

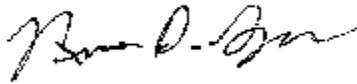
# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Ken MacNab, Planning and Building Manager  
**DATE:** December 6, 2011  
**SUBJECT:** Grape Sourcing Regulations for Wineries and Winery Tasting Rooms

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APPROVAL FOR FORWARDING:



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Richard D. Spittler, City Manager

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2 **ISSUE:** Discussion to confirm and finalize City Council direction on the  
3 preparation of a grape sourcing ordinance for wineries and winery tasting rooms.  
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5 **RECOMMENDATION:** Discuss and provide final direction to staff.  
6

7 **BACKGROUND:** The City Council has received requests from the agricultural  
8 community to adopt an ordinance regulating the source of grapes used in wines  
9 produced at local wineries and in wines tasted and sold in local winery tasting  
10 rooms. At the September 6, 2011 regular meeting of the City Council, the  
11 Council received a staff report comparing the City's winery-related regulations to  
12 regulations that have been adopted by the County as part their Winery Definition  
13 Ordinance (WDO) and regulations adopted by other communities in the Valley.  
14 After extensive public testimony and thorough discussion, the City Council  
15 concluded its deliberations by directing staff to prepare an ordinance that would  
16 establish grape sourcing requirements for both wineries and winery tasting  
17 rooms. At that time, staff advised the City Council that prior to presenting an  
18 ordinance for formal adoption it would prepare and present outline of its  
19 approach on the ordinance for Council review and confirmation.  
20

21 At the October 4, 2011 regular meeting of the City Council, staff presented an  
22 outline of Municipal Code amendments necessary for implementing grape  
23 sourcing requirements for wineries and winery tasting rooms. During this  
24 meeting, staff requested clarification from Council on two issues: (1) identification  
25 of the zoning districts in which grape sourcing requirements for new wineries

26 should be applied; and (2) clarification on the application of the “75% rule” to  
27 winery tasting rooms.

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29 In response to the zoning district question, the City Council expressed an interest  
30 in applying the 75% grape sourcing requirement to all zoning districts in which  
31 wineries are allowed. With regard to winery tasting rooms, the Council  
32 expressed an interest in requiring that 75% of all bottles of wine poured or sold in  
33 a stand alone/off-site winery tasting room be made with at least 75% Napa  
34 grapes, and that the remaining 25% could be unrestricted in terms of grape origin  
35 BUT must be produced by a winery that is physically located within the County of  
36 Napa.

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38 Council was advised (both by staff and by an attorney representing the Bounsall  
39 family) of potential legal issues related to sourcing regulations. The City Council  
40 requested that staff consult with the City Attorney and report back.

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42 **DISCUSSION:** Following the October 4, 2011 meeting, staff contacted the City  
43 Attorney’s office to discuss the Council’s interests in regulating wineries and  
44 winery tasting rooms and pertinent legal issues. Based upon input received from  
45 the City Attorney, staff believes the options outlined below would be the most  
46 prudent approach in establishing grape sourcing requirements for both wineries  
47 and winery tasting rooms.

#### 48 49 **Wineries**

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51 **STAFF RECOMMENDATION:** Consistent with the County’s Winery Definition  
52 Ordinance, staff recommends that grape sourcing requirements (i.e., the “75%  
53 rule”) only be applied to wineries that are located within the Rural Residential  
54 zoning district.

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56 *Comment:*  
57 The primary policy interest in regulating the source of grapes used in wine  
58 production is to preserve agricultural lands located within city limits and the area  
59 immediately surrounding city limits. Because the majority of agricultural  
60 production within the city occurs on lands that are zoned Rural Residential, staff  
61 believes there is an appropriate regulatory relationship for establishing grape  
62 sourcing requirements in this district. The relationship between agricultural  
63 preservation and grape sourcing requirements becomes weaker when applied in  
64 non-agriculturally based zoning districts.

#### 65 66 **Winery Tasting Rooms**

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68 **STAFF RECOMMENDATION:** Staff recommends that the City Council establish  
69 a regulation requiring that 75% of all wines poured for tasting in a “stand-alone”

70 winery tasting room be labeled as Napa County, Napa Valley or other legally  
71 recognized American Viticultural Area within the County of Napa. The remaining  
72 25% could be any other wine that the winery produces. The 75% requirement  
73 would not apply to wines that are sold in a stand-alone winery tasting room.

74

75 *Comment:*

76 In general, the authority to regulate the manufacture, sale and distribution of  
77 alcoholic beverages rests with the State. However, cities are allowed to regulate  
78 the consumption of alcoholic beverages. Staff believes that the recommended  
79 approach of regulating what can be consumed (i.e., poured/tasted) in a stand-  
80 alone winery tasting room without restriction on what can be sold in the tasting  
81 room avoids regulatory conflicts, supports local agriculture and promotes quality  
82 Napa wines.

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84 A summary of how these recommendations, if accepted by the City Council,  
85 would appear in the Municipal Code is attached (Attachment 1).

86

87 **NEXT STEPS:** With concurrence that the regulatory approaches described  
88 above are acceptable, staff will proceed with preparing an ordinance for formal  
89 review and adoption. It is anticipated that a draft ordinance could be presented  
90 for review and recommendation by the Planning Commission in January, 2012.

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92 **CORRESPONDENCE:** As of the writing of this report staff has not received any  
93 communications regarding this item.

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95 **FISCAL IMPACT:** Preparation of a grape sourcing ordinance will require the  
96 commitment of limited staff resources and expenditures for City Attorney review  
97 of the draft ordinance and preparation of findings in support of adoption.

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99 **ATTACHMENTS:**

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- 101 1. Summary of amendments to the Calistoga Municipal Code for implementing  
102 grape sourcing regulations as recommended by staff.

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**ATTACHMENT 1**

**SUMMARY OF MUNICIPAL CODE AMENDMENTS  
IMPLEMENTING GRAPE SOURCING REGULATIONS**

Implementation of grape sourcing regulations for wineries and winery tasting rooms will require amendments to multiple sections of Title 17 (Zoning) of the Municipal Code. Individual section amendments are identified and summarized below.

**1. ADD NEW WINE-RELATED USE DEFINITIONS TO THE ZONING CODE**

New and revised wine-related use definitions would be added to Section 17.04 of the Municipal Code. The definitions would serve to update and clarify terms currently used in the Zoning Code and will distinguish between different wine-related uses. Most definitions have been modeled from definitions used by the City of St. Helena and Town of Yountville.

A. "Private Wine Marketing Event". A private wine marketing event is any activity conducted for the purpose of educating members of the wine trade and persons who have a pre-established business relationship with the owner/operator of the business in order to increase the amount of wine sold to those individuals. Marketing activities may include food service without charge when provided in association with such education and business development, but shall not include cultural and social events unrelated to such education and development.

B. "Public Tours and Tastings". Public tours and tastings are tours of a winery and/or on-site tastings of wines produced on the premises. Public tours and tastings may also include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.

C. "Winery". A winery is a bonded establishment primarily used for the purpose of processing grapes or other fruit products into wine. Processing includes, but is not limited to, crushing, fermenting, blending, aging, storage, bottling, and wholesale or retail sales of wine produced or bottled on the premises. Ancillary activities such public tours and tastings, private wine marketing events, sales of wine or winery-related merchandise, and public winery events may be conditionally permitted in conjunction with a winery.

- 47 D. "Winery Event". Winery events are events or activities which are  
48 open to or hosted by members of the general public.  
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- 50 E. "Wine Shop". A wine shop is an establishment that purchases and  
51 sells wines from multiple wineries and distributors. Wine shops are  
52 not owned or operated by wineries and must possess a Type 20,  
53 21 or 42 license from the State Department of Alcoholic Beverage  
54 Control (ABC). Wines sold in a wine shop may be made in other  
55 counties in California, other states or other countries. Incidental  
56 wine tastings may occur in wine shops.  
57
- 58 F. "Winery Tasting Room". A winery tasting room is an establishment  
59 that sells wines on behalf of one or more wineries and enables  
60 consumers to taste wine (with and without charge) as a regular part  
61 of the sales business. Winery tasting rooms are owned or operated  
62 by wineries and must possess a Type 02 license from the State  
63 Department of Alcoholic Beverage Control (ABC).  
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65 **2. REVISE THE RURAL-RESIDENTIAL ZONING DISTRICT**  
66 **REGULATIONS FOR SMALL WINERIES TO IMPLEMENT THE "75%**  
67 **RULE" AND CLARIFY WINERY-RELATED PROVISIONS**  
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69 Sections 17.14.020(B)(8) and (9) would be amended to require that a  
70 minimum of 75% of the wine produced at winery located in the Rural  
71 Residential zoning district be made from fruit grown within the County of  
72 Napa. Current requirements that a minimum percentage of grapes used  
73 in wine production be grown on the same site the winery is located on  
74 would remain unchanged. Terminology related to tours and tastings and  
75 winery events would also be updated to be consistent with the definitions  
76 noted in No. 1 above.  
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78 **3. REVISE HOME OCCUPATION REGULATIONS TO CLARIFY HOME**  
79 **WINERY USES.**  
80

81 The following subsection would be added to Section 17.21.040 (Home  
82 Occupations) to clarify permissible wine-related home occupation uses:  
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84 "Winery-related home occupations shall be limited to administrative  
85 activities, barrel aging and storage. Indoor storage of up to two  
86 barrels or 50 cases of wine shall be permitted. Home-based  
87 wineries shall comply with any grape sourcing requirements that  
88 are applicable to the facility at which the fruit used to produce the  
89 wine is crushed. No public tours and tastings, private wine  
90 marketing events, winery events, retail or wholesale distribution  
91 shall be permitted on the premises."  
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93 **4. REVISE THE DOWNTOWN COMMERCIAL (DC) ZONING DISTRICT**  
94 **REGULATIONS TO CLARIFY AND DISTINGUISH BETWEEN**  
95 **DIFERRENT WINE-RELATED USES AND IMPLEMENT A NAPA**  
96 **COUNTY WINE REQUIREMENT FOR WINES POURED/TASTED IN A**  
97 **WINERY TASTING ROOM.**  
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99 Section 17.22.040(B)(20) would be revised to clarify and distinguish  
100 between conditionally permitted wine-related uses and to establish a  
101 requirement that wines poured for tasting in a winery tasting room must be  
102 labeled as Napa County, Napa Valley or other legally recognized  
103 American Viticultural Area within the County of Napa. “Wine Shops” and  
104 “Winery Tasting Room” uses (as defined in No. 1 above) would be added  
105 to the list of conditionally permitted uses.  
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107 “20. Wine shops as defined in Chapter 17.04 CMC, including  
108 tasting facilities;  
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110 21. Winery tasting rooms as defined in Chapter 17.04 CMC,  
111 provided that 75% of the wines poured for tasting in the  
112 winery tasting room are labeled as Napa County, Napa  
113 Valley or other legally recognized American Viticultural Area  
114 within the County of Napa.  
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116 22. Wine, beer and liquor sales.”  
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119 **5. REVISE THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT**  
120 **REGULATIONS TO CLARIFY AND DISTINGUISH BETWEEN**  
121 **DIFERRENT WINE-RELATED USES AND IMPLEMENT A NAPA**  
122 **COUNTY WINE REQUIREMENT FOR WINES POURED/TASTED IN A**  
123 **WINERY TASTING ROOM.**  
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125 Section 17.22.060(B)(21) would be revised to clarify and distinguish  
126 between conditionally permitted wine-related uses and to establish a  
127 requirement that wines poured for tasting in a winery tasting room must be  
128 labeled as Napa County, Napa Valley or other legally recognized  
129 American Viticultural Area within the County of Napa. “Wine Shops” and  
130 “Winery Tasting Room” uses (as defined in No. 1 above) would be added  
131 to the list of conditionally permitted uses.  
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133 “21. Wine shops as defined in Chapter 17.04 CMC, including  
134 tasting facilities;  
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138 winery tasting room are labeled as Napa County, Napa

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Valley or other legally recognized American Viticultural Area within the County of Napa.

- 23. Wineries, including public tours and tastings, winery events and private wine marketing events as defined in Chapter 17.04 CMC.
- 24. Wine, beer and liquor sales.”

**6. REVISE THE LIGHT INDUSTRIAL (I) ZONING DISTRICT REGULATIONS TO CLARIFY USES ALLOWED IN CONJUNCTION WITH A WINERY.**

Section 17.26.020(H) of the Light Industrial (“I”) zoning district would be revised to clarify that tours and tastings and events may be allowed in conjunction with a winery through the conditional use permit process.

“Wineries, including public tours and tastings, winery events and private wine marketing events as defined in Chapter 17.04 CMC.”