

ORDINANCE NO. 947

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING TITLE XII OF THE NAPA COUNTY CODE PERTAINING TO WINERIES, ACCESSORY USES, ACCESSORY STRUCTURES, AND REPEALING CHAPTERS 2 AND 3 OF ARTICLE 4 OF TITLE XII RELATING TO THE AP-I AND AP-E ZONING DISTRICTS.

The Board of Supervisors of the County of Napa ordains as follows:

SECTION 1. Findings of fact

- (a) Napa County now enjoys worldwide acclaim for the quality of the wine produced within the County.
- (b) The vineyards and wineries, together with their support services, constitute the largest segment of the County's economy.
- (c) The unique combination of geography, climate, micro-climates, and soils makes possible the production of excellent quality wine grapes.
- (d) The preservation of agricultural land requires a reliable market to justify the investment required to acquire, develop and maintain vineyards capable of producing high quality fruit.
- (e) Napa County is one of the smallest counties in California and within the County areas suitable for quality vineyards are limited and irreplaceable. Any project that directly or indirectly results in the removal of existing or potential vineyard land from use depletes the inventory of such land forever.
- (f) The cumulative effect of such projects is far greater than the sum of individual projects. The interspersing of non-agricultural structures and activities throughout agricultural areas in excess of what already exists will result in a significant increase in the problems and costs of maintaining vineyards and discourage the continued use of the land for agricultural purposes.

SECTION 2. Findings relating to recognizing existing wineries that

commenced operations prior to July 31, 1974, as legal uses.

The Board finds that wineries that were established prior to 1974, and whose activities were lawful when established and have not been abandoned, are an integral part of the Napa Valley economy. One of the purposes of enacting Sections 12201(g) and 12231(h) is to recognize the legal existence of such wineries and their need to operate as legal conforming uses; provided, however, that the intent in recognizing these uses as legal is not to permit expansion beyond the level which legally existed as of July 31, 1974, except as was specifically authorized as part of a subsequent use permit approved in accordance with County regulations. Nothing herein shall be construed as prohibiting such facilities from applying for additional uses, providing such applications meet all of the applicable requirements of this ordinance.

SECTION 3. Findings relating to recognizing existing wineries that

commenced operations after July 31, 1974, after securing the required use permit.

The Board finds that wineries that were established after July 31, 1974, after securing the required use permit, and whose activities were lawful when established are an integral part of the Napa Valley economy. One of the purposes of enacting Sections 12201(i) and 12231(j) is to recognize the legal existence of such wineries and to permit their continued right to operate within the conditions of their approved use permits; provided, however, that expansion above and beyond that allowed by the approved use permit may only be permitted upon securing a modification of said use permit in accordance with the provisions of this ordinance.

SECTION 4. Findings relating to issuance of certificates of exemption

for small wineries approved pursuant to Section 12048 of the Napa County Code.

The Board finds that small wineries that were established in the past and whose activities were lawful when established and have not been abandoned are an integral part of the Napa Valley economy. One of the purposes of enacting Sections 12201(h) and 12231(i) is to recognize the legal existence of such operational small wineries which have previously been approved pursuant to Section 12048 of the zoning ordinance and to permit them to continue their approved operation or to complete construction and operation in accordance with their approved certificate of exemption. However, expansion beyond approved levels may only proceed in strict accordance with the provisions of this ordinance.

SECTION 5. Findings relating to increased parcel size.

The Board of Supervisors specifically finds that requiring new wineries to meet larger minimum lot sizes than have been required previously, while at the same time recognizing existing wineries on smaller parcels as legal

uses, is not discriminatory because all wineries regardless of parcel size have the right to expand to the extent the winery complies with the applicable provisions of this ordinance. The basis for requiring new wineries to have larger minimum parcels is that the increased parcel size for new wineries will reduce densities and thereby lessen local visual, traffic, air, noise, and groundwater impacts and reduce the conversion of viable agricultural land.

SECTION 6. Statement of Legislative Intent.

(a) The Findings of Fact establish that Napa County is unique in its dependence upon a single agricultural commodity and the associated support systems, activities, and business.

(b) It is the intent of this Board, as expressed in the current general plan, to protect agriculture and open space as the primary land use in Napa County. Therefore, the language of this ordinance is to be interpreted to achieve that goal. Commercial, industrial and residential uses shall be confined to appropriate areas as set forth in the Napa County General Plan. The conversion or use of agricultural land for non-agricultural purposes and the depletion of open space land shall be prohibited except to the extent expressly permitted by the Napa County General Plan and any ordinance adopted to implement the General Plan.

SECTION 7. Additional Findings Relating to General Plan Consistency.

The Board expressly finds that marketing of wine as defined in this ordinance as well as those uses identified in Section 12202(f) through (h) and Section 12232(h) through (j) are activities that are not only necessary to retain agriculture as a major source of income and employment in Napa County, but also will ensure the continued agricultural viability of existing and future Napa Valley vineyards.

SECTION 8. Section 12047 of the Napa County Code is amended to read in full as follows:

Sec. 12047. "Winery."

"Winery" shall mean an agricultural processing facility used for:

- (1) The fermenting and processing of grape juice into wine; or
- (2) The refermenting of still wine into sparkling wine.

SECTION 9. New Sections 12069 through 12072 are hereby added to Title XII of the Napa County Code to read in full as follows:

Sec. 12069. "Accessory Use".

"Accessory Use" shall mean any use subordinate to the main use and customarily a part thereof. An accessory use must be clearly incidental,

related and subordinate to the main use, reasonably compatible with the other principal uses in the zoning district and with the intent of the zoning district, and cannot change the character of the main use. Unless provided otherwise in this Title, accessory uses may be conducted in the primary structure or in structures other than the primary structure. Where the zoning regulations applicable to a zoning district specifically identify the accessory uses which are permitted in conjunction with a primary use in that zoning district, no other accessory uses in conjunction with the primary use will be permitted in that zoning district. Accessory structures relating to specific uses are further limited to the extent provided by Section 12421.

Sec. 12070. "Tours and Tastings".

"Tours and Tastings" shall mean tours of the winery and/or tastings of wine, where such tours and tasting are limited to members of the wine trade, persons invited by a winery who have pre-established business or personal relationships with the winery or its owners, and persons who have made unsolicited prior appointments for tours or tastings.

Sec. 12071. "Marketing of Wine".

"Marketing of Wine" shall mean any activity of a winery identified in this paragraph which is conducted at the winery and is limited to members of the wine trade, persons who have pre-established business or personal relationships with the winery or its owners, or members of a particular group for which the activity is being conducted on a pre-arranged basis. Marketing of wine is limited to activities for the education and development of the persons or groups listed above with respect to wine which can be sold at the winery on a retail basis pursuant to Article 4 of this title, and may include food service without charge except to the extent of cost recovery when provided in association with such education and development, but shall not include cultural and social events unrelated to such education and development.

Sec. 12072. Single Parcel.

"Single Parcel" shall mean a single legal parcel. Parcels designated by the Napa County Assessor may or may not be a single legal parcel.

SECTION 10. Section 12201 of the Napa County Code is hereby

amended to read in full as follows:

Sec. 12201. Uses Allowed without Use Permit.

The following uses shall be allowed in all AP districts without use permits:

- (a) Agriculture.
- (b) One single family dwelling unit per legal lot.

- (c) Residential Care Facilities (Small).
- (d) Family Day Care Homes (Small).
- (e) Family Day Care Homes (Large), subject to Section 12413.
- (f) One guest cottage, provided that all of the conditions set forth in Section 12415 are met.
- (g) Wineries and related accessory uses and structures which legally existed prior to July 31, 1974 without the requirement that a use permit be issued, and which have not been abandoned; provided that the extent of such uses and structures have been determined in accordance with the procedure set forth in Section 12854. No expansion beyond those which existed prior to July 31, 1974 may occur unless specifically authorized by use permit, issued in conformance with the applicable provisions of this title.
- (h) Small wineries which were issued a Certificate of Exemption prior to January 23, 1990, and used the certificate in the manner set forth in Section 12806 before February 22, 1990 in conformance with the applicable Certificate of Exemption, Section 12048 of this Code, and any resolution adopted pursuant thereto.
- (i) Wineries and related accessory uses which have been authorized by use permit and used in a manner set forth in Section 12806 or any predecessor section; provided that no expansion of uses or structures beyond those which were authorized by a use permit or modification of a use permit issued prior to February 22, 1990, shall be permitted except as may be authorized by a subsequent use permit issued pursuant to this title.

SECTION 11.

Section 12202 of the Napa County Code is amended to

read in full as follows:

Sec. 12202. Uses Permitted Upon Grant of Use Permit.

The following uses may be permitted in all AP districts, but only upon grant of a use permit pursuant to Section 12800:

- (a) Farm labor housing.
- (b) Facilities, other than wineries, for the processing of agricultural products grown or raised on the same parcels or contiguous parcels under the same ownership.
- (c) Kennels and veterinary facilities.
- (d) Feed lots.
- (e) Non-Commercial Wind Energy and Conversion Systems.

- (f) Wineries, as defined in Section 12047.
- (g) The following uses in connection with a winery:
  - (1) Crushing of grapes outside or within a structure.
  - (2) On-site above-ground disposal of waste water generated by the winery.
  - (3) Aging, processing and storage of wine in bulk.
  - (4) Bottling and storage of bottled wine and shipping and receiving of bulk and bottled wine, provided the wine bottled or received does not exceed the permitted production capacity.
  - (5) Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:
    - (A) Office and laboratory uses.
    - (B) Marketing of wine as defined in Section 12071.
    - (C) Retail sale of (i) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of paragraphs (b) and (c) of Section 12419 regulating the source of grapes; and (ii) wine produced by or for the winery from grapes grown in Napa County.
- (h) The following uses, when accessory to a winery:
  - (1) Tours and Tastings, as defined in Section 12070.
  - (2) Display, but not sale, of art.
  - (3) Display, but not sale, of items of historical, enological or viticultural significance to the wine industry.
  - (4) Child day care centers limited to caring for children of employees of the winery.

SECTION 12.

Chapters 2 and 3 of Article 4 of Title XII of the

Napa County Code are hereby repealed.

SECTION 13.

Section 12231 of the Napa County Code is amended to

read in full as follows:

Sec. 12231. Uses allowed without Use Permit.

The following uses shall be allowed in all AW districts without use permits:

- (a) Agriculture.
- (b) One single family dwelling unit per legal lot.
- (c) A second unit, either attached to or detached from an existing legal residential dwelling unit, providing that all of the conditions set forth in Section 12412 are met.
- (d) Residential Care Facilities (Small).
- (e) Family Day Care Homes (Small).
- (f) Family Day Care Homes (Large), subject to Section 12413.
- (g) One guest cottage, provided that all of the conditions set forth in Section 12415 are met.
- (h) Wineries and related accessory uses and structures which legally existed prior to July 31, 1974 without the requirement that a use permit be issued, and which have not been abandoned; provided that the extent of such uses and structures have been determined in accordance with the procedure set forth in Section 12854. No expansion beyond those which existed prior to July 31, 1974 may occur unless specifically authorized by use permit, issued in conformance with the applicable provisions of this title.
- (i) Small wineries which were issued a Certificate of Exemption prior to January 23, 1990, and used the certificate in the manner set forth in Section 12806 before February 22, 1990, in conformance with the applicable Certificate of Exemption, Section 12048 of this Code, and any resolution adopted pursuant thereto.
- (j) Wineries and related accessory uses which have been authorized by use permit and used in a manner set forth in Section 12806 or any predecessor section; provided that no expansion of uses or structures beyond those which were authorized by a use permit or modification of a use permit issued prior to February 22, 1990, shall be permitted except as may be authorized by a subsequent use permit issued pursuant to this title.

SECTION 14.

Section 12232 of the Napa County Code is amended to

read in full as follows:

**Sec. 12232. Uses Permitted Upon Grant of Use Permit.**

The following uses may be permitted in all AW districts, but only upon grant of a use permit pursuant to Section 12800:

- (a) Outdoor parks and recreation facilities compatible with agriculture.
- (b) Farm labor housing.
- (c) Facilities, other than wineries, for the processing of agricultural products grown or raised on the same parcels or contiguous parcels under the same ownership.
- (d) Kennels and veterinary facilities.
- (e) Feed lots.
- (f) Sanitary land fill sites.
- (g) Non-Commercial Wind Energy and Conversion Systems.
- (h) Wineries, as defined in Section 12047.
- (i) The following uses in connection with a winery:
  - (1) Crushing of grapes outside or within a structure.
  - (2) On-site, above-ground disposal of waste water generated by the winery.
  - (3) Aging, processing and storage of wine in bulk.
  - (4) Bottling and storage of bottled wine; shipping and receiving of bulk and bottled wine, provided the wine bottled or received does not exceed the permitted production capacity.
  - (5) Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:
    - (A) Office and laboratory uses.
    - (B) Marketing of wine as defined in Section 12071.
    - (C) Retail sale of (i) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of paragraphs (b) and (c) of Section 12419 regulating the



source of grapes; and (ii) wine produced by or for the winery from grapes grown in Napa County.

- (j) The following uses, when accessory to a winery:
- (1) Tours and Tastings, as defined in Section 12070.
  - (2) Display, but not sale, of art.
  - (3) Display, but not sale, of items of historical, enological or viticultural significance to the wine industry.
  - (4) Child day care centers limited to caring for children of employees of the winery.

SECTION 15. A new Section 12422 is added to the Napa County Code to read in full as follows:

**Sec. 12422. Winery Development Area.**

(a) The winery development area of a winery shall be contiguous to and shall not exceed 100% of the winery area calculated according to subparagraph (b) herein which is existing as of January 23, 1990.

(b) The winery area shall be the aggregate paved or impervious or semi-permeable ground surface areas of the production facility, storage areas (except caves), offices, laboratories, kitchens, tasting rooms, and paved parking areas for the exclusive use of winery employees.

(c) Construction of additional facilities beyond the winery development area without compliance with Section 12419 may be permitted only if required by the Director of Environmental Management to correct emergency health and safety conditions not related to expansion of production.

SECTION 16. A new section 12418 is added to the Napa County Code to read in full as follows:

**Sec. 12418. Minimum Parcel Size**

Wineries are permitted to be located or operated on parcels zoned AP or AW only if the single parcel on which it is located meets the following minimum parcel size:

- (a) Wineries that were established in conformance with all applicable county regulations prior to February 22, 1990 --- 1 acre.
- (b) Wineries that were established after February 22, 1990 --- 10 acres.

SECTION 17.

A new section 12419 is added to the Napa County Code

to read in full as follows:

Sec. 12419. Winery Production Capacity.

(a) Wineries located or operated on parcels zoned AP or AW are subject to the following maximum annual production capacities:

- (1) Wineries (commonly known as and hereafter referred to as "small wineries," the rules and regulations relating thereto having been adopted by the Board by Resolution No. 80-21 and amended by Resolution No. 86-55) that were lawfully established subsequent to July 31, 1974 without first obtaining a use permit prior to January 23, 1990 ----- the production limit established as a part of the issuance of the winery's certificate of exemption or 20,000 gallons per year, whichever is less. Any expansion of production capacity of a small winery shall be prohibited unless a use permit is obtained.
- (2) Wineries that were established prior to July 31, 1974 without obtaining a use permit because a use permit was not required, and which have not subsequently been issued a use permit specifying maximum annual production capacity ----- the production capacity existing as of July 31, 1974. Any expansion of the production capacity shall be prohibited unless a use permit is obtained.
- (3) Wineries located on a single parcel which do not qualify under subparagraph (a)(1) or (a)(2), but were established only after the issuance of a use permit, and in conformance with all applicable county regulations prior to February 22, 1990 ----- the production capacity authorized by the appropriate use permit. Any expansion of the production capacity shall be prohibited without the amendment of the use permit.
- (4) Wineries that were established after January 23, 1990 ----- maximum production capacity shall be as established by the applicable use permit.

(b) All wineries first established subsequent to January 23, 1990: at least seventy-five percent of the grapes used to make the winery's still wine, or the still wine used by the winery to make sparkling wine, shall be grown within the County of Napa.

(c) All existing wineries which expand beyond their winery development area shall be subject to the following additional limitations:

- (1) At least seventy-five percent of the grapes used to make that portion of the winery's still wine which is produced as a result of the expansion shall be grown within the County of Napa.
- (2) At least seventy-five percent of the grapes used to make the still wine used to make the sparkling wine that is produced as

a result of the expansion shall be grown within the County of Napa.

SECTION 18.

A new section 12420 is added to the Napa County Code

to read in full as follows:

**Sec. 12420. Wineries Located In Open Space Areas - Setbacks.**

(a) The minimum setback for wineries shall be as follows:

- (1) Wineries, or structures containing accessory uses allowed by Section 12202(g), 12202(h), 12232(i) and 12232(j), which are located on parcels contiguous to a state highway, Silverado Trail, or any arterial county road --- six hundred feet.
- (2) Wineries, or structures containing accessory uses allowed by Section 12202(g), 12202(h), 12232(i) and 12232(j), which are located on parcels contiguous to any other public road or private road(s) used by the public --- three hundred feet.

(b) Any winery existing on January 23, 1990, may expand within the minimum setback specified in subparagraph (a) above. Notwithstanding the previous sentence, expansions may be permitted within the minimum setback area only if the expansion is placed no closer to the centerline of the right-of-way than the nearest point of the existing structure to which the expansion is attached. Any new freestanding structure shall comply with the setback provisions of subparagraph (a) above.

(c) Nothing herein shall be construed as permitting construction or improvements within applicable setback or yard areas as specified by other sections of this title.

SECTION 19.

A new section 12420.1 is added to the Napa County

Code to read in full as follows:

**Sec. 12420.1. Wineries Located in Open Space Areas - Coverage.**

The maximum coverage of new or expanded wineries shall be twenty-five percent of the existing parcel or fifteen acres, whichever is less. Coverage for the purposes of this measure shall be the aggregate paved or impervious ground surface areas of the production facility, storage areas (except caves), offices, laboratories, kitchens, tasting rooms, paved areas and access roads to public or private roads or rights-of-way and above-ground sewage disposal systems.

SECTION 20.

A new section 12421 is added to the Napa County Code

to read in full as follows:

Sec. 12421. Accessory Structures related to Wineries in AP/AW.

The maximum square footage of structures used for accessory uses that are related to a winery shall not exceed forty percent of the area of the production facility. "Production Facility" for the purpose of this section means crushing, fermenting, bottling, bulk and bottle storage, shipping, receiving, laboratory, equipment storage and maintenance facilities but shall not include wastewater treatment or disposal areas which cannot be used for agricultural purposes.

SECTION 21.

A new Section 12602.3 is added to the Napa County

Code to read in full as follows:

Sec. 12602.3. Winery Signs.

If a winery is required to have a sign identifying the winery as such at the entrance to or from a public roadway, or elects to have such a sign, any tour or tasting at the winery shall be unlawful and shall not be permitted unless the sign includes the words "Tours and Tastings by Prior Appointment Only" and the sign conforms to standards adopted by the Commission by resolution as to size, placement, materials, legibility and maintenance.

SECTION 22.

Notwithstanding any other provision contained in

this ordinance or the Napa County Code:

- (a) Any building or use for which a use permit has been lawfully granted to construct a winery but which has not been used in the manner set forth in Section 12806 of the Napa County Code on or before February 22, 1990, may be completed and used in accordance with the approved use permit without regard to the changes contained in this ordinance; provided, however, that if construction is required to "use" the use permit, applications for all necessary permits, together with any required plans, must be filed with the appropriate departments within one hundred twenty days of February 22, 1990, and the permit used pursuant to Section 12806 within a reasonable period of time thereafter not to exceed one hundred eighty calendar days and diligently prosecuted to completion. Any such building or use shall thereafter be deemed to have been lawfully constructed or the use commenced as of the date of the issuance of the use permit.
- (b) Any building or use for which a certificate of exemption has been lawfully granted pursuant Section 12048 of the Napa County Code to construct a small winery, but has not been "used" in the manner described by Section 12806 of the Napa County Code prior to January 23, 1990, may be completed without regard to the changes contained in this ordinance; provided, however, that if construction is required to "use" the certificate of exemption as the term "used" is

defined in Section 12806 of the Napa County Code, applications for all necessary permits, together with any required plans, must be filed with the appropriate departments within one hundred twenty days of February 22, 1990, and the certificate "used" as that term is defined by Section 12806 within a reasonable period of time thereafter not to exceed one hundred eighty calendar days and diligently prosecuted to completion. Any such building or use shall thereafter be deemed to have been lawfully constructed or the use lawfully activated as of the date the certificate of exemption was issued to the holder.

- (c) Any use permit or certificate of exemption referenced in subparagraph (a) or (b) which authorizes the construction of a winery or which permits the construction of structures or the establishment of uses inconsistent with this ordinance shall be automatically revoked upon February 22, 1990, if compliance with subparagraphs (a) or (b), whichever is applicable, does not occur.
- (d) If, prior to February 22, 1990, a use permit is granted or denied by the Conservation, Development and Planning Commission or prior to January 23, 1990, a request that a small winery certificate of exemption be issued by the Conservation, Development and Planning Department is approved or denied in writing, and the decision by the Department or Commission is appealed to the Board of Supervisors, the decision of the Board to grant or deny the appeal is deemed to relate back to the date the original decision was rendered by the Department or Commission.

SECTION 23. If any section, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors declares that it would have adopted this ordinance and each section, sentence, clause or phrase and portion thereof, irrespective of the fact that any one or more sections, sentences, clauses, phrases or portions be invalid or unconstitutional.

SECTION 24. This ordinance shall take effect thirty days after its passage.

SECTION 25. A summary of this ordinance shall be published at least once five days prior to adoption and at least once before the expiration of fifteen days after its passage in the Napa Register, a newspaper of general circulation, printed and published in the County of Napa, together with the

names of the members voting for and against the same.

The foregoing ordinance was introduced and read at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 17th day of January, 1990, and passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 23rd day of January, 1990, by the following vote:

AYES: SUPERVISORS	<u>VARRELMAN, NEGRI, WHITE, BATTISTI, and</u>
	<u>MIKOLAJCIK</u>
NOES: SUPERVISORS	<u>NONE</u>
ABSENT: SUPERVISORS	<u>NONE</u>

*John Mikolajcik*  
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 JOHN MIKOLAJCIK, Chairman  
 Board of Supervisors

ATTEST:

AGNES DEL ZOMPO,  
Clerk of the Board

*Teri Sisson*  
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**APPROVED** JAN 23 1990  
 BOARD OF SUPERVISORS  
 COUNTY OF NAPA

AGNES DEL ZOMPO  
CLERK OF THE BOARD

BY *Karla Prescott* Deputy