

Winery Ordinance Public Review Comment Summaries: July, 2015

#	Date Received	Author	Summary
1	July 1, 2015	Teri Kerns, Ramona Ranch Vineyard and Winery	<ul style="list-style-type: none"> <li>▪ Opposes revisions that eliminate the "by-right" allowances, prohibit events and advertising</li> <li>▪ Suggest revisions that commercial activities not expressly allowed pursuant to the provisions of Section 6910 are prohibited be removed</li> <li>▪ Suggest revisions that allowable storage building sizes be doubled</li> <li>▪ Suggest revisions that state no additional barns and agricultural storage be changed to wine storage and tasting in these agricultural storage buildings not be allowed without proper Federal Bond and ABC license</li> <li>▪ Suggests that the revisions allow boutique wineries by-right the ability to host no more than 24 events per year, not to exceed 100 guests without a permit</li> <li>▪ Suggests that the revisions allow caterers to operate within the constraints of their licenses</li> <li>▪ Suggests that the revisions allow music in compliance with the County's noise ordinance</li> <li>▪ Suggests that the revisions allow outdoor eating areas to be used by the public only during hours specified in ordinance</li> </ul>
2	July 1, 2015	Megan Escalona, Escalona Cellars	<ul style="list-style-type: none"> <li>▪ Opposes revisions that prohibits wine produced outside San Diego County from being sold, suggests that the revision be removed</li> <li>▪ Opposes revisions that prohibit events</li> <li>▪ Opposes revisions that prohibit advertisement</li> <li>▪ Suggests that specific terms (organized, activity, gathering, event) be defined more clearly</li> <li>▪ Suggested an alternative revision to the Events provision section</li> <li>▪ Suggests an alternative revision to the non-amplified music provision</li> </ul>
3	July 2, 2015	Stan Sisson, Julian Cider Works	<ul style="list-style-type: none"> <li>▪ Suggests that the production of honey be added to the allowable fermentable which would also allow the production of mead</li> </ul>
4	July 6, 2015	S. Elaine Lyttleton & Norman A. Case, Hatfield Creek Vineyards & Winery	<ul style="list-style-type: none"> <li>▪ Opposes revisions that prohibit commercial activities</li> <li>▪ Opposes revisions that prohibit wine production, inventory and storage in agricultural or accessory buildings</li> <li>▪ Suggests that the revisions on permitted caterers be changed to allowed once a month or with prior notice and approval</li> <li>▪ Opposes revisions on outdoor amplified sound</li> </ul>

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			<ul style="list-style-type: none"> <li>▪ Suggests that the revision on outdoor eating areas be tied to the number of parking spaces</li> <li>▪ Suggests revisions to supply more clarification on what an “allowed event” is</li> <li>▪ Questions how the revisions will effect winery’s partnership with the Ramona H.E.A.R.T. Mural Project</li> </ul>
5	July 6, 2015	Oliver Smith, Valley Center Community Planning Group	<ul style="list-style-type: none"> <li>▪ Opposes any restrictions beyond what are imposed on those wineries inside city limits because it would appear to penalize an owner in the unincorporated areas</li> <li>▪ Suggests that the County Counsel or the County to assist winery owners with “private road agreements”</li> <li>▪ Supports the acoustical sound volume limit</li> <li>▪ Opposes the revision on prohibiting advertising.</li> <li>▪ Suggests that food and catering be allowed as long as they carry the appropriate permits</li> </ul>
6	July 13, 2015	Matthew Miller	<ul style="list-style-type: none"> <li>▪ Suggests that the wineries should focus on producing wine instead of serving food which allows for other local eateries to create long-term opportunities and stability</li> <li>▪ Suggests that wineries should provide picnic tables and allow customers to bring foods from local grocers or eateries to enjoy</li> </ul>
7	July 16, 2015	Andy Harris, Chuparosa Vineyard	<ul style="list-style-type: none"> <li>▪ Opposes the revision on onsite production/ tasting room sales and the minimum acreage limitation</li> <li>▪ Opposes the revision on food preparation</li> <li>▪ Opposes the revision on events, and suggests this section be rewritten to state what is permitted and what is forbidden</li> <li>▪ Opposes the revision on tasting room building requirements and area limitations including the requirements of the ADA</li> </ul>
8	July 20, 2015	Carolyn Harris, Ramona Valley Winery Association	<ul style="list-style-type: none"> <li>▪ Provides rebuttal to letter published in Ramona Sentinel</li> </ul>
9	July 28, 2015	Richard McClellan, Highland Hills Wineryc	<ul style="list-style-type: none"> <li>▪ Opposes the revision on increasing the seating capacity of a tour van vehicle</li> <li>▪ Suggests less obstacles or restrictions for the proposed changes</li> </ul>
10	March 16, 2015	Todd Palmer	<ul style="list-style-type: none"> <li>▪ Suggests that the ordinance allow wine to be made from honey</li> </ul>

Joseph Farace, AICP  
Group Program manager, Advance Planning Division  
County of San Diego  
5510 Overland Avenue, #310  
San Diego, CA 92123

July 1, 2015

Dear Mr. Farace,

Thank you for your support of San Diego’s growing wine-grape industry. I appreciate the opportunity to provide input from an operational and small business owner’s perspective on the proposed changes to the County’s Winery Ordinance, #6910. In 2004, we moved to Ramona, joining the Ramona Valley Vineyard Association (RVVA) in February of 2005. Micole now serves as president representing over 100 vineyard members, 25+ winery owners, and numerous business partners. During the first five years we lived in Ramona, we saw our property values plummet, local businesses go bankrupt, and the town of Ramona earn the designation in some circles as “blighted.” Well...I am happy to say this is no longer the case. There is a renewed optimism in the town of Ramona, with much credit being given to the collaboration and impact of the vineyards and wineries that are active in and around the Community. Property values, while not yet where they were when we moved “up the hill” in 2004, are recovering and Main Street is now inviting, with interesting and varied shops and businesses. At the heart of this momentum is our wine tourism industry.

I’d like to provide you with some highlights from the California Wine Institute’s 2013 Report as an example of how this growing industry can impact our local economy:

- There were 20.7 Million Wine-Related Tourist visits in California in 2013.
- 2.1 Billion was spent by Tourists in the California Wine Industry in 2013.
- The California Wine Industry paid 14.7 Billion in State and Federal Taxes in 2013.
- The California Wine Industry created 25.8 Billion in American Jobs
- The full economic impact on the Wine Industry on the American Economy was 162 Billion in 2007 according to MKF’s Research on “The Impact of Wine, Grapes and Grape Products on the American Economy – Family Businesses Building Value.”

Producing wine and growing grapes is a long-term, family owned small business; 90% of vineyards in the US are less than 100 acres; in San Diego County, most are less than 10. These family businesses are credited with the revitalization of rural communities, bringing jobs, shops, restaurants and agro-tourism with an investment in the local culture. We can’t pick up and move a vineyard which costs around \$30,000 per acre to install. This roots us in our communities, making us an integral part. Micole and I chose to start a winery in Ramona because we love the community; the open spaces, trails, horses and people invested in our shared future within the community. The current ordinance encourages us on this path. Eliminating the ‘by-right’ allowances, prohibiting events and advertising while restricting our operations removes the incentive to invest thousands of dollars in our rural communities and will not draw tourists.

Our specific recommendations regarding the 6/26/15 Ordinance Draft includes the following:

Page 1 – Preamble “Commercial Activities not expressly allowed pursuant to the provisions of Section 6910 are prohibited.’ This is vague, open to interpretation and limits the ordinance and industry’s potential to engage supporting businesses in the growing wine industry; often referred to as the ‘ripple effect.’ I am asking that this statement be removed.

Page 3 - #4 The building sizes proposed do not support the amount of wine allowed to be made at the Boutique winery level. For example, at Ramona Ranch with ten acres, we are allowed no more than 3200 square feet; yet we can make up to 5000 cases of wine. Wine requires aging and storage; a good estimate is one foot per case, so just to store 5000 cases, we would need a 5000 square foot facility, plus additional room for shipping, receiving, laboratory, maintenance, circulation, and offices; a reasonable estimate is double these numbers.

Page 4 – #4 (continued) No additional barns, agricultural storage...shall be utilized. Where are we to store all of the equipment that is used once a year in the harvest and production of wine? Recommend this be changed to barns and agricultural storage buildings on the premises shall not be used for wine storage or tasting without the proper Federal Bond and ABC License.

Page 4 – #6 – The word “Parties” has been added to prohibited events; adding the advertising and promotions of any events is prohibited. This is very restrictive and not in-line with the promotion of Agrotourism. In my review of several other successful wine regions in California, boutique wineries are allowed a limited number of events per year by-right, for example in Napa they can host 6 events per year for no more than 399 persons, and 3 events per year for more than 400 persons. My recommendation is that the ordinance allows the boutique wineries by-right the ability to host no more than 24 events per year, not to exceed 100 guests without a special permit, CEQA exempt.

Page 5 - #7 – Disallows licensed caterers from preparing food on-site which may be in conflict with their license and appears to prohibit food trucks; a common practice at our local breweries and urban wineries, as well as in other Counties, for example, Amador County. Serving food to wine drinkers is a good practice and should be encouraged. My recommendation is that caterers be allowed to operate within the constraints of their own specific licenses.

Page 5 - #11 – Does not allow outside amplified music, and requires an “Entertainment Establishment License.” I’ve attempted to obtain an Entertainment Establishment License, after being told by the Sheriff that we cannot provide the acoustic music currently allowed by the existing boutique winery ordinance without this license. Then I was informed that as Ag land, we are not zoned for an Entertainment Establishment License so can’t have one. In reviewing the license application, boutique wineries are not noted as a required establishment. My recommendation is that “Music is allowed in compliance with the existing County Noise Ordinances.”

Page 5 - #13 – States outdoor eating areas shall only be used during the hours specified in the ordinance. I am recommending this be re-worded to clearly not apply to the owners, stating instead **“outdoor eating areas shall only be used by the public during the hours specified in the ordinance.”**

Agritourism is a form of niche tourism that is considered a growth opportunity in many parts of California. This is supported by the University of California’s statement **“Agricultural tourism is one alternative for improving the incomes and potential economic viability of small farms and rural communities...with potential for development.”** American Farm Bureau Community Development Specialist Sabrina Matteson says **agricultural tourism has become an important alternative for improving the incomes and potential economic viability of small farms and rural communities.**

The proposed changes to the San Diego County Winery Ordinance are not Agritourism, Small Business, nor Consumer friendly; I ask that you read this reports I cite, look at the challenges facing our start-up industry and let us know if you want us to succeed or stagnate? Should the changes proceed as written, many fear for the death of our budding wineries, eliminating our potential growth, impact and long-term commitment to our communities. We encourage you to move forward cautiously and avoid adding restrictions that would make our future as wine-grape growers and wine-makers unsustainable, eliminating the potential tax base created by this growing industry and revitalization of our back country.

Sincerely,

*Teri & Micole*

Teri Kerns, Owner and President, Ramona Ranch Vineyard and Winery  
Editor in Chief, Ramona Valley Wine Region Magazine

Micole Moore, Co-owner and Wine-maker, Ramona Ranch Vineyard and Winery  
President, Ramona Valley Vineyard Association (RVVA)

CC:

- *Supervisor Dianne Jacob, San Diego County Board of Supervisors*
- *Eric Larson, Executive Director, San Diego Farm Bureau*
- *Michael Harrison, Deputy District Director, Congressman Hunter*
- *Ramona Chamber of Commerce*

**Lingelser, Heather**

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**From:** Megan Escalona <meganescalona@gmail.com>  
**Sent:** Thursday, July 02, 2015 8:35 AM  
**To:** harrison1515@yahoo.com; Lingelser, Heather  
**Subject:** Tiered Winery Ordinance changes - Suggested Revisions  
**Attachments:** Winery Ordinance Revisions.docx

**Categories:** Important

Thank you very much for reviewing these proposed revisions.

Sincerely,

Escalona Cellars  
Ramona, CA

July 1, 2015

Joseph Farace, AICP  
Group Program manager, Advance Planning Division  
County of San Diego  
5510 Overland Avenue, #310  
San Diego, CA 92123

Dear Mr. Farace,

Thank you for your support of San Diego's growing wine-grape industry. I appreciate the opportunity to provide input from an operational and small business owner's perspective on the proposed changes to the County's Winery Ordinance, #6910. Our comments and proposed changes are as follows:

**Subsection b.3** prohibits wine produced outside San Diego County from being sold on Boutique Vineyard premises.

**This is an unconstitutional constraint on commerce, which violates the Dormant Commerce Clause of the United States Constitution Art. I, Sec. 8.** In particular, the County Ordinance unconstitutionally burdens interstate commerce and discriminates against out-of-state, or even out-of-county, businesses. (See *Wickard v. Filburn* 317 U.S. 111 (1942).) It is an unacceptable constraint on Boutique Vineyards in the area of San Diego County that they only be allowed to do business with other San Diego County wineries. Should such business otherwise comply with the laws of San Diego County, the State of California, and the United States, there is certainly no justification on which the County can rest to levy such constraints. Indeed, even if there were a legitimate interest in preventing the sale of outsourced wine bottles on Vineyards in the County, the County has exceeded its constitutional requirement that any such restraints be narrowly tailored, by having a complete prohibition on such sales.

**Thus, this clause of the phrasing must be removed.**

**Subsection b.6** Reads: "Events, including but not limited to weddings and parties, are prohibited except as provided in this section. An event, for purposes of this Section, is defined as the use of the site for organized activities or gatherings (other than wine production, wine sales, wine tasting, agricultural instruction and educational tours) and also includes any activities or gatherings which may be advertised or promoted."

Taken literally, this means the following: "An event is defined as the use of the site for organized activities or gatherings and also includes any activities or gatherings which may be advertised or promoted."

- 1) **This definition literally is non-sense.** An event cannot be defined as the use of a site for organized activities, gatherings. or activities or gatherings which may be advertised or promoted. That does not make sense.
  - a. **The Statement is Redundant.** "Organized activities or gatherings" covers

all instances in which organized activities or gatherings may be advertised or promoted.

- 2) **“Advertised or promoted” Has Improper Intent.** The purpose of these changes is not meant to literally prevent Boutique Vineyard businesses from being able to advertise or promote any activities on their vineyard sites. The consequence of such a restriction would prevent vineyards from being able to even utter the existence of any organized activities or gatherings. This is both an unacceptable consequence itself, but would also incentivize “unorganized” activities on vineyard grounds, which is not better than organized activities that otherwise, occur within the purview of these regulations.
- 3) **The definition is indefinite and inadequate.**
  - a. **Additional Terms Defined.**
    - i. “Organized” is defined by Merriam Webster’s Dictionary as: having a formal organization to coordinate and carry out activities; affiliated by membership in an organization (as a union).
    - ii. “Activity” is defined by Merriam Webster’s Dictionary as: the state of being active, behavior or actions of a particular kind; something that is done as work or for a particular purpose; something that is done for pleasure and that usually involves a group of people.
    - iii. “Gathering” is defined by Merriam Webster’s Dictionary as: an occasion when people come together as a group; the act or process of gathering something.
  - b. Under this interpretation, or any reasonable alternative definitions, “organized activities” covers every possible act that a Boutique Winery could engage. Because any organized activity would cover any employee, managerial, or other Winery personnel actions.
  - c. In fact, the definition concedes that wine production, wine sales, wine tasting, agricultural instruction, and education tours are all events given the need to exempt those activities.
  - d. Thus, the definition of “event” literally prohibits any activity on a site other than wine production, wine sales, wine tasting, agricultural instruction, and education tours.
    - i. Every single vineyard is violating this rule all the time and in multiple ways because virtually any activity we perform on our properties would meet the common sense definition of “organized activity”. E.g., landscape maintenance performed by more than one person.
    - ii. Without additional definitions for “wine production,” “wine sales,” “wine tasting,” “agricultural instruction,” and “education tours,” the definition of “event” becomes meaningless because it shifts the focus from whether something qualifies as an event to whether something qualifies as one of these things.
    - iii. Two consequences: (1) Boutique Wineries may be chilled into not acting for fear their “event” fails to meet these non-existent definitions; and (2) Wineries may again attempt to bypass the

prohibition by finessing their “event” as “wine production,” “wine sales,” “wine tasting,” “agricultural instruction,” or an “education tour.” Or, alternatively, Boutique Wineries will dodge the exclusion by opening their events to the public by playing host to a non-profit organization. The results of which are likelier to be dangerous given their potential for population draw.

4) **This Clause Is a Better Alternative.**

- a. **Events, except as provided in this section, are prohibited. An “Event,” for the purposes of this Section, is defined as the use of a tasting/retail sales area for hosting organized commercial activities or gatherings. An Event is not prohibited if it is activity undertaken in the ordinary course of business, such as wine production, wine sales, wine tasting, agricultural instruction, or an education tour. An Event is not prohibited if it is a privately promoted gathering that otherwise complies with San Diego County Ordinances and California State Law.**
- b. **“Hosting organized commercial activities or gatherings” is to mean happenings from which the Boutique Winery commercially benefits from the use of their tasting/retail sales area for enterprise neither tangential to nor otherwise tied to wine production.**
  - i. This language satisfies the intent of the County to prevent Boutique Vineyards from throwing large-scale gatherings that function beyond their business enterprise and exploit their wine supply.
- c. **Excluding “Weddings and Parties” is a violation of Boutique Vineyard property rights.** It is an unreasonable consequence of the new drafting that Boutique Vineyards will no longer be able to host weddings. In particular, given the nature of most Boutique Vineyards, the use of the site would suit the hosting of a private wedding and private party. **It is reasonable for San Diego County to prohibit the hosting of a wedding as a commercial enterprise undertaken by Boutique Vineyards. It is, however, unreasonable for San Diego County to prohibit the use of a site for hosting a private wedding or a private party.** Boutique Vineyards should not be held hostage to the nature of their business in exploring their property rights and hosting private weddings or private parties, albeit with friends or family. Regardless, the prohibition is draconian and a violation of property rights.

**Section b.11** Reads: “Outdoor amplified sound is not allowed. Non-amplified, live music may be allowed for the enjoyment of the patrons of the tasting area during the hours of operation in b.8, provided there is no advertisement or promotion that would constitute an event, pursuant to subsection b.6, and provided an Entertainment Establishment License has been issued pursuant to Section 21.2101 et seq. of the County Code.”

**This language is vague and indeterminate. Read literally, non-amplified, live music may be allowed provided there is no advertisement or promotion that would constitute an event, pursuant to subsection b.6.**

- **Improper Intent.** It is not the intent of the commission to cause Boutique Vineyards to be unable to promote the presence of a non-amplified live music act for their tasting areas. Indeed, the exception of wine tasting as a non-event proves that the County does not want to prohibit the promotion of such occurrences. Consequently, it betrays logic that the County would want to permit the advertisement of the wine tasting itself, while prohibiting the mention of the live-act.
- **Better Language. Outdoor amplified sound is not allowed. Non-amplified, live music may be allowed for the enjoyment of the patrons of the tasting/retail sales area during the hours of operation up to 24 times per year.**
  - o **The Intended Prohibited Activities Are Prohibited.** This language still prevents the use of tasting/retail sales areas as concert venues. Compliance with occupancy and hour limitations prevents the foreseeable consequences of a successful advertising effort.
  - o **Prohibiting Advertisement/Promotion is a violation of free speech. It is a First Amendment Constitutional right of Boutique Vineyards to express commercial speech. Advertisement and promotion are forms of commercial speech.** Granted, some content may be constitutionally limited, the consequence of the vague and overbroad definition herein, unconstitutionally chills that freedom of speech. Forcing Boutique Vineyards to not engage in constitutionally protected speech for risk of violating this ordinance.

Thank you very much for your time and consideration.

Sincerely,

Escalona Cellars  
25130 Creek Hollow Dr.  
Ramona, CA 92065

**Lingelser, Heather**

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**From:** Stan Sisson <sdsisson62373@gmail.com>  
**Sent:** Thursday, July 02, 2015 10:11 PM  
**To:** Lingelser, Heather  
**Subject:** Re: Adding honey to allowable fermentables

**Categories:** Important

Hi again,

Yes, the percentages could work in terms of production, but maybe in a different way. We might want to get some beekeepers or honey suppliers involved for their input.

Honey is definately an agricultural product, but from what I understand, hives are often moved around to different locations, both for producing different honeys, but even more importantly, for crop pollination.

This may involve Riverside county, since there is citrus grown there, San Diego county for avocados, and Imperial county for alfalfa. So even though we would purchase the honey from a San Diego county based supplier, the bees may have foraged in adjacent counties.

Also, even though you may have hives in your own orchard, the bees might visit your neighbors orchard. Or the wildflowers down the road.

If we decide to include honey as an allowable fermentable, we should keep the intent of the ordinance in mind, to promote local agriculture, and not get too wrapped up in where the bees have gathered their nectar. The beekeepers will keep their hives as local as possible, since there is expense involved in moving them around.

If you have not tried mead, I should bring you some. It is a remarkable beverage, with several sub-categories that are perfect tie-ins to both apple cider and grape wine, as well as a base for enhancing with other fruits.

Cheers!

Stan

On Thu, Jul 2, 2015 at 8:14 AM, Lingelser, Heather <[Heather.Lingelser@sdcounty.ca.gov](mailto:Heather.Lingelser@sdcounty.ca.gov)> wrote:

Hi Stan, thank you again for attending the meeting. It is nice to meet our stakeholders face to face! I am not too familiar with the mead making process. Do the percentages of fruit production on site and from other properties transfer to the honey production? I think we can add your suggested language but I want to be sure that if someone decides to produce mead, the limitations in the ordinance would work. Thank you for your comments!

Talk to you soon,

Heather

Heather Steven Lingelser

☎ [858.495.5802](tel:858.495.5802) | 📠 [858.467.9314](tel:858.467.9314)

**From:** Stan Sisson [mailto:[sdsisson62373@gmail.com](mailto:sdsisson62373@gmail.com)]  
**Sent:** Thursday, July 02, 2015 7:58 AM  
**To:** Lingelser, Heather  
**Subject:** Adding honey to allowable fermentables

Hi Heather,

It was nice meeting you yesterday. Thanks for all the work you and Joe are putting in to make the ordinance a success. It was interesting to see all the varying opinions expressed by the stakeholders.

I am hopeful that honey could be added to the allowable fermentables. Honey is an agricultural product, and there are local honey producers.

This would allow the production of mead (honey wine, aka "Nectar of the Gods"). I see that "other fermented juices" is already included in the draft proposal.

With this in mind, perhaps the phrase could be modified to "The production of cider, mead or other fermented juices or honey into wine shall be allowed as permitted by the 02 Winegrowers license and subject to all other provisions of this Section."

Thanks again for all the work you are doing, it is appreciated. Looking forward to meeting with you again soon.

Stan Sisson

Cidermaker - Julian CiderWorks

[julianciderworks.com](http://julianciderworks.com)

**Lingelser, Heather**

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**From:** S Elaine Lyttleton <lyttleton@sv-mail.com>  
**Sent:** Monday, July 06, 2015 9:11 AM  
**To:** Lingelser, Heather; Farace, Joseph  
**Cc:** Jacob, Dianne  
**Subject:** Winery Ordinance workshop follow up  
**Attachments:** meet\_winemakers.jpg

**Categories:** Red Category

To: Heather & Joe  
 CC: Dianne Jacob

Since my comments at the workshop were introductory and very general, I didn't turn anything in to you for the record. Here are our thoughts and concerns now though.

By the way, the overwhelming response I'm getting from people who were there was that it was depressing – that you all seemed to have your minds made up on your course of action. The folks I'm hearing from are wondering why a handful of complainers are getting their way and the majority of us are having our ideas and concerns ignored. Not the democratic way they think.

I was a part of the group representing a majority of the wine producers and growers in the County, so the comments handed in and titled "Suggested revisions – 6/30/15 By the RVVA, SDCVA & Highland Valley Wine Country Alliance are ours too. We hoped the suggested wording makes your job easier! And for emphasis:

- What's the deal about Commercial activities not expressly allowed pursuant to the provisions of Section 6910 are prohibited? Are you talking about the small gift shop area with our logo items including wine glasses, cork crafts by local crafters, the books by local authors? Why on earth not? This is standard practice for wineries of all sizes in all regions! It helps with promotion when our logo walks out of here and many small local artisans are very happy to have an outlet for their talents at our tasting rooms. IF this is not what is meant, please clarify.
- With the possible exception of Milagro Farm Winery there are NO wineries, Boutique or otherwise who didn't get started in wine production to build inventory in order to open a tasting room - in an agricultural or accessory building. I'm talking everyone including all the members of the RVVA.
- I don't think anyone who wants to avoid serious litigation is opposed to building or modifying their public areas in accordance with ADA. But the small farmer transitioning from growing grapes to making wine to sell only has existing Ag buildings and they're all we can afford. That certainly fits with the "farming ordinance" vision this ordinance was supposed to be.

On the topic of food service, we are personally happy with prepackaged foods and catered food service (is it okay if the caterer adds the salad dressing to the salad on site?) Norm has owned 2 restaurants and we have no desire to enter that field again! I do think it's a shame that licensed and permitted caterers with a good reputation for bbq or pizza will be excluded and the concept of food trucks is totally banned. Is there any middle ground you can come up with? Like only once a month or with prior notice & approval or something?

On the topic of outdoor amplified sound – we have a noise ordinance. Period.

Outdoor eating areas – an early suggestion was that those should be tied to the number of parking spaces – not a flat number. Hours of operation are already covered elsewhere.

I have spoken to the Grape Line shuttle company that operates in "The Big T" as well as other wine areas in the state – I think I forwarded their letter to you last year during discussions. The smallest shuttle they run is 21 passengers. Changing from 12 to 15 does us no good.

On the topic of "What is an event?"

- I have a friend who is a local author, having written a book on the History of Ramona. He is asking me if he can sell some of his books in my little gift shop area\*. I said yes and bought 6 at wholesale. In conjunction with that I thought I'd invite him to come for an afternoon (maybe 1 to 3 p.m.) to autograph his books and offer 10% off the retail price of the books with the purchase of a bottle of wine. I will be promoting this. Is this an event?
- We have a Wine Club. Once a quarter we invite the members to come pick up their wines on a Saturday from 3 to 5 p.m., taste something new from the cellar, and I always bring in from a local deli or caterer a cheese tray\*. No charge to my Members, it's a thank you for being Members. I usually have Mike Wheeler come to play his acoustic guitar\* for added ambience too. Is this an event?
- The Soroptimists of Ramona have contacted me to see if they can meet once a month here in our barn/tasting room starting in September. They know we have a big table that seats 16 people and they have 8 to 12 members who usually come to the meeting. They will bring in their own food – either pizza or have a local caterer\* do dinner for them. I am not charging for the room, I am not arranging for the food, but I will be selling them wine. Is this an event?
- We have a small theatre company in town, Out of the Box Players who do 2 or 3 plays a year and hold them in the theatre at the local mortuary – hence their name... The Director Juliana wants to offer her patrons a "Dinner & Theatre" package in September – again at our table, obviously limited to 16 or in a push 18 people. I am not going to charge for the room, I am not arranging for the caterer, I am not collecting the money from ticket sales, but I am charging for and being paid for one glass of wine per person in her ticket price. They would be gone before sunset. Is this an event?
- Local small businesses are excited about the cross promotional opportunities provided by having Boutique wineries in their town. A yarn shop opened late last Fall on Main St. The owner and I promoted a Wine & Wool Pairing. We had 8 of her customers (& 3 spouses) here to learn to knit frivolous wine bottle hats & scarves, see a new yarn she was promoting and have a wine tasting. It was a fun thing to help draw attention to her shop, entertain a few of her loyal customers and we sold wine. Was that an event?
- There is a new craft store on Main Street in town. They'd like to cross promote and have a wine glass painting class here (you know – around that table) with a glass of wine, and they will bring in cheese platters from the local deli. Is this an event?
- We also have artists who'd like to have a showing here – we'd both promote it – attract art lovers to enjoy art and our wine. Is this an event? Is this like promoting a musician who I'd like to have play here? Aside from helping local artists, authors and small businesses it attracts people here to learn about our wine, taste and BUY. Are these events?
- The RVVA organized and promoted a Wine Maker's Weekend – see flyer attached. It was hugely successful and we sold lots of wine, and people really learned from it and enjoyed the weekend. Was this an event? I sure hope not – we want to do it again!

I have many other activities that may be defined as "events" in order to let people know we're here in order to see wine – I'm not sure I'll ever figure out what's a promotional activity to sell wine (allowed?) and what's an illegal event.

The Ramona H.E.A.R.T. Mural Project Inc. – a non-profit, holds an annual Art & Wine Festival every November to promote our artists, wineries and chefs. We get a CEP for that and it's not held at any winery. Our VIP ticket has always included a Wine Maker's dinner the following Spring and IS held at a local winery. It's catered, usually just the VIPs who paid for it, but open for them to bring friends for a fee – average attendance about 25 to 30. If this is less than 4 hours, and is over before dark, is this allowed? Would it be an extension of the CEP for the Festival, or even though it's limited to 25-30 people would a new CEP be required? Or since it's less than 4 hours no CEP required?

I am absolutely positive we will have more things we do or think we should be able to do, to promote sales of our wines that we'll puzzle over as to whether the County will consider it an event or not. Someone suggested if a ticket is sold it's an event. Otherwise it's not. Help!

Finally, I was disturbed hugely by comments made by a couple of people that there was "unfair competition". Good lord – isn't free enterprise and competition what our Country was built on? Should those of us who build better mousetrap be punished and shackled? We are not here to all match our footsteps to the lowest achiever among us, but to follow in the footsteps of success. We understand there's an EIR under which we need to abide, but surely there's room for interpretation.

Thanks,

*Elaine & Norm*

**S. Elaine Lyttleton & Norman A. Case**  
**Hatfield Creek Vineyards & Winery**  
*Where every hour is a happy hour!*  
**[www.hatfieldcreekvineyards.com](http://www.hatfieldcreekvineyards.com)**  
**1625 Highway 78**  
**Ramona CA 92065**  
**760-787-1102**



**Lingelser, Heather**

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**From:** Smith, Oliver <oliver.smith@philips.com>  
**Sent:** Monday, July 06, 2015 4:58 PM  
**To:** Lingelser, Heather  
**Cc:** Farace, Joseph  
**Subject:** Comments on proposed Winery Ordinance changes

**Categories:** Important

Heather,

I enjoyed sitting in the audience last Wednesday listening to the wide ranging comments on the county's tiered winery ordinance proposed changes. Please note that my comments are from a Valley Center Planning Group Chair who is not a winery/cidery nor vineyard owner:

- Any restrictions beyond what are imposed on those wineries inside city limits would appear to penalize an owner in the unincorporated areas. Unless there is a matching benefit that can be given to the county owners in return, I don't see this as fair and leveling the playing field within the county.
- One of the initial problems a winery owner has depends on how well worded their private road agreement is with their neighbors. One individual I talked to at the meeting, who contracts out to support wineries, said that if the agreement is written poorly, the winery owner has little recourse to getting their vehicles through, let alone their customers. I can understand people not wanting traffic on the roads to their houses, but it would seem unfair at best if one curmudgeon could prevent the lawful use of a property as a boutique winery. I'm not a lawyer, but perhaps county counsel has suggestions on how an applicant can successfully work through issues like this with the county's help. I'm not opposed to agreements that support a fair share burden on all, with heavier users assuming more of the load, but I am against what could be perceived as a brick wall.
- I fully support an acoustical sound volume limit that is based on measureable data and not dependent upon how loud somebody can sing. If that process is good enough for many other types of permits through local and state governance, it is obviously good enough in this case.
- I am not as adamant about advertising. However, I am concerned that, in particular, performers whose livelihood is very much impacted by it are being negatively affected for what appears to be no good reason. Allowing no advertising seems to drag everyone down to a lower level rather than bringing everyone up to the same starting point on the playing field.
- As for food and catering, perhaps there is a middle ground between none whatsoever for the smallest wineries and having large wedding catering performed weekly there. The goal is to provide an atmosphere conducive to selling winery products. I agree simply having only crackers ain't good enough. If the big issue is DEH, then appropriately targeted training, certification, and monitoring would seem to be the reasonable answer as long as longer term caterer permits are made available.

Regards,

Oliver Smith  
Chair, Valley Center Community Planning Group

**Lingelser, Heather**

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**From:** Matthew Miller <matthew@authorsden.com>  
**Sent:** Monday, July 13, 2015 2:54 AM  
**To:** Farace, Joseph; Lingelser, Heather  
**Subject:** Ramona Wineries

Joseph Farace and Heather Lingelse,

I located your names here.  
<http://www.sandiegocounty.gov/content/sdc/pds/advance/Winery.html>

I live in Ramona and been to most of the local wineries and have heard talk from owners wanting to serve food. During this fast growing time wineries should be focusing on their wine, not food. Owners seem to be pushing this more than use customers.

Ramona has some good restaurants, deli's and stores where wine tasters can purchase picnic items or dine. Stopping wineries from serving food will overflow and create many long-term opportunities for restaurants, shops, B&Bs and the local community.

Napa Valley the world leader in wine supports their local restaurants, hotels and community. Napa does NOT allow winery to serve ANY food, not a cracker. Wine tasters must taste wine and move to the next winery. If wine tasters are hungry they need to plan ahead and bring a picnic lunch or stop for lunch or dinner.

Ramona wineries should simply provide picnic tables for people to eat their own food while enjoying amazing country views. Customers can purchased food at a local stores or bring from home. Wineries can also recommend local restaurants, perhaps ones that don't charge a corkage fee for their wine, so their customers can enjoy a nice dinner with their wine. In time, this will expand into Ramona being a "destination" with nice restaurants and Bed & Breakfasts, which will help the local community over the long-term.

Allowing wineries to serve food might relieve short-term pressure by owners, but it will create a much larger problems as wineries start battling to keep customers on their property longer. They will want to expand, more seating, larger menus, more electricity, more water, more buildings, more restrooms, longer hours, etc.

Napa does it right. Napa understands wine tasting is just that, a tasting experience. Wine tasting is NOT a one stop-shop for all your wants and needs under one roof.

Please simply instruct wineries to get some nice picnic tables and inform to their customers where nearby choices for getting picnic items, or dining.

I am not a restaurant owner nor have any association with food businesses in Ramona. I just believe in long-term planning, and not short-term pushes by over excited "learning as they go" winery owners. I love the local wine options, but Ramona winery owners are an interesting breed, more season-to-season short-term opportunists.

Also, it will be very difficult to take away food, once provided. Probably best for now, to not let them sell a crumb. I understand winery owners want people to stay on their property longer, (offering massages, music, snacks, lunches, etc.) But its best to bribe people with good wine, and perhaps customers will buy a bottle and enjoy a picnic on their property and take a case home. No food served by wineries will keep wineries competing to make the very best wines, which is good for everyone in San Diego County.

Thank you for listening.

**Matt Miller**  
**760-315-5843**

Andy Harris  
Chuparosa Vineyards

A full 18 months after the last County hearing, along with fascinating input from the much of the winery community; we are once again meeting for yet another round of comments on proposed Ordinance modifications. The County is to be complemented on retaining much of the Ordinance language in light of the overwhelming amount of smoke and mirrors, misinformation, and outright fabrications provided in previous testimony.

In truth however I know the County never had all that much wiggle room in the first place due to CEQA constraints, County and State DEH regulations, and the supporting EIR results. All of the outrageous demands for exemption from the California Building Code (CBC), the whining for preferential treatment allowing unlimited bulk wine, and the aggrieved petitions for relief from CEQA are exactly that - smoke and mirrors. CEQA and the CBC remain the law in the State of California and relief at the State level is extremely unlikely to be granted.

The list of ridiculous positions presented by some of the wineries is endless, so in the interest of focusing solely on the present Ordinance version I'll focus my comments on the following topics:

- Onsite Production/Tasting Room Sales
- Food Preparation
- Events
- Tasting Room Building Req'ts and Footage Limitations

### 1. Onsite Production/Tasting Room Sales

Onsite production requirements were originally included in the Ordinance to specifically address PDS staff concerns with someone establishing a huge tasting room on a one acre property and the inevitable conflicts with neighboring properties. Minimum onsite production requirements were placed in the Ordinance in order to avoid a minimum acreage limitation (10 acres suggested) being incorporated in Ordinance requirements for a Boutique winery.

The concept is simple – only so many grapes can be grown on an acre of land and those grapes will only make so much wine. The production requirement limits the size of the operation to a maximum of 4x what can be produced on the acreage, and consequently the traffic, noise, and other CEQA concerns from any tasting room operation. In theory the onsite production requirement limits the amount of customers at a winery.

These limits were directly quoted by the Appeals Board in their finding favoring the Boutique Winery Ordinance during the lawsuit and subsequent appeal. Yet the County has subsequently completely failed to enforce these limits and the accompanying limitations on size of winery operations that would have resulted. To add further to the problem, the County has also allowed a re-interpretation of Ordinance language to read “production requirements contained in the Ordinance are for the winery – you can sell any damn thing you want out of the tasting room - Bulk wine from up North, slushies, sangria, etc. etc.” Decoupling of winery production from tasting room sales invalidates the natural limit on traffic to small

acreage wineries and thus one of the CEQA priorities. If this flawed interpretation persists, the County will have to re-introduce the 10 acre minimum discussed previously as a requirement to meet CEQA limitations.

The current Ordinance revision **STILL** does not address this problem. It still says winery production and remains mute regarding source of wines that will be allowed for sale at the tasting room. The table included in the new Ordinance Version has the wrong headers on the left, leading to further confusion regarding what is allowed from within and from outside the County. The Ordinance should be amended to read the following:

***Boutique Winery Restriction***

No wine produced outside San Diego County or by any other winery in San Diego is allowed to be offered for sale in the tasting room. Only wine directly produced by the winery is allowed to be offered for sale in the tasting room. A minimum of 50% of the winery's production and tasting room sales shall be from fruit grown or sourced fruit produced in San Diego County. No more than 25% of the winery's production and tasting room sales may consist of fruit (not wine) grown or sourced from outside San Diego County.

This preserves the natural limit on number of customers visiting small acreage tasting room locations. Barring this revision, the County is required to reestablish acreage minimums to remain within CEQA restrictions.

***Small Winery Restriction***

No wine produced outside San Diego County is allowed to be offered for sale in the winery tasting room. Only wine directly produced by the winery or purchased from other San Diego County wineries is allowed to be offered for sale in the tasting room. A minimum of 25% of the winery's production shall be from fruit grown on the premises. An additional minimum of 25% of the winery's production shall be from fruit grown or juice/wine produced in San Diego County. No more than 50% of the winery's production may consist of sourced fruit, juice or wine from outside San Diego County; and this limit is subject to discretion of San Diego County PDS evaluation for CEQA compliance.

This clause once again requires the winery to be a winery, not a sports bar on ag-zoned land endeavoring to avoid filing for an ABC bar license.

The subject of offsite vineyards has arisen as a way to 1) increase stated production, and 2) increase the allowable size of the tasting room. On the surface this approach appears compatible with the goals of the Ordinance – to foster planting and farming of vineyards in San Diego County. If you look beneath the surface however, this dodge has already been tried once by Eagles Nest winery to increase the size of their tasting room and justify their B&B they never licensed. Eagles Nest claimed that the owner's mother owned an additional 5 acre parcel already planted to grapes and that the mother would never

sell to anyone else so this vineyard production should be added to their size to enable a larger tasting room. Please note that a larger winery to facilitate processing all those additional grapes was never requested – only the additional retail sales space was requested.

The game has always been about how to get around the 30% retail floor space limitation in the Boutique Winery ordinance. Once again if the County grants relief on 'offsite vineyards' the County is going to get hammered with every conceivable definition of what comprises an offsite vineyard in order to provide workarounds for a limitation required to maintain compliance with CEQA. The size limitation was included to limit customer traffic to a level compatible with the property size. ANY expansion of this limit is going to violate the assumptions under which the FEIR was written and the Courts provided validation.

If indeed the offsite vineyard production is awarded in perpetuity to the petitioning winery, then why isn't the tasting room just built onto the larger parcel in the first place?? The entire offsite vineyards argument is just another smokescreen. The Ordinance already allows for extensive use of grapes sourced within San Diego County. Once made into wine by the winery, the product can be sold directly through the tasting room. Enabling artificially larger tasting room retail space based on claimed additional acreage is misleading and violates CEQA constraints.

## **2. FOOD PREPARATION**

The Department of Health of the State of California has specifically stated that a winery may only offer crackers to the public as an integral part of regular tasting room operations without being considered a "Food Facility" and subject to additional regulation (Part 7 California Retail Food Code 113700-114437). This limitation is in place whether or not a price is charged for the food or if the food is free. This is not a County issue – County law does not supersede State Health Department statutes.

Notwithstanding this State law, the County has permitted repeated, numerous, and well advertised wine/food pairings, full dinners at the winery and/or in the vineyard, and onsite preparation of all kinds of food in private kitchens with absolutely no enforcement effort whatsoever. See how many of these wineries currently offer pizza from their own wood fired ovens. This is first and foremost an obvious public safety issue and a County responsibility, but it also goes to the core of even treatment.

My operation does not include any food service other than crackers. I have all 5 star ratings on YELP except for one who gave me 4 stars. His comment was " would have given Chuparosa 5 stars but they didn't have food" -So much for trying to obey County and State Law. The profit margin is clearly much higher if the laws are ignored and there certainly no threat of any real penalties.

The current Ordinance version states in one section that "The California Retail Food Code will apply to food related activities other than premises set aside for wine tasting, as that term is used in Section 2356.1 of the Business and Professions Code." Does this mean that food can be served at the tasting room (the premises)? Doesn't this conflict with Section 7 of the same Retail Food Code? (only crackers allowed or else the establishment is considered a Food Facility").

Part 7 of the proposed Boutique Winery Ordinance version goes on to restate what has been past policy – that prepackaged foods and catered foods are allowed at the winery provided that catered food is prepared by a licensed caterer offsite. This section is in direct conflict with the California Retail Food Code. The entire section needs to be rewritten to comply with the Retail Food Code.

An interesting subset of this argument is the use of food trucks. In San Diego County food trucks are subject to serious compliance. A food truck is a licensed, inspected, regulated, certified commercial kitchen, which meets the ordinance's criteria that catered food is allowed to support a special event at a winery. The truck's staff is trained and certified, and the food preparation facility is, as well. When a winery is hosting a food truck, the winery is not preparing food.

All sounds well and good right? Now let's apply the events criteria to the food truck issue. Does the winery get to advertise that a food truck will be there certain hours of the day? If so will there be live music (advertised or unadvertised) coincidentally occurring at the same time? Doesn't this constitute an event that draws more people to a small site (more traffic, dust, noise, etc) than CEQA limitations contained in the Boutique Winery Ordinance allow? Perhaps is this activity no longer secondary to the offering of farm products direct to the public (a primary justification for the Boutique Winery Ordinance)?

The presence of food trucks at wineries with an Administrative or Major Use Permit can be evaluated on a case by case basis because there is a discretionary permit process. Winery acreage, parking availability, and proximity of the tasting room or patio to neighbors can be evaluated individually where a discretionary permit exists – it cannot be evaluated for any Boutique Winery and the inevitable conflicts will result if the County chooses this path. Although I would personally like to see a food truck at my tasting room, there is no way to insure the privilege won't be abused as many other privileges now are. It's just another attempted end run around the Ordinance statutes cloaked as a reasonable request. We have learned the hard way this is the case.

### **3. EVENTS**

The current revision of the Ordinance provides a definition of "Events" with the more typical types of events such as weddings and parties being explicitly prohibited. What about crafts events? Are they to be considered community events even though the winery organizes, advertises, and profits from these events? What about wine and food, wine and cheese, 5 course dinners in the vineyard, and other pairings events at the winery? They are also organized and advertised by the winery to generate non-wine profits (\$80 per ticket average right now).

This entire section needs to be completely rewritten to state what is permitted and what is forbidden. As it currently stands the wording is so vague that the deceptive practices common over the past three years will not only continue but increase.

The County may be on a fruitful course given their new definition involving events hosted by community entities. Forbidding any events hosted by the winery seems to cut through a lot of the chaff and misinformation floating around out there. Indeed the Menghini Winery, a major use permit holder in the Julian area, is subject to this same restriction with a Major Use Permit! The Grape Stomp event held

every September at the Menghini Winery is hosted by the Julian Chamber of Commerce, NOT the Menghini Winery. Dinners in the vineyard, wine/food pairings at the patio, wine/cheese pairings at the tasting room, and 5 course dinners are not permitted at the facilities of Major Use Permit holders, so why are they de facto approved for the ethically challenged businesses operating under the Boutique Winery category??

#### **4. TASTING ROOM BUILDING REQUIREMENTS AND AREA LIMITATIONS**

The new Ordinance version contains verbiage in section 5i asserting that "all areas accessed by the public must be permitted and constructed in compliance with the applicable commercial building code, including the requirements of the American Disabilities Act".

How is this going to be enforced? When is it going to be enforced? For over three years now the County has openly allowed tasting room operations out of the basement of agricultural buildings, old sheds built with no permitting whatsoever, and portions of residential structures. The California Building Code is extremely clear on what constitutes an approved structure for public access; yet certain wineries continue to get a pass from the County.

Please note that not all wineries get this free pass. Three years ago when Gerry Cordiano applied for his Administrative Use Permit, the County told him directly that he would be better off tearing down his residential structure and starting over rather than to try to upgrade it to commercial standards suitable for public access. This residence was never permitted for public occupancy. Yet somehow within the last three years several buildings belonging to certain other wineries have been magically 'upgraded' to commercial standards. What changed? What standards are being enforced? Why aren't they being enforced the same for all wineries?

I have been directly involved in several building permit processes at the County for both my winery operation and proposed operations of others. Meeting with County planners is always a frustrating experience because of continued misinformation and outright arrogance. Mike Johnson of the Planning Group went over our tasting room application 5 different times recalculating the property acreage in an effort to reduce that acreage to a point where the proposed tasting room would be too big. He even started using net acreage instead of the gross acreage quoted in the Ordinance. On three separate occasions Debra Frischer of the Planning Group has told separate winery owners that all their ABC permits would have to be in place before a building permit is issued. This is pretty entertaining as ABC explicitly requires a completed, lockable structure prior to the issuance of ANY 02 Winegrower permit. Planning staff has been made aware of this ABC law 4 separate times and still this foolishness continues. Most new wineries trying to comply with County and State laws are repeatedly subject to this level of harassment and gross incompetence.

On the other hand, the County's own building inspectors are openly marveling at the fact that certain wineries with open building code violations on their properties are allowed to pull new permits in direct violation of longstanding County policy. Coincidentally enough some of these same special cases are allowed to magically convert residential space to commercial space. No mention is made of the

requirement for all electrical in conduit, a 5 inch slab, etc. etc. A magic wand is waved and suddenly the building meets commercial sections of the CBC and is therefore fit for public occupancy.

The County is sending an interesting message with this de facto policy. Any business foolish enough to apply for a building permit for a structure fully complying with the CBC is going to be in for an extended, expensive harassment with no clear guarantee of the eventual outcome. Any winery operation that simply declares an existing structure to be a tasting room, builds an ag building, or weaves a mud hut and waves a certain magic wand is good to go with absolutely no repercussions.

The County needs to enforce the CBC in a uniform manner for everyone, or else everyone needs to get a pass. Legitimate operations willing to put the money into infrastructure that complies with CBC requirements should NOT be penalized, or put at a business disadvantage relative to ethically challenged pseudo-wineries.

In the past County Code Enforcement has cast themselves as the benevolent guidance counselor gently leading the miscreants back to the true path. Their stated preference is to gradually nudge offending businesses into compliance. The truth is somewhat less benevolent however. Take for example the Salerno winery. This operation has 14 code violations recorded in County files. Yet today they continue serving food, offering the "Opera House" (an ag building not permitted to the commercial CBC) for public events, and generally thumbing their noses at any County statutes. Benevolence is NOT a synonym for incompetence. Pseudo-wineries this far out of any semblance of compliance should be closed until compliance is demonstrated, not allowed to operate indefinitely because they once filed to open an Administrative Use permit.

Eagles Nest is another prime example. Two years ago they filed for an Administrative Use permit. They now prepare pizza in their wood fired oven (no DEH approvals) from pizzas made in a home kitchen next door. They cater weddings, dinners, and other events, all with complete impunity. County Code Enforcement 'investigated' them over two years ago. So why are they still operating??

All wineries in San Diego County should NOT be granted any privileges beyond the Boutique Category until the discretionary permit process is completed and approved. There is no excuse for these entities being allowed to game the system by filing for a discretionary permit, being given the additional privileges, and then sitting on it for multiple years. This only insures the County won't be processing very many discretionary permits ever.

## **SUMMARY**

In closing there is a common theme that runs through all these concerns with the present Ordinance language. How are the requirements to be enforced? We have been down this road many times since the Ordinance passed in August of 2010 (yes that's 5 years ago now). All of the wordsmithing and vocabulary engineering in the world is NOT going to make any difference if there is no effective enforcement.

**Lack of enforcement puts the future of the Ordinance and the San Diego wine industry at direct risk. Its way past time the County addresses this issue rather than enter yet another round of Ordinance wordsmithing and extended dithering.**

**Lingelser, Heather**

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**From:** Carolyn Harris <carolyn@ramonavalleywineries.org>  
**Sent:** Monday, July 20, 2015 4:09 PM  
**To:** Farace, Joseph; Lingelser, Heather  
**Subject:** Winery Ordinance POD-14-005 - Response to Published Comments  
**Attachments:** Winery Ordinance POD-14-005 - Response to Published Comments.pdf

**Categories:** Important

Hi, Joe and Heather:

I am preparing my suggested edits to the 26 June 2015 winery ordinance draft clarification draft, and will get a mark up with my supporting rationale to you in the next few days.

In the meantime, last week the Ramona Sentinel published a copy of correspondence that was sent to your office from the *Ramona Ranch Winery's* operators / who also currently are leading the Ramona Valley Vineyard Association.

It may not be obvious to a casual reader how much of the content is misinformative, and if accepted as truth, would hurt, more than help, the successful development of this industry. To that end, the attached researched input is provided for your file.

Carolyn

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Carolyn Harris  
Ramona Valley Winery Association  
VP & General Counsel  
(760)788-0018 phone  
[carolyn@ramonavalleywineries.org](mailto:carolyn@ramonavalleywineries.org)

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Carolyn Harris  
Vice President and General Counsel  
Ramona Valley Winery Association  
carolyn@ramonavalleywineries.org

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20 July 2015

County of San Diego  
Planning and Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123

Attention: Joe Farace, Planning Manger

Subject: Input in response to Ramona Ranch Winery / Ramona Valley Vineyard  
Association's 15 July 2015 Published Comments to County Staff

Reference: Winery Ordinance Amendments (POD-14-005)

Dear Mr. Farace:

The Ramona Valley Winery Association has led the initiative and worked with the County of San Diego since 2006 to write, develop, and implement comprehensive local regulations designed to encourage the renaissance of the premium wine industry that once flourished in San Diego County before Prohibition. We appreciate the efforts of the County to attempt to clarify and strengthen the ordinance that first went into effect in 2010, and look forward to the effective enforcement of the ordinance and protection of this nascent industry.

The new 2010 ordinance removed the \$250,000, five-year Major Use Permit barrier that bureaucratic complexities had placed between the County's winegrowers and their customers who wanted to taste, evaluate, and make direct purchases. As a result, some wineries have made the investment in blood, sweat, education and treasury required for the development of a vineyard, winery, and public accommodation. These projects have been very well received and have flourished, while others have attempted to shortcut the investment, and therefore struggled to attract attention for reasons other than the wine they grow on their property. They have disregarded most of the limitations imposed by the ordinance, and now are crying potential injury at the prospect of the County's enforcement of the ordinance.

The RVVA's input to the County published in the Ramona Sentinel on 15 July 2015 reflects that desired shortcut business model, and does not appreciate the consequential risk posed to the foundation of the liberties that the ordinance provides.

The current four-tier winery ordinance was designed to provide for the graceful growth of the industry. The tiers include:

- 1 -- Limited Wholesale Winery (by right; no use permit required; no sales to the public),
- 2 -- Boutique Winery (by right; no use permit required; direct tastings and sales allowed with many restrictions),
- 3 -- Small Winery (with an administrative use permit; events and other liberties allowed), and
- 4 -- Winery (with a major use permit; fruit source restrictions removed)

Any winery that is already successful in growing good grapes, making good wine, and selling the wine they make has the opportunity to expand their activities (if their property is properly sized and located) by applying for a use permit. The Boutique Winery category was not intended to be the start and finishing tier for new winemakers, but provides an opportunity to develop a reputation as a source for excellent wine, and only THEN grow up to become a Small Winery.

Please see my comments below the following boxes which copy portions of the RVVA's letter.

<http://www.ramona-sentinel.com/news/2015/jul/15/do-not-kill-budding-wine-industry-with-restriction/>

***Don't kill budding wine industry with restrictions***

*By Teri Kerns 12:12 p.m. July 15, 2015*

*(This was sent to Joseph Farace, county Planning and Development Services planning manager.)*

*Dear Mr. Farace,*

*Thank you for your support of San Diego's growing wine-grape industry. I appreciate the opportunity to provide input from an operational and small business owner's perspective on the proposed changes to the County's Winery Ordinance, #6910.*

*.....*

*The current ordinance encourages us on this path. Eliminating the "by-right" allowances, prohibiting events and advertising while restricting our operations removes the incentive to invest thousands of dollars in our rural communities and will not draw tourists.*

The County is working on edits to the current ordinance to clarify to the Boutique Winery operators and County Code Enforcement officers what the restrictions are so that enforcement can be implemented without further objection.

The County's ordinance edits do not remove any of the existing "by-right" liberties granted in the 2010 winery ordinance. "Events" were, and still are, prohibited at Boutique wineries. The prohibition on events was an assumption of the EIR that the County invested \$350K and 2 years to support the winery ordinance between 2008 and 2010. A revised EIR would need to be conducted to allow events at Boutique Wineries.

*Our specific recommendations regarding the 6/26/15 Ordinance Draft includes the following:*

*Page 1, Preamble. "Commercial activities not expressly allowed pursuant to the provisions of Section 6910 are prohibited." This is vague, open to interpretation and limits the ordinance and industry's potential to engage supporting businesses in the growing wine industry, often referred to as the "ripple effect." I am asking that this statement be removed.*

This preamble states the required interpretation of all County zoning ordinances – that what is not expressly allowed is prohibited. The letter's author's interpretation (that what is not expressly prohibited is allowed) is backwards.

*Page 3, #4. The building sizes proposed do not support the amount of wine allowed to be made at the boutique winery level. For example, at Ramona Ranch with 10 acres, we are allowed no more than 3,200 square feet, yet we can make up to 5,000 cases of wine. Wine requires aging and storage; a good estimate is 1 foot per case, so just to store 5,000 cases, we would need a 5,000-square-foot facility, plus additional room for shipping, receiving, laboratory, maintenance, circulation and offices. A reasonable estimate is double these numbers.*

The letter's author's statement that they are allowed to make 5,000 cases of wine from their property is incorrect. Their property is limited to a maximum of something more like 600 cases per year. The Boutique Winery ordinance provides a natural balance that requires that at least 25% of the grapes used for the winery's annual production be grown on the winery's property. The letter's author's property may be 10 acres in size, but terrain, boulders, structures, landscaping, and roads have limited vineyard acreage to approximately one acre, which could produce up to approximately 150 cases of wine. The Boutique winery ordinance would therefore restrict the total production on the site (once the vines are producing fully) to a maximum of 600 cases per year: 4 times what is actually - not theoretically - grown on the property.

Using the letter's author's rule of thumb of 1 square foot of production facility per case of annual production, the production structure required for this project is between 150 and 600 square feet, and if doubled as suggested, 300 to 1,200 square feet, which is only a fraction of the 3,200 square foot limitation provided in the winery ordinance for a Boutique Winery on a property of this gross acreage. The ordinance's winery production structure size limitation is more than adequate for this project.

If a property is appropriate for more acres of vineyard, and if 5,000 square feet is inadequate for the winery's allowed production, then the current winery ordinance provides for a larger structure to be requested under the Small Winery tier, operating under an Administrative Use Permit.

*Page 4, #4 (continued). No additional barns, agricultural storage...shall be utilized. Where are we to store all of the equipment that is used once a year in the harvest and production of wine? Recommend this be changed to barns and agricultural storage buildings on the premises shall not be used for wine storage or tasting without the proper Federal bond and ABC license.*

The letter's author misinterpreted the County's draft specifying the limitation of the size of the structure(s) used for wine production. The letter's author is welcome to seasonally store equipment in any accessory structure which is appropriate for storage.

After specifying a Boutique Winery's size limitation for wine production, the County drafted: No additional barns, agricultural storage buildings and/or other accessory structures permitted pursuant to Section 6156 shall be utilized for the Boutique Winery production facility size calculation, nor for wine production, public access, or retail activities. The underlined bracketed words should be added to the draft for clarification.

*Page 4, #6. The word "parties" has been added to prohibited events; adding the advertising and promotions of any events is prohibited. This is very restrictive and not in-line with the promotion of agro-tourism. In my review of several other successful wine regions in California, boutique wineries are allowed a limited number of events per year by-right. For example, in Napa they can host six events per year for no more than 399 persons, and three events per year for more than 400 persons. My recommendation is that the ordinance allows the boutique wineries by-right the ability to host no more than 24 events per year, not to exceed 100 guests without a special permit, CEQA exempt.*

Many misstatements are included here. The 26 June 2015 draft does not add "parties" to the definition of prohibited events. The current Boutique Winery ordinance already provides that events and parties are prohibited. Period. (6910.b.6: " Events, including but not limited to weddings and parties, are prohibited.") That was the assumption upon which the EIR was conducted. The County has attempted to expand upon the short statement in the June 26 2015 draft by listing the only gatherings which would be allowed at a Boutique Winery (wine production, wine sales, wine tasting, agricultural instruction and educational tours). See

comment above explaining that with zoning ordinances, any types of use not expressly allowed is prohibited.

The statement that other wine regions of California allow events at wineries without use permits is wrong. The letter's author entirely misstates Napa County's allowance for events in the following respects.

- 1) Every Napa County winery must be on a property of at least 10 acres and operate under a Use Permit. The application package of forms and guidelines is 22 pages in length. (See <http://countyofnapa.org/WorkArea/DownloadAsset.aspx?id=4294967668>). This process is not unlike San Diego County's major use permit, involving years of effort and a significant investment.
- 2) No new winery since 1990 in Napa County is permitted to hold public tours and tastings. If a use permit is issued, and if that permit allows public tastings, it must be by prior appointment only. No public hours of operation are allowed.
- 3) In Napa County, allowed winery events are limited to marketing events, which must be related to the education and development of the consumer or trade about the wines that can be sold at the winery at retail. Cultural and social events unrelated to such education and development, including weddings, are prohibited. (See <http://www.countyofnapa.org/wdo/> and the May 2010 update No. 1340)
- 4) All other public events (as listed by the letter's author above) which are not expressly allowed in the winery's use permit require a temporary events license issued by Napa County for each individual event. Filing fees, insurance, advance neighborhood notification within 1,000 feet, 60 day advance application, and other extensive compliance requirements apply. (See [www.countyofnapa.org/workarea/downloadasset.aspx?id=4294967665](http://www.countyofnapa.org/workarea/downloadasset.aspx?id=4294967665)).

*Page 5, #7. Disallows licensed caterers from preparing food on-site which may be in conflict with their license and appears to prohibit food trucks — a common practice at our local breweries and urban wineries, as well as in other counties, for example, Amador County. Serving food to wine drinkers is a good practice and should be encouraged. My recommendation is that caterers be allowed to operate within the constraints of their own specific licenses.*

The 26 June 2015 draft makes no change to section 7 (food) at this time. It is understood that the County is continuing to work on this section of the ordinance in light of the fact that the California Health and Safety code limits food served at wineries to crackers, unless the location carries a food facility license. It should be noted that a food truck is a licensed, inspected commercial kitchen, where food preparation can occur.

The Boutique Winery is not intended to be a "wine drinkers" venue as the letter's author assumes. It is a venue for the direct-to-consumer sale of wine grown and produced on the premises. A limited tasting of samples is customary, but the offering of wine-bar type of wine drinking on the site without a use permit is not the intended purpose. If the letter's author finds the level of wine drinking at her property to require food to be served in the interest of public safety, then perhaps the Boutique Winery tier should prohibit the service of wine by the glass, which is a restriction the County has the prerogative to apply.

*Page 5, #11. Does not allow outside amplified music, and requires an Entertainment Establishment License. I've attempted to obtain an Entertainment Establishment License, after being told by the sheriff that we cannot provide the acoustic music currently allowed by the existing boutique winery ordinance without this license. Then I was informed that as ag land, we*

*are not zoned for an Entertainment Establishment License so can't have one. In reviewing the license application, boutique wineries are not noted as a required establishment. My recommendation is that "Music is allowed in compliance with the existing County Noise Ordinances."*

The current Boutique Winery ordinance prohibits amplified sound. The 26 June 2015 draft provides no further restrictions. The ordinance's Boutique Winery tier does not grant a live entertainment use. Agriculture zoned areas do not provide for an entertainment establishment use by right, any more than they allow for a restaurant, bar, or crafts center use by right. An administrative permit or a major use permit is available to a winery that would like to attract the public onto the agriculture property by providing food service or live entertainment.

*Page 5, #13. States outdoor eating areas shall only be used during the hours specified in the ordinance. I am recommending this be re-worded to clearly not apply to the owners, stating instead "outdoor eating areas shall only be used by the public during the hours specified in the ordinance."*

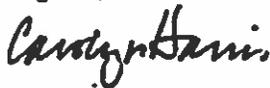
.....

The letter author's concern for this limitation arises from the fact that the letter author's home outdoor patio has been extended and converted to public use without a permit, which would require fire code and ADA accommodation, among other considerations. This is the case with many "winery" projects that have sprung up following the passing of the new winery ordinance. When retail, food service and live entertainment activities are allowed to occur in and around residences under the guise of being an operating winery, without use or building permits, then the distinction between private and public uses is entirely blurred. The California Building Code requires that when more than one use is shared in a given space, the more restrictive use's code requirements shall apply.

Thank you for your consideration of these comments.

The RVVA will provide a review and suggested edits to the 26 June 2015 draft ordinance in the next few days.

Regards,



Carolyn Harris



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Joseph Farace, AICP  
Group Program Manager, Advance Planning Division  
County of San Diego  
5510 Overland Avenue, #310  
San Diego, CA 92123

July 28, 2015

Dear Mr. Farace,

My family and I own and operate Highland Hills Winery in Ramona. We planted the vineyard in 2007, became a bonded winery in 2011 and opened our small tasting room in late 2012. My son and I make the wine, my daughter and daughter-in-law run the tasting room. Grandchildren work in the vineyard. I have been active in the Ramona Valley Vineyard Association—was President a few years back. I admit to being Ramona-centric, but I believe my comments are generally applicable.

For the most part, it has been an enjoyable and rewarding experience. One of the most rewarding aspects has been the response from the Ramona community. There is universal excitement in Ramona over the small wineries and the vineyards. When we planted, we had to get supplies from Bakersfield. I made several trips to Bakersfield with my old pickup straining its heart out over the Grapevine. Now local merchants are carrying vineyard supplies—and excited to do so. I haven't made a trip to Bakersfield for five years, I hope never to again. At least to haul vineyard supplies.

You have received two previous letters—one by Teri Kerns and Micole Moore, the other by Elaine Lyttleton and Norm Case—that make excellent points and some suggestions. I am not going to duplicate their work. I have attached copies.

When we came here (2005), Ramona was known as a place that you could buy gas on the way to Julian. Now, we routinely have visitors from all over visiting Ramona to taste wine. And, obviously, to visit San Diego County. We have something over 30 tasting rooms in the Ramona area and a few more planned. We are becoming a "destination". All this was enabled by the original Tiered Winery Ordinance. When discussing the recent history of San Diego County wineries, we make a point of crediting the County Board of Supervisors and the County Staff for enabling our budding industry. You did a great job and we appreciate it.

I have attended both "workshops" on proposed changes to the Tiered Winery Ordinance. I am the person that speaks on "sustainable agriculture", being defined as making enough money to "sustain" another year's operations. The changes you proposed at both workshops will make some existing Boutique Wineries "unsustainable" and fewer will start in the future. How many? Who knows? What is certain is that it will be harder to start and harder to stay in business.

Not only are you hurting the start-up (or yet to start) wineries, you are hurting a whole host of mostly small businesses that the wine industry supports. Caterers, food trucks (strangely prohibited), tour operators, musicians, small construction contractors. Etc. I am always amazed at the ripple effect of the Boutique wineries starting up.

A personal "cause" of mine is the career opportunities that the wine and grape industry creates for young people. Most of what we do doesn't require four year college educations with the attendant debt. I am on a committee at Cuyamaca College working to develop an innovative apprenticeship program. Your proposed actions will limit those opportunities.

I have spent the last 45 years starting companies—beginning while I was still in college. I was Chief Technical Officer when I was in my 20's, moved to CEO in my mid 30's. I am proud to say that everyone that invested in one of my companies made money. I doubt Highland Hills will ever return my investment, but since I am the only investor, my record of not losing other people's money is intact.

I thought Highland Hills Winery would be my last startup, but I am involved (thankfully not as CEO) in a technology startup that you will hear about, if it succeeds. It will not be subject to your ordinance.

Most startups fail, usually before even opening their doors. For a whole host of reasons, sometimes good, sometimes not so good. I have been involved in dozens that never actually started--a couple of which would have been true home runs. Success is rarely that "home run", mostly it is trying to get enough bunts and singles to stay in the game. It is a game of inches. Startups and small businesses simply cannot deal with much in the way of headwinds.

The preamble to the proposed changes to the Tiered Winery Ordinance #6910 starts with: "The purpose of these regulations is to promote production of wine from fruit grown in San Diego County, to support local agriculture....." From there on, all proposed changes, with one minor and irrelevant exception, will make starting and operating a Boutique Winery in San Diego County more difficult and uncertain. Some a little, others a lot. An already questionable financial proposition becomes even more so.

The "minor and irrelevant exception"? Increasing the seating capacity of the maximum vehicle from 12 to 15 passengers. The extra three seats is obviously minor; the change is irrelevant because the typical tour bus is 20 passengers. In effect, you have allowed us to increase the number of unicorns we can have in the tasting room from two to three.

The driver gets paid the same for driving a 20 passenger van as a 12 passenger, fuels costs are about the same. They don't fill all 20 seats, but the times they do pays for the trips that have only 6. The restriction to 12 (or 15) is effectively a prohibition on wine tours—because the wine tour operators have found that to be profitable, they need 20 seats. I would think you would want to encourage tour vehicles—less vehicle traffic, no DUI concerns, etc. Instead, you are effectively prohibiting them.

We have the occasional tour van come to our winery. It really isn't all that profitable for us—breakeven more or less. But, we like the tours because they are mostly out of towners unfamiliar with San Diego County, don't know there is a wine industry in San Diego, or Southern California for that matter. We very much enjoy the visitors—from all over the world-- and I think it safe to say they enjoy visiting our family winery. They leave promising to come back and encourage friends to visit San Diego and Ramona. Seems like something that should be encouraged.

Prohibiting tour vans will not hurt us a lot in the short term—because we don't make a lot on them— but it hurts the tour operators a lot more. There will be fewer of them, and fewer opportunities for visitors to San Diego to experience our wine country. Good example of the secondary effects.

In fairness, when the original Tiered Winery Ordinance was proposed, I didn't object to the 12 passenger limit. I had never given much thought to the tour business, didn't understand the economics. Now, I do. Somewhat. It is a good example of how little rules, apparently innocuous to those not in the business, can have a major impact. Not only on the wineries, but also on other businesses.

Speaking from almost 50 years of experience starting businesses, if you want to continue to encourage small wineries two things are absolutely necessary:

- 1) A minimum of obstacles. Every regulation prevents something from happening—that is its purpose. Some things need to be prevented from happening. It has to be understood that every rule makes it harder for someone to start a business or stay in business. It is impossible for anyone to predict how much harder, especially those not in the business. Each regulation has to be judged by the standard that it WILL put someone out of business. Or, limit their success. Or prevent them from starting. Maybe not who you thought would be affected. You must be very careful that the benefit is worth the cost. The cost is never zero. Worse yet, it is impossible to predict. The "Law of Unintended Consequences".

Much of the proposed changes probably seem minor to you, but they are not to those of us that have to live with them.

Teri Kerns & Micole Moore did an excellent job of describing the problems your proposed changes create and some proposals for alleviating same.

- 2) A maximum of certainty. If you are investing your life's savings into something already risky, the thing that absolutely will stop you is vague rules, subject to bureaucratic interpretation. Elaine Lyttleton and Norm Case have illustrated the impact of the uncertainties in the ordinance, especially with the proposed changes. Would you spend your life savings starting a winery knowing that if you sell a wine glass ("other commercial activity") to a customer that wants a souvenir of an enjoyable visit, you could be shut down? Or, that if your granddaughter is playing her harmonica in the background, you are in violation of several ordinances? And, a whole host of other bear traps?

In summary, the Tiered Winery Ordinance was a superb effort which has created an emerging industry in San Diego and, especially, Ramona. Please help us build on that success, rather than discourage it.

I again recommend the Kerns/Moore and Lyttleton/Case letters. They outline real problems which will damage what has been, so far, a good start.

Sincerely



Richard P. McClellan, PhD  
Co-owner (with family) Highland Hills Winery.  
Past President, Ramona Valley Vineyard Association

CC:

- *Supervisor Dianne Jacob, San Diego County Board of Supervisors*
- *Heather Steven Lingelser, Land Use/Environmental Planner*
- *Ramona Chamber of Commerce*
- *Ramona Sentinel*

Todd A Palmer  
17577 Rancho De Carole Rd  
Ramona, CA 92065

March 16, 2015

Debra Frischer  
Planning and Development Services  
5510 Overland Ave, STE 110  
San Diego, CA 92123

RE: San Diego County Boutique Winery License

Our goal is to open a family operated boutique winery in Ramona, California. We live on a 1.5acre lot zoned SR2/A70, and as such are eligible for the boutique winery license. There are already a handful of wineries in the vicinity, and we need the zoning commission to approve our request to operate a winery. We intend to make our wine from an agricultural product other than grapes; our wine will be made with honey. Mead is the accepted name for wine made from honey, and while not as well-known as grape wine, actually predates it as the first fermented beverage. Under the Internal Revenue Code of 1986 the TTB (Alcohol and Tobacco Tax and Trade Bureau) classifies mead as "agricultural wine", and we need the San Diego Zoning commission to agree with their definition and allow us to open and operate under the boutique winery license.

Under a boutique winery license, we would be required to produce 25 percent of the agricultural product—honey in our case—by owning and managing hives. We plan to, once the beekeeping regulations for San Diego County are updated as called for in the Agricultural Promotion Program POD 14-001 from the Board of Supervisors August 6, 2014 Planning Report, to keep hives on our own property. Until those updates are in effect, we will maintain our hives on my grandfather's larger acreage property also in Ramona, as well as working with local farms and orchards to build a cooperative agreement whereby our bees provide pollination of their crops, improving crop production, and producing the honey necessary to create our honey wine.

Ramona is a burgeoning wine region, and also benefits from the agricultural tourism that exists alongside the wineries. We believe that a meadery would not only diversify, but support Ramona's agro-tourism portfolio as mead is currently enjoying a resurgence within the local and craft beverage market. According to the American Mead Makers Association the mead industry has grown 130 percent since 2011.

On our property, where we plan to operate our winery, we are also planting fruit trees, grape vines, and other agricultural crops which we will use towards the production of seasonally specific honey wine. Without bees, agriculture will fail. Our intention is to create a hyper-local and seasonal product that benefits the entire agricultural region, through the management of pollinators. Our honey will be made from local flowers, and will showcase the unique flavor of our local Ramona honey.

We are confident that the Zoning commission will see the value our proposal holds for both the local agriculture in Ramona Valley and its wineries, and look forward to working with you in the development of our winery. We will follow up with you later this week to discuss our next steps to proceed with our winery plan.

Sincerely,

Todd Palmer  
619-852-4994  
mr.toddapalmer@gmail.com