

**RESOLUTION NO. 2010-48**

**A RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, ESTABLISHING INTERPRETIVE GUIDANCE ON MARKETING ACTIVITIES FOR WINERIES**

**WHEREAS**, wineries were established shortly after the planting of vineyards in Napa County and have been an important component of Napa County agriculture since the nineteenth century; and

**WHEREAS**, wineries have historically engaged in accessory uses in order to market and sell wine directly to consumers in addition to sales through other channels; and

**WHEREAS**, the County adopted a Winery Definition Ordinance in 1990 with the intent of defining uses that are permitted in association with wineries; and

**WHEREAS**, the resulting sections of Napa County Code have ensured that wineries approved since adoption of the Winery Definition Ordinance have remained agricultural processing facilities with accessory uses, such as tours and tastings, marketing of wine, office, and retail sales; and

**WHEREAS**, such uses would be deemed inappropriate in agricultural areas and therefore not permitted unless they remain incidental and subordinate to the primary use of a winery as an agricultural processing facility; and

**WHEREAS**, since adoption of the Winery Definition Ordinance, the County has relied on the ordinance in granting use permits and use permit modifications, and has attempted to implement provisions of the ordinance consistently and fairly; and

**WHEREAS**, the County, existing winery operators, and applicants seeking approval to construct new wineries all benefit from a common understanding of the requirements and restrictions added to Napa County Code with adoption of the Winery Definition Ordinance; and

**WHEREAS**, the County is now considering adoption of an ordinance clarifying the definition of "Marketing of Wine" and other sections of Napa County Code first adopted as the Winery Definition Ordinance in 1990; and

**WHEREAS**, the County wishes to complement the proposed ordinance with a resolution of Board policy providing interpretive guidance; and

**WHEREAS**, the interpretive guidance provided herein is intended to improve the quality of winery applications and compliance with winery requirements, and may be amended or supplemented by Board of Supervisors Resolution from time to time,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Napa as follows:

1. The Interpretive Guidance provided in Exhibit "A" reflects the Board's interpretation of winery-related sections of the zoning ordinance; and
2. The zoning ordinance shall control in the event of any conflict between the ordinance and this Resolution and/or Exhibit "A."
3. This Resolution shall take effect at the same time as the concurrent ordinance clarifying the definition of "Marketing of Wine" and other sections of Napa County Code.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of the Board held on the 11th day of May, 2010, by the following vote:

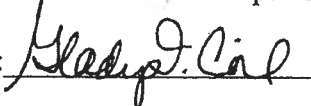
AYES: SUPERVISORS WAGENKNECHT, CALDWELL and DILLON

NOES: SUPERVISORS LUCE and DODD

ABSENT: SUPERVISORS NONE

  
DIANE DILLON, Chair  
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL  
Clerk of the Board of Supervisors

By: 

|                                                                                                                                                                                         |                                                                                                                                                                                        |
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| <p><b>APPROVED AS TO FORM</b><br/><b>Office of County Counsel</b></p> <p>By: <u>Laura J. Anderson (by e-signature)</u><br/>Deputy County Counsel</p> <p>Date: <u>April 23, 2010</u></p> | <p><b>APPROVED BY THE BOARD OF SUPERVISORS</b></p> <p>Date: May 11, 2010</p> <p>Processed by: </p> |
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Exhibit A  
Interpretative Guidance

I. Events Permitted as part of "Marketing of Wine"

Since the adoption of the Winery Definition Ordinance in 1990, Napa County Code has allowed activities for the education and development of customers and potential customers at wineries under the definition of "marketing of wine." Cultural and social events that are unrelated to education and development are explicitly not permitted, while cultural and social events that are directly related to education and development have always been allowed. Business events are similar to cultural and social events, in that they are only permitted as part of "marketing of wine" if they are directly related to the education and development of customers and potential customers of the winery and are part of an approved marketing plan that in its totality is "clearly incidental, related and subordinate to the primary operation of the winery as a production facility" (Sections 18.16.030(G)(5) and 18.20.030 (I)(5)).

The following are some examples of marketing events, including cultural and social events that the County considers directly related to education and development of consumers. These events fall within the definition of "marketing of wine." In each case, the example describes the intent of the event, the wine-related content, and the non-wine related content.

1. A winery invites 250 members of their wine club to the winery for a special harvest musical event. Catered food is served, the previous year's vintage is tasted from the barrel, and a string quartet performs.
2. Every year on December 5, a winery throws a Repeal Party for 100 invited distributors, wine shop owners, restaurant owners, and wine writers. No presentations are made, winemaking is not formally discussed, no food is served, but copious amounts of wine are consumed.
3. On Arbor Day, a winery owner invites 15 of her closest friends (many, but not all, of whom are regular purchasers of her wine) to a special luncheon event. Guests assemble around a heritage oak, various smoked and wood-grilled foods are served; the event culminates in the opening of the winery's ultra rare Arbor Day Cuvee, a cabernet sauvignon that has been aged for three years in untoasted oak barrels.

Examples of cultural and social events that are not permitted include weddings, wedding rehearsals, anniversary parties, and similar events where the education and development of consumers is subordinate to non-wine-related content.

The following are some examples of business events that the County considers directly related to education and development of consumers, and therefore fall within the

definition of “marketing of wine.” In each case, the example describes the intent of the event, the wine-related content, and the non-wine related content.

1. A three hour (total) tour of the winery and private tasting event is provided for employees of a national bank. Half of the event is taken up by the regional bank manager delivering a speech addressing business prospects for the coming year.
2. The COO of a Rutherford winery leads a tour of the facility’s state of the art energy efficiency and wastewater recycling programs and hosts a round table discussion about green house gas reduction efforts in the County which includes County staff, Sacramento lawmakers, and local business leaders. The afternoon ends with a wine and cheese reception featuring the winery’s biodynamically certified wines.
3. A half-day corporate retreat for a San Rafael-based software firm’s 35-member account management group. From 10 to 1 they enjoy a tour of the cellars, a tasting, and a winemaker-hosted blending lab. From 1 to 2 there is a buffet luncheon featuring estate-produced wines; over lunch the group discusses the technical aspects of the firm’s new 3D rendering tool.

Examples of business events that are not permitted include non-winery related staff meetings, conferences, shareholder meetings, and similar events where the education and development of consumers is subordinate to non-wine-related content.

The above examples are provided for guidance only. They are not intended to constitute an exhaustive list of all cultural, social, or business marketing events which are either consistent with or inconsistent with the “marketing of wine.”

Under no circumstances may winery facilities be rented out to third parties as venues for parties, meetings, or events the way that restaurants or hotels might rent their banquet halls or meeting rooms.

## II. Conversion of Existing Structures:

To discourage property owners from constructing residences and barns with the express intent of converting them to wineries, the County does not generally support use permit proposals seeking to convert existing buildings to winery use if the buildings have been constructed or substantially modified within the last 5-7 years.

## III. The Appropriate Intensity of Marketing Programs:

To ensure that the intensity of winery activities is appropriately scaled, the County considers the remoteness of the location and the amount of wine to be produced at a facility when reviewing use permit proposals, and endeavors to ensure a direct relationship between access constraints and on-site marketing and visitation programs.

IV. Annual "Spot" Audits:

The Conservation, Development and Planning Department's code enforcement program is generally complaint-driven; however the Department and the Planning Commission will continue their practice of encouraging compliance with winery production volumes by annually auditing a random sample of permitted wineries, using data provided by the wineries to State and federal agencies. As staffing allows, the annual "spot" audit may be expanded to consider compliance with winery visitation and marketing programs using data collected by the wineries in conformance with their conditions of approval.

V. Temporary Certificates of Occupancy:

The Building Department will continue their practice of allowing new wineries to produce wine after a temporary certificate of occupancy (TCO) has been granted, and to prohibit wineries from opening to the public for tours and tasting or for marketing events until they have a final certificate of occupancy. TCOs are generally not to be used to allow production of wine for more than one year.

*Last Amended: May 11, 2010*