisions for wineries, tasting rooms, and accessory uses described in this section apply to all zones except for Commercial or Industrial zones.

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