



**A Tradition of Stewardship  
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**Conservation, Development and Planning**

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**Hillary Gitelman**  
Director

**July 17, 2008**

**TO: All Interested Parties**

**RE: Assembly Bill 2004 (Evans) & the Sale of Wine for Consumption On-Premises**

This memo describes the process that should be followed by wineries in Napa County wishing to take advantage of Assembly Bill 2004 (Evans), which was signed by the Governor on July 16, 2008, and amends the State's Business and Professional Code to allow wineries to sell their wine to customers for consumption on premises.

Passage of this bill does not alter Napa County's Winery Definition Ordinance (WDO) or pre-empt provisions of County Code. In fact, AB 2004 states: "Nothing in this section or in Section 23390 is intended to alter, diminish, replace, or eliminate the authority of a county, city or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by these sections" (added as Section 253358(e)).

Napa County's land use regulations permit wineries to be established in most unincorporated areas upon authorization of a use permit. Thus, all wineries are subject to the conditions attached to their individual use permit, except for wineries approved prior to 1974, the year that the use permit requirement was first instituted. Also, wineries established prior to 1974 may not change their operation without first obtaining a use permit.

Winery use permits typically specify the size of the winery (lot coverage and production capacity), the physical layout of the facility, and the intensity of use (tours & tasting and marketing events). Conditions attached to the use permit often address hours of operation, access and parking issues, and issues related to water use and waste disposal. Pursuant to the WDO, wineries approved since January 22, 1990<sup>1</sup> may only offer tours & tastings by appointment, and may only engage in marketing activities meeting the definition contained in County Code Section 18.08.370 as follows:

"Marketing of wine" means 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 prearranged 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

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<sup>1</sup> Provisions of the WDO also apply to expansions of pre-WDO wineries.

Chapters 18.16 and 18.20, 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. (Ord. 1104 § 11, 1996: Ord. 947 § 9 (part), 1990: prior code § 12071)

Food service is not permitted at post-WDO wineries except in conjunction with approved marketing events. Also, food service is permitted at pre-WDO wineries only to the extent expressly authorized by use permit or (for wineries pre-dating the use permit requirement) to the extent such activities were legally occurring as of July 31, 1974.

Wineries wishing to take advantage of the changes in State law enacted with adoption of AB 2004 should be advised that modification of their use permit will be required except in unusual instances where pre-WDO wineries already have legally established areas for consumption of wine purchased on the premises (e.g. a wine bar or picnic area). All other wineries should submit an application for a use permit modification, accompanied by a description of the activities they are proposing and a site plan showing the location of the activities. There is a fee associated with processing of a use permit modification, which may be reviewed by planning staff, the zoning administrator, or the planning commission depending on the complexity of the application and the associated level of public controversy.

Please call 253-4417 for more information about the use permit modification process and the required fee, or to schedule a "pre-application" meeting with planning staff.