

ATTACHMENT 1
Q & A: WINERY REGULATIONS & GRAPE SOURCING

WINERIES

1. What is the “WDO”?

Napa County’s Winery Definition Ordinance (or “WDO” as it is more commonly referred to) was adopted by the County Board of Supervisors in 1990. The WDO establishes development and operational parameters for wineries located in the Agricultural Preserve (AP) and Agricultural Watershed (AW) zoning districts. It defines several classes of wineries and sets forth specific regulations for winery-related uses, including winery development standards, wine production activities, grape sourcing, marketing events and tours and tastings. The stated intent of the WDO is to “protect agriculture and open space as the primary land use in Napa County.”

2. How does the City currently regulate wineries?

Wineries are currently allowed as conditionally permitted uses in the Rural Residential (RR), Community Commercial (CC) and Light Industrial (I) zoning districts. The City has also allowed wineries in Planned Development (PD) zoning districts.

The Rural Residential zoning district contains winery regulations that are similar to those established by the WDO, as summarized in Table 1 below.

TABLE 1 – SUMMARY OF CITY AND COUNTY WINERY REGULATIONS

	AP / AW (County WDO)	RR (Calistoga)
Minimum Parcel Size	Y	Y
Production Requirements	Y	Y
On-Site Grape Source Requirement	N	Y
Off-Site Grape Source Requirement	Y	N
Regulations for Marketing Events	Y	Y
Regulations for Tours and Tastings	Y	Y

With regard to the issue of grape sourcing, it should be noted that unlike the WDO the City requires a minimum percentage of the grapes used in wine production to be grown on site (20% for small wineries, 30% for large wineries). However, the City does not have any sourcing requirement for grapes used in production that are grown off-site. This is an issue that it is of concern to the agricultural community.

35 It should also be noted that like the WDO, the City's winery regulations
36 only apply in agriculturally-related zoning districts and do not apply in
37 areas that are zoned for commercial or industrial uses.
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39 **3. What grape sourcing requirements are established by the WDO?**
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41 The WDO sets forth sourcing requirements for wineries located in the AP
42 and AW zoning districts that were established after January, 1990. It
43 requires that at least 75% of the grapes used to make still or sparkling
44 wine be grown within the County of Napa.
45

46 Wineries that were established before 1990 are not subject to the "75%
47 rule" unless they expand beyond their recognized/approved production
48 limit, in which case the increment of expansion becomes subject to the
49 75% rule.
50

51 **4. What grape sourcing requirements do other communities in the
52 County have?**
53

54 Each of the incorporated communities within the County is different with
55 respect to grape sourcing requirements (see Table 2 below). This
56 variation is primarily attributable to differences in regulatory interests
57 and/or land use conditions.
58

59 **TABLE 2 – SUMMARY OF JURISDICTION GRAPE SOURCING REQUIREMENTS FOR**
60 **WINERIES**
61

	WDO (County)	American Canyon	Calistoga	City of Napa	St. Helena	Yountville
Sourcing Rules	Y	N	Y	Y	Y	n/a*
<i>On-Site Req.</i>	N	--	Y	N	Y	--
<i>Off-Site Req.</i>	Y	--	N	Y	Y	--
<i>All Zones</i>	N	--	N	Y	N	--

62
63 * Wineries are not a permitted use in the Town of Yountville.

64 **5. What is the relationship between winery regulations and ABC**
65 **licensing types?**
66

67 Wineries operating in the State of California are required to obtain a "Type
68 02" "winegrower" license from the State Department of Alcoholic Beverage
69 Control (ABC). A winegrower must have facilities and equipment for the
70 conversion of fruit into wine and engage in the production of wine.
71

72 Having a Type 02 license does not exempt a license holder from
73 compliance with local land use and permitting regulations. In fact, ABC
74 will not issue a Type 02 license (or any other type of license) unless it has
75 confirmed with the local jurisdiction that the winery use is allowed under
76 local zoning and all necessary permits have been obtained. Therefore,
77 ABC license types should not be viewed as the "driver" of policies for
78 winery-related uses. However, ABC license types are useful in
79 distinguishing between different types of winery related uses for regulatory
80 purposes – which is discussed later in this report.
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82 **6. There is an interest in establishing grape sourcing regulations for**
83 **wineries in Calistoga. What are some of the considerations that**
84 **should be made?**
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86 Should the City Council be interested in establishing more comprehensive
87 grape sourcing requirements for wineries, staff would suggest the
88 following considerations be made (specific to current regulatory conditions
89 in Calistoga):
90

91 (A) Should sourcing requirements for new wineries consider the
92 winery's overall production capacity so that small / hobby producers
93 are not negatively impacted? For example, sourcing requirements
94 could be established that only apply to wineries producing more
95 than 4,000 cases annually.
96

97 (B) Should "off-site" sourcing requirements be applied only to wineries
98 operating in the Rural Residential zoning district or land designated
99 as Rural Residential by the General Plan (similar to how the WDO
100 only applies to agriculturally designated lands), or should off-site
101 sourcing requirements be applied to wineries regardless of land use
102 designation?
103

104 (C) There are many "garage" wineries located in Calistoga that do not
105 physically produce or taste wines on site but have administrative
106 offices and/or limited storage. These wineries may be inadvertently

107 be effected by regulations intended for wineries with full production
108 capabilities. If sourcing requirements are established, should there
109 be a provision that exempts “garage” wineries.
110

111 (D) Should regulatory incentives be offered to encourage use of grapes
112 grown within the Calistoga AVA?
113

114 **WINERY TASTING ROOMS**

115 **7. How does the WDO regulate winery tasting rooms?**

116 The WDO allows wineries located in the AP and AW zoning districts to
117 offer tastings on the premises of the winery to members of the wine trade,
118 persons invited by the winery who have a pre-established business or
119 personal relationship with the winery or its owners, and persons who have
120 made unsolicited prior appointments for tastings. Wines offered for
121 tasting at a winery are limited to those that are produced by or for the
122 winery.
123
124

125 Wine that is sold at winery must be (1) wine that is fermented or
126 refermented and bottled at the winery (subject to grape sourcing
127 requirements discussed in No. 3 above); and (2) wine that is produced by
128 or for the winery from grapes grown in Napa County.
129
130

131 “Stand-alone” tasting rooms that are located in a commercial zoning
132 district are not subject to the regulations of the WDO. There are no
133 sourcing restrictions for stand-alone tasting rooms in County’s commercial
134 zoning districts.
135

136 **8. What regulations does the City have for winery tasting rooms?**

137 Winery tasting rooms are allowed as a conditionally permitted use in the
138 Rural Residential (RR) zoning district in conjunction with a winery and
139 have also been allowed in Planned Development (PD) zoning district.
140 “Stand-alone” winery tasting rooms are allowed in the Downtown
141 Commercial (DC), Community Commercial (CC) and Light Industrial (I)
142 zoning districts.
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145 In the Rural Residential (RR) zoning district, wine tasting is identified as
146 an allowable use for “large” wineries (defined as producing up to 4,000
147 cases annually), but is not identified as being permitted for small wineries
148 (defined as producing up to 2,000 cases). It is staff’s interpretation that
149 tasting of wine at a small winery would be inherently allowed as part of a

150 private wine marketing event, but that a room or facility specifically
151 designed for tasting would not be permissible.

152
153 Wines sold at wineries located within the RR zoning district are limited to
154 those produced on site.

155
156 In the DC, CC or I zoning districts, wines poured and sold in a stand-alone
157 tasting room would be restricted to those produced under the winery's
158 Type 02 license.

159
160 **9. Does the City have grape sourcing requirements for winery tasting**
161 **rooms?**

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163 As noted in No. 2 above, in the RR zoning district requires a minimum
164 percentage of the grapes used in wine production to be grown on site
165 (20% for small wineries, 30% for large wineries) but does not have any
166 sourcing requirement for off-site grape sources. Therefore it is possible
167 that wine tasted and sold at a winery in the RR zoning district might have
168 been produced with only 20 or 30 percent of grapes grown in Napa
169 County.

170
171 There are currently no grape sourcing requirements for wines poured or
172 sold in a stand-alone winery tasting room in the DC, CC or I zoning
173 districts.

174
175 **10. Who can operate a stand-alone / off-site winery tasting room?**

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177 A winery with a Type 02 "winegrower" license is permitted to operate one
178 stand-alone tasting room at an "off-site location" (i.e., a location other than
179 the location where the wine is produced) under what is called a "Duplicate
180 Type 02" license. Under a Duplicate Type 02 license, any winery -
181 whether located in Napa County or elsewhere in California - may open up
182 a stand-alone winery tasting room in Calistoga.

183
184 Stand-alone tasting rooms have become increasingly popular and are a
185 particular focus of communications received from the agricultural
186 community. An article written by local attorneys Katherine Philippakis and
187 Richard Shapiro describing the land use considerations associated with
188 off-site tasting rooms is provided as Attachment 2 to the staff report.

189
190 **11. Have other communities in the County established grape sourcing**
191 **requirements for stand-alone winery tasting rooms?**

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The City of St. Helena and Town of Yountville have both established grape sourcing requirements for stand-alone winery tasting rooms (see Table 3 below).

TABLE 3 – SUMMARY OF JURISDICTION GRAPE SOURCING REQUIREMENTS FOR STAND-ALONE WINERY TASTING ROOMS

	WDO (County)	American Canyon	Calistoga	City of Napa	St. Helena	Yountville
Sourcing Rules	N*	N	N	N	Y	Y
<i>Requirement**</i>	--	--	--	--	75%	75%

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* The WDO does not apply to stand-alone tasting rooms that are located in a commercial zoning district.

** Requirement that wines poured and sold in stand-alone tasting rooms be made from a minimum of 75% Napa County grapes.

Technically, the sourcing requirements established by St. Helena and Yountville are more restrictive than the sourcing requirements for a winery operating in Napa County in that they require all wines poured and sold in a stand-alone tasting room to be made with a minimum 75% Napa County grapes. For wineries located in the AP or AW zoning districts, only 75% of the wine produced is required to be from grapes grown in the County (with the remaining 25% being unrestricted). Staff's understanding is that the more restrictive approach for stand-alone tasting rooms has been done for ease of code enforcement.

Establishment of a "75% rule" for stand-alone tasting rooms would virtually eliminate the ability of a winery that produces wine made primarily with grapes from Sonoma, Lake or elsewhere to open a stand-alone tasting room in Calistoga. A 75% rule for stand-alone tasting rooms could also prevent Napa-based wineries that are "pre-WDO" (not subject to sourcing restrictions) from opening a tasting room in Calistoga if they are producing wines made with less than 75% Napa County grapes.

226 **12. How do grape sourcing requirements for stand-alone winery tasting**
227 **rooms effect other businesses that may sell and/or taste wines?**
228

229 For regulatory purposes, it is possible to distinguish between winery-
230 related uses through definitions that reference the type (or types) of ABC
231 license that the business holds. For example, a wine shop that is not
232 owned by a winery but may pour and sell wines may require a Type 20, 21
233 and/or Type 42 license from ABC as opposed to a Type 02 license for a
234 winery tasting room.
235

236 **13. There is an interest in establishing grape sourcing regulations for**
237 **stand-alone winery tasting rooms in Calistoga. What are some of the**
238 **considerations that should be made?**
239

240 Should the City Council be interested in establishing more comprehensive
241 grape sourcing requirements for winery tasting rooms, staff would suggest
242 the following considerations be made (specific to current regulatory
243 conditions in Calistoga):
244

245 (A) Should sourcing requirements for stand-alone winery tasting rooms
246 be consistent with the sourcing requirements for wineries subject to
247 the WDO (including provisions for pre-WDO wineries) or should
248 they be more restrictive like the requirements adopted by St.
249 Helena and Yountville?
250

251 (B) Should sourcing requirements for stand-alone winery tasting rooms
252 include incentives for wineries located within city limits and/or that
253 are made with a minimum percentage of grapes grown within the
254 Calistoga AVA?
255

256 (C) Should additional definitions be added to the Municipal Code to
257 distinguish between the different types of uses that may sell or
258 serve wine so to avoid any unintended regulatory consequences?
259

260 **14. There is also some concern about an over-concentration of stand-**
261 **alone winery tasting rooms in our downtown area. What options**
262 **might be available to address this concern?**
263

264 The City of Healdsburg and Town of Yountville have adopted both
265 adopted regulations to limit the number of new tasting rooms in their
266 respective communities. Healdsburg's approach utilizes proximity, size
267 and activity levels as a regulatory basis. Yountville now requires that a

268 certain percentage of floor area within a new tasting room be devoted to
269 non-wine uses.

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271 While consideration of such regulations is beyond the immediate focus of
272 this report, it is an issue that staff can pursue further should the Council be
273 interested.