

**POD-14-005**

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(~~Strikeout~~ indicates deletion)

**ORDINANCE NO. \_\_\_\_\_ (NEW SERIES)**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE TO AMEND THE WHOLESALE LIMITED, BOUTIQUE AND SMALL WINERIES REGULATIONS (POD 14-001)**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that the following amendments of the Zoning Ordinance to amend the Wholesale Limited, Boutique and Small Wineries regulations are reasonable and necessary for the public health, safety, convenience, and welfare and are consistent with the General Plan.

**Section 2.** Section 6910 of the Zoning Ordinance is amended to read as follows:

6910 WHOLESALE LIMITED, BOUTIQUE AND SMALL WINERIES

The provisions of Section 6910 shall be known as the Wholesale Limited, Boutique and Small Wineries Regulations. The purpose of these regulations is to promote production of wine from fruit grown in San Diego County, to support local agriculture and to prescribe reasonable standards and procedures for the operation of wineries. Commercial activities not expressly allowed pursuant to the provisions of Section 6910 are prohibited.

a. Wholesale Limited Winery. A Wholesale Limited Winery shall comply with the following provisions:

1. Prior to the occupancy of the winery structures and the production of wine, Aa Wholesale Limited Winery shall have a valid permit and bond issued by the U.S. Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau, and a current 02 Winegrowers license issued by the California Department of Alcoholic Beverage Control. Licenses issued by the California Department of Alcoholic Beverage Control that allow other types of alcohol sales are prohibited.
2. On-site sales to the public of wine and other goods from the winery, tasting rooms, and/or ~~special events~~, including but not limited to weddings and parties, are prohibited. Wholesale ~~internet sales~~, phone sales and mail-order sales are allowed.
3. The maximum floor area of a production facility (non-residential structure(s) used to crush, ferment, store and bottle fruit, wine and other products and equipment used in winemaking, including shipping, receiving, laboratory, maintenance and offices) is limited as follows: to 1,000 square feet where the lot is less than one gross acre. A maximum floor area of 1,500 square feet is allowed where the lot is one acre or more but less than two acres gross, and 2,000 square feet of floor area is allowed where the lot is two to four acres gross. An additional 200 square

~~feet of floor area is allowed for each acre over four acres, up to a maximum of 5,000 square feet of additional allowed floor area.~~

| <u>Lot Size (gross)</u>           | <u>Production Facility Size (cumulative max.)</u>         |
|-----------------------------------|---|
| <u>&lt; 1 ac</u>                  | <u>1,000 sf</u>   |
| <u>1 ac - &lt;2 ac</u>            | <u>1,500 sf</u>   |
| <u>2 ac - 4 ac</u>                | <u>2,000 sf</u>   |
| <u>For each acre over 4 acres</u> | <u>200 sf additional per acre, not to exceed 5,000 sf</u> |

No barns, agricultural storage buildings and/or other accessory structures permitted pursuant to Section 6156 shall be used as a production facility for the Wholesale Limited Winery Use.

4. Up to 75 percent of the fruit used in winemaking may be imported from off the premises while the remainder shall be grown on the premises. A minimum of 25% of the winery's production shall be from fruit grown on the premises. Up to 75% of the winery's production may be from sourced fruit/juice from inside or outside San Diego County.

| <u>SOURCE</u>                          | <u>PRODUCTION AMOUNT</u> | <u>GRAPES (FRUIT/JUICE)</u> | <u>WINE</u>       |
|--|--------------------------|-----------------------------|-------------------|
| <u>On-site</u>                         | <u>25% (min.)</u>        | <u>Required</u>             | <u>N/A</u>        |
| <u>Within/Outside San Diego County</u> | <u>75% (max.)</u>        | <u>Permitted</u>            | <u>Prohibited</u> |
| <u>TOTAL</u>                           | <u>100%</u>              |                             |                   |

No wine produced off of the premises may be used in the winery's production or sold from the premises.

- i. The owner of the winery shall keep records detailing the amount of fruit grown on the premises and the amount of fruit and/or juice imported from off the premises, to demonstrate compliance with this Section.
  - ii. The records shall indicate the dates of receipt and quantities of all imported fruit and/or juice and shall indicate the off-site growers name, address and location of the growing operation from which the fruit is imported.
  - iii. All records shall be provided within 14 days of request by County staff.
5. Wine production shall be less than 12,000 gallons annually.
  6. All operations shall comply with the provisions of Section 36.401 et seq. of the San Diego County Code of ~~Regulatory Ordinances~~ relating to Noise Abatement and Control.

7. A Wholesale Limited Winery shall demonstrate compliance with the ~~emergency travel times~~ Travel Time Standards from the Closest Fire Station, specified in the ~~Public Facilities Element, Section 14~~ Safety Element, Table S-1.
- b. Boutique Winery. A Boutique Winery shall comply with the following provisions:
1. Prior to the occupancy of the winery structures and the production of wine, A Boutique Winery shall have a valid permit and bond issued by the U.S. Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau, and a current 02 Winegrowers license issued by the California Department of Alcoholic Beverage Control. Licenses issued by the California Department of Alcoholic Beverage Control that allow other types of alcohol sales are prohibited.
  2. Wine production shall be less than 12,000 gallons annually.
  3. Of the total fruit used in winemaking a minimum of 75% shall be grown within San Diego County, a minimum of 25% shall be grown on the premises and a maximum of 25% may be grown outside of San Diego County. A minimum of 25% of the winery's production shall be from fruit grown on the premises. A minimum of 50% of the winery's production shall be from fruit grown or sourced fruit and/or wine produced in San Diego County. No more than 25% of the winery's production may consist of fruit grown or sourced from outside San Diego County.

| SOURCE                   | PRODUCTION AMOUNT | GRAPES (FRUIT/JUICE) | WINE       |
|--------------------------|-------------------|----------------------|------------|
| On-site                  | 25% (min.)        | Required             | N/A        |
| San Diego County         | 50% (min.)        | Permitted            | Permitted  |
| Outside San Diego County | 25% (max.)        | Permitted            | Prohibited |
| <b>TOTAL</b>             | <b>100%</b>       |                      |            |

No wine produced outside San Diego County may be sold on the premises or used in the winery's production.

- i. The owner of the winery shall maintain records detailing the total annual production amount of fruit grown on the premises and the amount of fruit, juice and/or wine imported from off the premises, to demonstrate compliance with this Section.
  - ii. The records shall indicate the dates of receipt and quantities of all imported fruit, juice and/or wine and shall indicate the off-site growers name, address and location of the growing operation from which the fruit/juice and/or wine is imported.
  - iii. All records shall be provided within 14 days of request by County staff.
4. The maximum floor area of the production facility (non-residential structure(s)) used to crush, ferment, store and bottle fruit, wine and other products and equipment used in winemaking, including shipping, receiving, laboratory, maintenance and offices, is limited as follows: to 1,000 square feet where the lot is less than one gross acre. A maximum floor area of 1,500 square feet is

~~allowed where the lot is one acre or more but less than two acres gross, and 2,000 square feet of floor area is allowed where the lot is two to four acres gross. An additional 200 square feet of floor area is allowed for each acre over four acres, up to a maximum of 5,000 square feet of additional allowed floor area.~~

| <u>Lot Size (gross)</u>           | <u>Production Facility Size (cumulative max.)</u>         |
|-----------------------------------|---|
| <u>&lt; 1 ac</u>                  | <u>1,000 sf</u>   |
| <u>1 ac - &lt;2 ac</u>            | <u>1,500 sf</u>   |
| <u>2 ac - 4 ac</u>                | <u>2,000 sf</u>   |
| <u>For each acre over 4 acres</u> | <u>200 sf additional per acre, not to exceed 5,000 sf</u> |

No barns, agricultural storage buildings and/or other accessory structures permitted pursuant to Section 6156 shall be used as a production facility or tasting/retail sales area for the Boutique Winery.

5. The Boutique Winery structures permitted in Section 6910b.4 may contain ~~One~~ tasting/retail sales room/area is allowed in addition to the Boutique Winery structures permitted in 6910.b.4. The tasting/retail sales room/area shall be accessory to wine production, and shall not exceed 30% of the total square footage of the all permitted Boutique Winery structures, and shall comply with the following:
  - i. All areas accessed by the public must be permitted and constructed in compliance with the applicable commercial building code, including the requirements of the Americans with Disabilities Act;
  - ii. Barns and agricultural storage buildings on the premises which are not permitted as part of the Boutique Winery shall not be included for purposes of calculating the allowed area of the tasting/retail sales room/area used for wine production;
  - iii. For the purposes of this Section, a tasting/retail sales area is defined as a room, cave, trellis and/or outdoor patio area (covered or uncovered) that is dedicated for wine tasting and sales of wines produced on-site and food related items;
  - iv. The California Retail Food Code and the food provisions of the County Code apply as provided in those codes.
  - v. Retail internet sales, phone sales and mail-order sales are allowed.
  
6. 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), including any activities or gatherings that are advertised or promoted.

Pursuant to Section 6106 of the Zoning Ordinance, Community Events as defined in and as limited by Chapter 2 of Division 1 of Title 2 of the San Diego County Code (sections 21.201 – 21.208) may be allowed and subject to all applicable licenses required by the Sheriff pursuant to Chapter 1 of Division 1 of Title 2 of the San Diego County Code (sections 21.101 – 21.117).

7. The sale and consumption of pre-packaged food is allowed on the premises. Refrigeration shall be ~~approved~~ permitted by the County of San Diego Department of Environmental Health. Catered food service is allowed, but no food preparation is allowed at a Boutique Winery, except as described below in this Section. Catered food service includes the provision of food that is ready to eat and that has been prepared off the Boutique Winery premises.
  - i. One mobile food facility may be allowed on the Boutique Winery premises to serve the patrons of the tasting room during the approved hours of operation as specified in b.8;
  - ii. The mobile food facility shall not be parked in the required parking spaces for winery patrons or employees, nor shall it interfere with the safe ingress or egress to and from the premises;
  - iii. The mobile food facility shall have a valid Mobile Food Facility Health Permit from the Department of Environmental Health and shall conform to all requirements applicable to a mobile food facility, including access to a commercial restroom.
8. A tasting/retail sales ~~room~~ area in conjunction with a Boutique Winery ~~is allowed to operate~~ may be open to the public seven days a week from 10 a.m. until legal sunset, or until 6 p.m. from November 1 through March 1 ~~seven days a week~~.
9. A minimum of six parking spaces shall be provided for ~~customers~~ patrons using the Boutique Winery, and a minimum of three spaces shall be provided for ~~employees and Boutique Winery operations~~ and employees of the Boutique Winery. No parking for a Boutique Winery is allowed off the premises.
10. The on-site driveway and parking area used to access the Boutique Winery shall not be dirt. The on-site driveway and parking area may be surfaced with Chip Seal, gravel, or an alternative surfacing material such as recycled asphalt suitable for lower traffic volumes. Any disabled access parking stalls, access aisles, and accessible routes provided for compliance with California Building Code chapter 11B shall be stable, firm, and slip-resistant.
11. Outdoor ~~A~~ amplified sound is not allowed.
12. All operations shall comply with the provisions of Section 36.401 et seq. of the San Diego County Code ~~of Regulatory Ordinances~~ relating to Noise Abatement and Control.

13. Outdoor eating areas shall be limited to a combined maximum of five tables and seating for no more than 20 people and shall be used only during the hours of operation specified in subsection b.8.
14. Vehicles with a capacity in excess of ~~42~~15 passengers are not allowed to serve the Boutique Winery.
15. A Boutique Winery shall demonstrate compliance with the ~~emergency travel times~~Travel Time Standards from the Closest Fire Station, specified in the ~~Public Facilities Element, Section 11~~ Safety Element, Table S-1.

c. Small Winery. A Small Winery shall comply with the following provisions:

1. Prior to the occupancy of the winery structures and the production of wine, Aa Small Winery shall have a valid permit and bond issued by the U.S. Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau, and a current 02 Winegrowers license issued by the California Department of Alcoholic Beverage Control. The applicant shall disclose if any other licenses issued by the California Department of Alcoholic Beverage Control will be relied upon for operations at the Small Winery.
2. Wine production shall be less than 120,000 gallons annually.
3. Of the total fruit used in winemaking a minimum of 50% shall be grown within San Diego County, a minimum of 25% shall be grown on the premises and a maximum of 50% may be grown outside of San Diego County. 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.

| SOURCE                   | PRODUCTION AMOUNT | GRAPES (FRUIT/JUICE) | WINE      |
|--------------------------|-------------------|----------------------|-----------|
| On-site                  | 25% (min.)        | Required             | N/A       |
| San Diego County         | 25% (min.)        | Permitted            | Permitted |
| Outside San Diego County | 50% (max.)        | Permitted            | Permitted |
| TOTAL                    | 100%              |                      |           |

- i. The owner of the winery shall maintain records detailing the amount of fruit grown on the premises (including properties pursuant to subsection iv) and the amount of fruit/ juice and /or wine imported from off the premises, to demonstrate compliance with this Section.
- ii. The records shall indicate the dates of receipt and quantities of all imported fruit, juice and/or wine and shall indicate the off-site growers name, address and location of the growing operation from which the fruit/juice and/or wine is imported.
- iii. All records shall be provided within 14 days of request by County.

- iv. “Fruit grown on the premises,” as that phrase is used above in c.3, may include fruit grown on a separate property or properties under the same ownership or lease as the Small Winery, provided all of the following criteria are met:
  - a) “Separate property” or “properties” shall mean parcels located within the County that are not contiguous to one another, are under the same ownership or lease as the Small Winery, and are part of the same Small Winery operation;
  - b) All properties shall be clearly delineated and included as part of the Small Winery Administrative Permit and shall be subject to all conditions of approval;
  - c) Only one of the parcels shall have the wine production facilities, tasting area and/or event areas. That parcel shall be a minimum of 4 acres in size;
  - d) At least 50% of the “fruit grown on the premises” shall be grown on the parcel which contains the wine production facilities and tasting area;
  - e) Events of any kind are permitted only on the parcel which contains the production facilities, tasting area, and approved event areas. No events shall be permitted on any of the other properties included as part of the Small Winery.
- 4. The California Retail Food Code and the food provisions of the County Code apply as provided in those codes. The sale and consumption of pre-packaged food is allowed on the premises. Refrigeration shall be ~~approved~~permitted by the County of San Diego Department of Environmental Health. Catered food service is allowed, but no food preparation is allowed at a Small Winery, except as described below in this Section. Catered food service includes the provision of food that is ready to eat and that has been prepared off the Small Winery premises.

  - i. One mobile food facility may be allowed on the Small Winery premises to serve the patrons during the approved hours of operation;
  - ii. The mobile food facility shall not be parked in the required parking spaces for winery patrons or employees, nor shall it interfere with the safe ingress or egress to and from the premises;
  - iii. The mobile food facility shall have a valid Mobile Food Facility Health Permit from the Department of Environmental Health and shall conform to all requirements applicable to a mobile food facility, including access to a commercial restroom.

- 5. Events, including but not limited to weddings and parties, may be allowed as specified in the Administrative Permit upon the making of the findings in Section 6910.c.6. Events shall comply with the requirements of Section 21.201 et seq. of the County Code.

Pursuant to Section 6106 of the Zoning Ordinance, Community Events as defined in and as limited by Chapter 2 of Division 1 of Title 2 of the San Diego County Code (sections 21.201 – 21.208) are allowed and subject to all applicable licenses required by the Sheriff pursuant to Chapter 1 of Division 1 of Title 2 of the San Diego County Code (sections 21.101 – 21.117).

6. An Administrative Permit for a Small Winery is required and may be approved in accordance with the Administrative Permit Procedure commencing at Section 7050 if it is found:
  - i. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
    - a) Harmony in scale, bulk, coverage and density.
    - b) The availability of public facilities, services and utilities.
    - c) The harmful effect, if any, upon desirable neighborhood character.
    - d) The generation of traffic and the capacity and physical character of surrounding streets.
    - e) The suitability of the site for the type and intensity of use or development which is proposed.
    - f) Any other relevant impact of the proposed use.
  - ii. That the impacts, as described in paragraph "i" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.
  - iii. That the requirements of the California Environmental Quality Act have been complied with.
  - iv. Notice shall be provided pursuant to Section 7060.c. No hearing is required unless requested by the applicant or other affected person pursuant to Section 7060.d.
7. A Small Winery shall demonstrate compliance with the ~~emergency travel times~~ Travel Time Standards from the Closest Fire Station, specified in the Safety Element, Table S-1.
- ~~8. Notice shall be provided pursuant to Section 7060.c. No hearing is required unless requested by the applicant or other affected person pursuant to Section 7060.d.~~

**Section 3. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and

against the same in the \_\_\_\_\_, a newspaper of general circulation published in the County of San Diego.

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