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17.14.200.ord  
01/16/09



ORDINANCE NO. 4808

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES  
ORDAIN AS FOLLOWS:**

Section 1. Section 17.14.200 of Chapter 17.14 of Title 17 of the El Dorado County Ordinance Code is hereby removed in its entirety.

Section 2. Section 17.14.200 of Chapter 17.14 of Title 17 of the El Dorado County Ordinance Code is hereby added as follows.

17.14.200 Wineries

A. Purpose. The purpose of the winery ordinance is to:

1. Provide for the orderly development of wineries and accessory uses within specified agricultural zones and specified residential zones to ensure compatibility with adjacent land uses (General Plan Policy 2.2.5.21.)
2. To encourage the economic development of the local agricultural industry by allowing for the direct sales and marketing of value added products (General Plan Policy 10.1.5.4.)
3. To implement General Plan policies that encourages development of agricultural-related uses while protecting the agricultural character and long-term agricultural production of agricultural lands. (General Plan Policies: 8.2.2.1, 8.2.4.2., 8.2.4.3, 8.2.4.4, and 8.2.4.5)

B. Wineries and Accessory Uses. Those uses identified as "by right" are subject to compliance with all applicable provisions of the Zoning Ordinance. Uses may also require grading permits, building permits, or other permits as required by the County Code. Those uses identified as permitted by Conditional Use Permit (CUP) require an Administrative Permit (17.22.350), Minor Use Permit (17,22.400) or a Special Use Permit (17.22.500) as determined by the Director of Development Services (Director).

1. Use Classifications. The winery and accessory uses are grouped into the following classes and are further defined in Section C, Winery Uses:

- Class 1: Winery (C.1)  
Tasting facilities (C.2.a)  
Wholesale and retail sales of wine (C.2.b)  
Retail sales of merchandise and art (C.9)  
Public Tours  
Picnic Areas (C.8)  
Marketing Events (C.2.c)
- Class 2: Special Events limited to the provisions of C.3.
- Class 3: Agricultural related museum (C.7)  
Commercial kitchen facilities (on premises functions only) (C.6)
- Class 4: Commercial kitchen use for catering off-premises functions (C.10)  
Distilleries (C.5)  
Dining facility (C.4)
- Class 5: Special Events that exceed the provisions of C.3.a and C.3.b.

2. Uses Allowed. Wineries and accessory uses shall be allowed as set forth below (acreages are gross acreages of individual lots):

a. AE, PA, and SA Zones (20 acres or more) (Both within and outside of an Ag District): Lots Zoned AE, PA, and SA; that are 20 acres or more; with a minimum of five acres commercial vineyard; the following uses are allowed:

- By right: Class 1, Class 2, and Class 3.
- By CUP: Class 4 and Class 5.

b. AE, PA, and SA Zones (10 acre minimum) within Ag District: Lots Zoned AE, PA, and SA; that are a minimum of 10 acres, but less than 20 acres; with a minimum of five acres commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:

- By right: Class 1 and Class 2.
- By CUP: Class 3, Class 4, and Class 5

c. AE, PA, and SA Zones (10 acre minimum) not in Ag District: Lots Zoned AE, PA, and SA, that are a minimum of 10 acres, but less than 20 acres; with a minimum of five

acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:

By right: none  
By CUP: Class 1, Class 2, Class 3, and Class 4

d. AP zones: In AP Zones that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; the following uses are allowed:

By right: none  
By CUP: Class 1, Class 2, Class 3, and Class 4

e. RA Zone within Ag District. Lots Zoned RA; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:

By right: Class 1  
By CUP: Class 2, Class 3, and Class 4

f. RA Zone, not in Ag District. Lots zoned RA; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:

By right: none  
By CUP: Class 1, Class 2, and Class 3

g. RE Zone, within an Ag District. Lots zoned RE; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are located within a General Plan Agricultural District; the following uses are allowed:

By right: Class 1  
By CUP: Class 2, Class 3, and Class 4

h. RE Zone, not in Ag District. Lots zoned RE; that are a minimum of 10 acres; with a minimum of five acres of commercial vineyard; and are not located within a General Plan Agricultural District; the following uses are allowed:

By right: none  
By CUP: Class 1, Class 2, and Class 3

3. Table of Uses Allowed. Table B.3 Uses Allowed represents the same use provisions of B.2, except presented in a table format for ease of use and quick reference. Where there are discrepancies between Section B.2 and Table B.3, the text of Section B.2 shall prevail.

**TABLE B.3**

| Class | Use  | AE, PA & SA Zoning 20+ Acres (B.2.a) (See Note 2) | AE, PA & SA Zoning 10 - 19.9 Acres Within GP Ag District (B.2.b) | AE, PA & SA Zoning 10-19.9 Acres Not In GP Ag District (B.2.c) | RE & RA Zoning 10+ Acres Within GP Ag District (B.2.e & g) | RE & RA Zoning 10+ Acres Not In GP Ag District (B.2.r & h) | AP Zoning 10+ Acres (B.2.d) |
|-------|--|---|--|--|--|--|-----------------------------|
| 1     | New Winery   | By Right  | By Right   | CUP  | By Right   | CUP  | CUP                         |
| 1     | Tasting Facilities   | By Right  | By Right   | CUP  | By Right   | CUP  | CUP                         |
| 1     | Retail Sale of Wine  | By Right  | By Right   | CUP  | By Right   | CUP  |                             |
| 1     | Retail Sale of art/merchandise   | By Right  | By Right   | CUP  | By Right   | CUP  | CUP                         |
| 1     | Public Tours   | By Right  | By Right   | CUP  | By Right   | CUP  | CUP                         |
| 1     | Picnic Areas   | By Right  | By Right   | CUP  | By Right   | CUP  | CUP                         |
| 2     | <b>Special Events:</b><br>50 to 250 PAOT*<br>48 Event days/year including: 12 facility rentals on less than 20 acres or 24 facility rentals for 20 acres or more | By Right  | By Right   | CUP  | CUP  | CUP  | CUP                         |
| 3     | Ag related museums   | By Right  | CUP  | CUP  | CUP  | CUP  | CUP                         |
| 3     | Commercial kitchen for on-site use only  | By Right  | CUP  | CUP  | CUP  | CUP  | CUP                         |
| 4     | Commercial kitchen used for off-site purposes  | CUP   | CUP  | CUP  | CUP  | Prohibited   | CUP                         |
| 4     | Dining facilities  | CUP   | CUP  | CUP  | CUP  | Prohibited   | CUP                         |

|   |  |     |     |            |            |            |            |
|---|--|-----|-----|------------|------------|------------|------------|
| 4 | Distilleries   | CUP | CUP | CUP        | CUP        | Prohibited | CUP        |
| 5 | <b>Special Events:</b><br>With more than 250 PAOT; more than 48 event days/year; or more facility rentals then allowed | CUP | CUP | Prohibited | Prohibited | Prohibited | Prohibited |

\* Persons at one time

CUP = Conditional Use Permit

Note 1: By Right uses may require a CUP pursuant to Section D.1 and E.5 (Access Limitations and Access Standards) and Section D.2 (Land Use Compatibility Limitations)

Note 2: May require a CUP pursuant to Section D.2

C. Winery Uses: The following provisions shall apply to all wineries, accessory structures, and accessory uses:

1. General Winery Provisions. "Winery" means an agricultural processing facility producing wine from fruit or fruit juices through fermentation or the refermenting of still wine into sparkling wine that is bonded through the Alcohol, Tobacco Tax and Trade Bureau and has a current California Alcohol Beverage Control Type 2 Winegrower's License.

a. The primary purpose of the winery shall be to process fruit grown on the winery lot or on other local agricultural lands. No more than 50 percent of the fruit processed shall be imported from outside El Dorado County.

b. Wineries include those areas of a winery where grapes are crushed, fermented or pressed, where bulk wine is stored in tanks or barrels, or where winery operations such as racking, filtering, blending, or bottling of wines are carried out, and on-site case goods storage.

2. Tasting Facilities.

a. Subordinate to Winery. Tasting facilities shall be clearly related, and subordinate to the primary operation of the bonded winery as a production facility. The primary focus of the tasting facilities shall be the marketing and sale of the wine and grape or fruit products produced, vinted, cellared or bottled at the winery. Snack foods that are consumed during wine tasting are allowed.

b. Wine Sales. Retail sales of wine fruit products shall be limited to those produced, vinted, cellared or bottled by the winery operator or grown on the winery lot, or custom crushed at another facility for the winery operator, subject to the provisions of an ABC

Type 2 Winegrower's license. (The ABC Type 2 Winegrower's license requires that at least 50 percent of the wine sold be produced by the winery).

c. Marketing. Tasting facilities include any marketing activities sponsored by a winery facility intended for the promotion and sale of the facility's products. Activities of a marketing event may include, but are not limited to, live music, catered food, food prepared on premises, winemaker dinners, releases, library wines, discounted sales, "bottle-your-own," and similar activities, including amplified outdoor music subject to the County noise ordinance but may not include concerts or events which include more than one facility, or events sponsored by or for the benefit of an organization other than the facility.

3. Special Events. "Special Events" are any events such as charitable events, promotional events, and facility rental events, that are not the tasting and marketing activities described in Subsection C.2.c.

a. Number Permitted. Special events are limited to a total of 48 days per calendar year. Special events that have less than 50 persons at one time shall not count against the total number of events allowed. "Facility rental events" are a type of Special Event where the property owner is compensated for the use of the site and facilities, such as weddings, parties, company picnics, birthdays, reunions, or other social gatherings. Facility rental events are part of the total Special Events permitted, but are further limited to the following

Lots less than 20 acres in size: 12 facility rental days per calendar year

Lots 20 acres or more in size: 24 facility rental days per calendar year

b. Capacity Limitation. All Special Events are limited to 250 persons at one time.

4. Dining Facility. Dining facility means an establishment where food is prepared and served to the public in an established indoor seating area. (17.06.050.Q). The Dining Facility must be subordinate to the sale of wine. The Dining Facility does not include areas of a winery that are temporarily set up for wine maker dinners.

5. Distilleries. "Distillery" means a production facility for purposes of distilling wine to produce high proof or similar distilled spirits which is bonded through Alcohol, Tobacco Tax and Trade Bureau and has a current California Alcohol Beverage Control License. Distilleries are only permitted in conjunction with a winery on the same lot with a CUP. Allowed activities include, but are not limited to, blending, aging, storage, bottling, administrative functions, warehousing operations, wholesale sales, retail sales, and tasting facilities.

6. Commercial Kitchen. Food preparation facilities and sale of prepackaged food items must comply with the California Health and Safety Code and be permitted by

Environmental Management. Commercial kitchens that are permitted shall be accessory to the winery, tasting room, and any other authorized accessory uses.

7. Museum. Agricultural related museums shall be accessory to a winery and tasting room and shall primarily display items from California's agricultural history.

8. Picnic Areas. Picnic areas shall be subordinate to the winery and tasting room.

9. Retail Sales. Retail sales of merchandise, art, prepackaged food items properly labeled in accordance with the California Health and Safety Code shall only be allowed within the tasting facilities and shall not be under any circumstances located in a separate structure. Sales of non-wine merchandise shall be subordinate to the wine sales.

10. Catering. Use of an on-site, authorized commercial kitchen for catering off-site events may be allowed only by CUP and only when the catering use is found to be subordinate to the winery's wine sales on an annual basis.

D. Special Provisions

1. Access Limitations. Uses listed in Subsection B.2 identified as "by right" must meet the access provisions of Subsection E.5 or a CUP is required.

2. Land Use Compatibility Limitations. Proposed winery facilities that are not located within an Agricultural District shown on the adopted General Plan Land Use Map and have property lines adjoining a lot with a non-compatible land use designation shall require approval of a CUP. For purposes of this section, non-compatible land use designations shall be Multifamily Residential (MFR), High Density Residential (HDR), Medium Density Residential (MDR), and Low Density Residential (LDR). The compatibility determination will be made prior to issuance of a building permit for a winery building. Subsequent expansion of the facility buildings or uses will require additional compatibility determinations.

3. IBC Limitations. Wineries and accessory structures in the Important Biological Corridor (IBC) land use designation shall adhere to these additional restrictions, unless mitigated through the CEQA process and a Conditional Use Permit.

a. Minimum lot size for winery and accessory structures is 20 acres.

b. A maximum of 2.5 acres of the lot may be used for winery and accessory uses.

c. Structures shall be setback 200 feet for perennial streams and 100 feet for intermittent streams as shown on the USGS quad maps.

4. Other Zones. All other agricultural and residential zones not listed in this section are not allowed to have wineries or tasting rooms as a primary use or accessory use (either by right or by CUP). It is specifically prohibited to pursue a winery or tasting room as a "home occupation." In the Commercial and Industrial zones, wineries and accessory uses would be allowed in accordance with the specific zone's provisions for wineries and are exempt from this section's provisions, including but not limited to: minimum lot size, vineyard size, location on County maintained road, and adjacent land use designations.

5. Wineries with less than 5 acres of vineyard. Wineries without a minimum five acres of vineyard may only be permitted as a Micro-Winery in Section D.10, except that a winery (C.1) production facility may be approved by conditional use permit if all of the following provisions are met:

- a. The lot is located within a General Plan Agricultural District;
- b. The lot is zoned AE, PA, or SA;
- c. The lot is a minimum of ten acres in size;
- d. The lot shall have a minimum of one acre of vineyard or other fruit crop that is used to produce wine;
- e. The facility is not open to the public;
- f. The only accessory uses in this section allowed is a distillery (C.5); and
- g. At least 75 percent of the fruit used by the facility shall be grown within El Dorado County

6. "Lot." For purposes of the Winery Ordinance, the term "Lot" is used to describe an individual legal parcel. This does not include an administrative parcel used by the Assessor for tax purposes. Lots under the same ownership are not considered to be a single lot for purposes of the Winery Ordinance.

7. Not Additive with Ranch Marketing. The number of Special events may not be added to, or combined with, those allowed by right under Ranch Marketing Ordinance, Section 17.14.180 unless approved by a CUP.

8. Temporary Use Permit. Special events such as fundraisers, concerts, or other special functions where the number of attendees will exceed 250 persons at any given time and determined to be of an infrequent nature not normally conducted at the winery facility or grounds may be permitted by Temporary Use Permit in compliance with Chapter 17.23. Infrequent nature, as used herein, shall mean no greater than three events per calendar year and no more frequent than one event per calendar month.

9. Effect on Existing Special Events. All unpermitted special events in existence on the effective date of this section (February 3, 2009) shall be subject to the standards specified in this Subsection. Existing special events may be continued subject to an Administrative Use Permit only when the scope and frequency of the existing special events can be adequately documented in the application for the Administrative Use Permit. If an applicant wishes to



expand the scope or frequency of the existing special events, a CUP will be required. The required Administrative Use Permit or CUP shall be requested from the County within one year of the effective date specified above. All existing uses shall be allowed to continue for one year from the application date of any of the above specified permits. If the required permit has not been requested within the time frames set forth in this section, the penalties of Chapter 17.12 (Enforcement) of this Title shall apply.

10. Micro-Winery. Micro-wineries shall be permitted by CUP in the SA, PA, AE, AP, RE, and RA zone districts. All micro-wineries are subject to all of the following provisions:

a. Minimum Lot Size. All micro-wineries shall be located on a lot of five acres or more.

b. Vineyard Standards. All micro-wineries shall have a minimum of one acre planted wine grapes on the same lot. One acre shall mean a planting of wine grapes spanning an area of at least 43,560 square feet and consisting of a minimum of 440 grape vines. These wine grapes shall be properly maintained and cared for to produce a commercial crop. Should the proper maintenance and care of the required minimum wine grapes acreage cease, as determined by the El Dorado County Agricultural Commissioner, the right to operate the micro-winery becomes void.

c. Wine Sales. Wine sales shall be by internet, mail order, telephone, facsimile (and similar means), or off-site only. No on-site sales, tasting, or public access is allowed.

d. Limitation on Accessory Uses. No other accessory uses described in this Winery Ordinance is permissible on the site. In no circumstances is wine tasting allowed on-site. No CUP can be approved that permits wine tasting or wine tasting by appointment.

e. Compliance with Laws. All other local, State, and federal laws shall apply and compliance shall be verified prior to operation. At a minimum:

- i. Fire Department shall review the facility for consistency with Fire Code Regulations.
- ii. Waste Discharge permit or Waiver of Discharge Permit from Regional Water Quality Control Board.
- iii. Winegrower license from Alcoholic Beverage Control.
- iv. The facility must be bonded through the Alcohol, Tobacco Tax and Trade Bureau.
- v. Building Permit (Building, Planning, Environmental Management).
- vi. Verification of one acre vineyard, properly maintained (Agricultural Department).