

## September 8, 2008 Draft Winery Ordinance

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**A.0 Purpose.** The purpose of the winery ordinance is to:

- A.1. Provide for the orderly development of wineries and accessory uses within specified agricultural zones and specified residential zones to ensure compatibility with adjacent land uses. (General Plan Policy 2.2.5.21.)
- A.2. To encourage the economic development of the local agricultural industry by allowing for the direct sales and marketing of value added products. (General Plan Policy 10.1.5.4.)

A.3. To implement General Plan Policies that encourages development of agricultural-related uses while protecting the agricultural character and long-term agricultural production of agricultural lands. (General Plan Policies: 8.2.2.1, 8.2.4.2, 8.2.4.3, 8.2.4.4, and 8.2.4.5.)

**B.0 Wineries and Accessory Uses.** Those uses identified as “by right” are subject to compliance with all applicable provisions of the Zoning Ordinance. Uses may also require grading permits, building permits, or other permits as required by the County Code. Those uses identified as permitted by Conditional Use Permit (CUP) require an Administrative Permit (17.22.350), Minor Use Permit (17.22.400) or a Special Use Permit (17.22.500) as determined by the Director of Development Services (Director).

B.1. **Use Classifications.** The winery and accessory uses are grouped into the following Classes and are further defined in Section C, Winery Uses:

- Class 1:** Winery (C.1)  
Tasting facilities (C.2.a)  
Wholesale and retail sales of wine (C.2.b)  
Retail sales of merchandise and art (C.9)  
Public Tours  
Picnic Areas (C.8)  
Marketing Events (C.2.c)
- Class 2:** Special Events limited to the provisions of C.3.
- Class 3:** Agricultural related museum (C.7)  
Commercial kitchen facilities (on premises functions only) (C.6)
- Class 4:** Commercial kitchen use for catering off-premises functions (C.10)  
Distilleries (C.5)  
Dining facility (C.4)
- Class 5:** Special Events that exceed the provisions of C.3.a and C.3.b.

B.2. **Uses Allowed.** Wineries and accessory uses shall be allowed as set forth below (acreages are gross acreages of individual lots):

B.2.a. **AE, PA, and SA Zones (20 acres or more):** Lots Zoned AE, PA, and SA; that are 20 acres or more; with a minimum of five acres commercial vineyard; the following uses are allowed:

- By right: Class 1, Class 2, and Class 3.
- By CUP: Class 4 and Class 5.

B.2.b. **AE, PA, and SA Zones (10 acre minimum) within Ag District:** Lots Zoned AE, PA, and SA; that are a minimum of 10 acres, but less than 20 acres; with a minimum of five acres commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:

- By right: Class 1 and Class 2.
- By CUP: Class 3, Class 4, and Class 5

- B.2.c. **AE, PA, and SA Zones (10 acre minimum) not in Ag District:** Lots Zoned AE, PA, and SA, that are a minimum of 10 acres, but less than 20 acres; with a minimum of five acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:
  - By right: none
  - By CUP: Class 1, Class 2, Class 3, and Class 4
- B.2.d. **AP zones:** In AP Zones that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; the following uses are allowed:
  - By right: none
  - By CUP: Class 1, Class 2, Class 3, and Class 4
- B.2.e. **RA Zone within Ag District.** Lots Zoned RA; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:
  - By right: Class 1
  - By CUP: Class 2, Class 3, and Class 4
- B.2.f. **RA Zone, not in Ag District.** Lots zoned RA; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:
  - By right: none
  - By CUP: Class 1, Class 2, and Class 3
- B.2.g. **RE Zone, within an Ag District.** Lots zoned RE; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:
  - By right: Class 1
  - By CUP: Class 2, Class 3, and Class 4
- B.2.h. **RE Zone, not in Ag District.** Lots zoned RE; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:
  - By right: none
  - By CUP: Class 1, Class 2, and Class 3

**C.0 Winery Uses:** The following provisions shall apply to all wineries, accessory structures, and accessory uses.

C.1. **General Winery Provisions.** “Winery” means an agricultural processing facility producing wine from fruit or fruit juices through fermentation or the refermenting of still wine into sparkling wine that is bonded through the Alcohol, Tobacco Tax and Trade Bureau and has a current California Alcohol Beverage Control Type 2 Winegrower’s License.

- C.1.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.
- C.1.b. Wineries include 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.

**C.2. Tasting Facilities.**

C.2.a. **Subordinate to Winery.** 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. Snack foods that are consumed during wine tasting are allowed.

C.2.b. **Wine Sales.** 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, subject to the provisions of an ABC Type 2 Winegrower's license. (The ABC Type 2 Winegrower's license requires that at least 50 percent of the wine sold be produced by the winery).

C.2.c. **Marketing.** Tasting facilities include any marketing activities 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.

C.3. **Special Events.** "Special Events" are any events such as charitable events, promotional events, and facility rental events, that are not the tasting and marketing activities described in Subsection C.2.c.

C.3.a. **Number Permitted.** Special events are limited to a total of 48 days per calendar year. Special events that have less than 50 persons at one time shall not count against the total number of events allowed. "Facility rental events" are a type of Special Event where the property owner is compensated for the use of the site and facilities, such as weddings, parties, company picnics, birthdays, reunions, or other social gatherings. Facility rental events are part of the total Special Events permitted, but are further limited to the following

Lots less than 20 acres in size: 12 facility rental days per calendar year  
Lots 20 acres or more in size: 24 facility rental days per calendar year

- C.3.b. **Capacity Limitation.** All Special Events are limited to 250 persons at one time.
- C.4. **Dining Facility.** Dining facility means an establishment where food is prepared and served to the public in an established indoor seating area. (17.06.050.Q). The Dining Facility must be subordinate to the sale of wine. The Dining Facility does not include areas of a winery that are temporarily set up for wine maker dinners.
- C.5. **Distilleries.** “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. Distilleries are only permitted in conjunction with a winery on the same lot with a CUP. Allowed activities include, but are not limited to, blending, aging, storage, bottling, administrative functions, warehousing operations, wholesale sales, retail sales, and tasting facilities.
- C.6. **Commercial kitchen.** Food preparation facilities and sale of prepackaged food items must comply with the California Health and Safety Code and be permitted by Environmental Management. Commercial kitchens that are permitted shall be accessory to the winery, tasting room, and any other authorized accessory uses.
- C.7. **Museum.** Agricultural related museums shall be accessory to a winery and tasting room and shall primarily display items from California’s agricultural history.
- C.8. **Picnic areas.** Picnic areas shall be subordinate to the winery and tasting room.
- C.9. **Retail Sales.** Retail sales of merchandise, art, prepackaged food items properly labeled in accordance with the California Health and Safety Code shall only be allowed within the tasting facilities and shall not be under any circumstances located in a separate structure. Sales of non-wine merchandise shall be subordinate to the wine sales.
- C.10. **Catering:** Use of an on-site, authorized commercial kitchen for catering off-site events may be allowed only by CUP and only when the catering use is found to be subordinate to the winery’s wine sales on an annual basis.

## **D.0 Special Provisions**

- D.1. **Access Limitations.** Uses listed in Subsection B.2 identified as “by right” must meet the access provisions of Subsection E.5 or a CUP is required.
- D.2. **Land Use Compatibility Limitations** Proposed winery facilities that are not located within an Agricultural District shown on the adopted General Plan Land Use Map and have property lines adjoining a lot with a non-compatible land use designation shall require approval of a CUP. For purposes of this section, non-compatible land use designations shall be Multifamily Residential (MFR), High Density Residential (HDR), Medium Density Residential (MDR), and Low Density Residential (LDR). The compatibility determination will be made prior

to issuance of a building permit for a winery building. Subsequent expansion of the facility buildings or uses will require additional compatibility determinations.

D.3 *Reserved*

D.4. **Other zones.** All other agricultural and residential zones not listed in this section are not allowed to have wineries or tasting rooms as a primary use or accessory use (either by right or by CUP). It is specifically prohibited to pursue a winery or tasting room as a “home occupation.” In the Commercial and Industrial zones, wineries and accessory uses would be allowed in accordance with the specific zone’s provisions for wineries and are exempt from this section’s provisions, including but not limited to: minimum lot size, vineyard size, location on County maintained road, and adjacent land use designations.

D.5. **Wineries with less than 5 acres of vineyard.** Wineries without a minimum five acres of vineyard may only be permitted as a Micro-Winery in Section D.10, except that a winery (C.1) production facility may be approved by conditional use permit if all of the following provisions are met:

- a. The lot is located within a General Plan Agricultural District;
- b. The lot is zoned AE, PA, or SA;
- c. The lot is a minimum of ten acres in size;
- d. The lot shall have a minimum of five acres of fruit crops;
- e. The facility is not open to the public;
- f. The only accessory uses in this section allowed is a distillery (C.5); and
- g. At least 75 percent of the fruit used by the facility shall be grown within El Dorado County

D.6 **“Lot.”** For purposes of the Winery Ordinance, the term “Lot” is used to describe an individual legal parcel. This does not include an administrative parcel used by the Assessor for tax purposes. Lots under the same ownership are not considered to be a single lot for purposes of the Winery Ordinance.

D.7 **Not Additive with Ranch Marketing.** The number of events may not be added to, or combined with, those allowed by right under Ranch Marketing Ordinance, Section 17.14.180.

D.8. **Temporary Use Permit.** Special events such as fundraisers, concerts, or other special functions 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 compliance with Chapter 17.23. Infrequent nature, as used herein, shall mean no greater than three events per calendar year and no more frequent than one event per calendar month.

D.9. **Effect on Existing Special Events.** All unpermitted special events in existence on the effective date of this section (**date**) shall be subject to the standards specified in this Subsection. Existing special events may be continued subject to an Administrative Use Permit only when the scope and frequency of the existing special events can be adequately documented in the application for the Administrative Use Permit. If an applicant wishes to expand the scope or

frequency of the existing special events, a CUP will be required. The required Administrative Use Permit or CUP 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.

D.10 **Micro-Winery.** Micro-wineries shall be permitted by CUP in the SA, PA, AE, AP, RE, and RA zone districts. All micro-wineries are subject to all of the following provisions:

D.10.a. **Minimum lot size.** All micro -wineries shall be located on a lot of five acres or more.

D.10.b. **Vineyard Standards.** All Micro-wineries shall have a minimum of one acre planted wine grapes on the same lot. One acre shall mean a planting of wine grapes spanning an area of at least 43,600 square feet and consisting of a minimum of 440 grape vines. 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.

D.10.c. **Wine sales.** Wine sales shall be by internet, mail order, or off-site only. No on-site sales, tasting, or public access is allowed.

D.10.d. **Limitation on Accessory Uses.** No other accessory uses described in this Winery Ordinance is permissible on the site. In no circumstances is wine tasting allowed on-site. No CUP can be approved that permits wine tasting or wine tasting by appointment.

D.10.e. **Compliance with laws.** All other local, State, and federal laws shall apply and compliance shall be verified prior to operation. At a minimum:

- i. Fire Department shall review the facility for consistency with Fire Code Regulations.
- ii. Waste Discharge permit or Waiver of Discharge Permit from Regional Water Quality Control Board.
- iii. Winegrower license from Alcoholic Beverage Control.
- iv. The facility must be bonded through the Alcohol, Tobacco Tax and Trade Bureau.
- v. Building Permit (Building, Planning, Environmental Management).
- vi. Verification of one acre vineyard, properly maintained (Agricultural Department).

D.10.f **Production Capacity.** The capacity of the micro winery shall not exceed 250 cases (595 gallons) for each acre of wine grapes grown on

the lot with a total capacity not to exceed 1,250 cases (2,972 gallons). Lots zoned PA and SA may exceed these amounts in compliance with the CUP conditions if:

- i. The lot is within a General Plan Agricultural District, and
- ii. The Agricultural Commission finds that the land is not capable of supporting five acres of vineyard and that potential on-site agricultural land is not being precluded from future agricultural production.

D.10.g. **Signs.** Micro-winery signs are limited to one on-site unlighted sign, six square feet in area, six feet in height, advertising the name of the winery and owner. The sign must also state “not open to the public.”

**E.0 Development Standards:** These standards are the minimum required for all wineries, accessory uses in Section C. Additional requirements may be added through the discretionary permitting process if applicable.

E.1 **Commercial Vineyard.** “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.

E.2. **Setbacks.** The following setbacks apply to all wineries, tasting facilities, and outdoor use areas, excluding parking lots and picnic areas:

E.2.a. Within a General Plan Agricultural District a minimum of 50 feet from all property lines.

E.2.b. Outside a General Plan Agricultural District a minimum of 200 feet from all property lines.

E.2.c. The 200 foot setback in Subsection E.2.b may be reduced to no less than 50 feet by the Agricultural Commission approval of “Administrative Relief” based on forms and criteria established by the Agricultural Commission and subject to fees adopted by the Board of Supervisors.

E.3. **Signs.** The following signs are allowed for any winery that is allowed by right:



- E.3.a. One unlighted on-site sign 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.
  - E.3.b. In addition, one off-site sign of the same size may be approved by Administrative Permit, with the property owner's permission and specific findings regarding: the proximity to the winery; zoning; and the need for the off-site sign due to the location of the access road.
  - E.3.c. Small 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 CUP.
  - E.3.d. Industry association signs as approved by the Board of Supervisors, such as Farm Bureau, Farm Trails, Apple Hill, Fair Play Winery Association, and El Dorado Winery Association, shall be exempt from these provisions.
- E.4. **Parking.** The following parking standards shall apply to wineries, tasting rooms, and accessory uses:
- E.4.a. Permanent parking spaces shall be provided for wineries, tasting room, and retail sales areas in compliance with Chapter 17.18, Off-Street Parking and Loading.
  - E.4.b. Parking surfaces shall be surfaced with a Class 2 aggregate base or equivalent, with appropriate hard-surfacing for designated ADA compliant parking stalls.
  - E.4.c. Temporary parking for marketing activities and special events may utilize overflow parking areas that are not surfaced. Limitations on the number of guests may be based on availability of off-street parking. All temporary parking shall be accommodated on-site, shall meet Chapter 17.18 standards for temporary parking, and meet any Fire Department requirements.
- E.5. **Access Standards:** The access to winery and tasting facilities open to the public shall connect directly to a County maintained road, except as provided below. Access via a non-County maintained road for purposes of this subsection includes access to a winery that utilizes any portion of a non-County maintained road whether or not the road utilized is located on-site or off-site.
- E.5.a. **In Ag District.** A winery and tasting facility accessed by a 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.

- E.5.b. **Not in Ag District.** A winery and tasting facility accessed by a non-County maintained road that is not located within an Agricultural District shall require a CUP.
- E.5.c. **Not open to public.** A winery that is not open to the public and without on-site sales may be accessed by a non-County maintained road.
- E.5.d. **Road Maintenance.** As a condition of approval for a Site Plan Review or CUP, the winery will be required to participate in any private road maintenance entity, annex into a road ZOB, or otherwise pay a fair share for road maintenance as determined by the approving authority.
- E.5.e. **Fire Safe/Code Standards.** Access to a winery open to the public shall meet the minimum access requirements of the applicable fire protection district, including both on-site 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.
- E.5.f. **“County Maintained Road”** for this Subsection shall be a road that is listed by the Department of Transportation as being on the current County Maintained Mileage list. This list does not typically include County Service Area (CSA) or Zone of Benefit (ZOB) roads.

E.6. **Size Limitation.**

- E.6.a. The winery, accessory buildings and accessory uses shall not occupy more than five acres or 50 percent of the gross lot area, whichever is less.
- E.6.b. *Reserved*
- E.6.c. *Reserved*
- E.6.d. The winery building size shall not exceed the square footage shown in the Table A. Any winery building or group of winery buildings and accessory buildings, exceeding the square footage in the Table A below shall require a CUP. Winery buildings do not include residential buildings, garages, outbuildings, and structures not associated with the winery, such as agricultural buildings.

**TABLE A**

<b>LOT ON WHICH THE WINERY IS LOCATED</b>	<b>MAXIMUM ALLOWABLE WINERY BUILDING SIZE</b>
Less than 10 acres (micro-winery)	2,000 square feet
10 acres to less than 20.0 acres	10,000 square feet

20 acres but less than 40.0 acres	40,000 square feet
40.0 acres and larger	60,000 square feet

E.7. **Waste Disposal.**

E.7.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.

E.7.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.

E.8 *Reserved*

E.9 *Reserved*

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