



Mary Ann Manges <mmanges@amadorgov.org>

---

## Input to Amador County Board of Supervisors Land Use Committee Winery Proceeding

---

Brian <jobsonbrian@hotmail.com>

Wed, Jul 27, 2022 at 12:31 PM

To: "frankaxe@aol.com" <frankaxe@aol.com>, "mmanges@amadorgov.org" <mmanges@amadorgov.org>

Cc: "larrypatterson@gmail.com" <larrypatterson@gmail.com>, "meredith@foothillconservancy" <meredith@foothillconservancy>, "megan@foothillconservancy" <megan@foothillconservancy>, "tomi@volcano.net" <tomi@volcano.net>

Please find attached the Foothill Conservancy input to the subject proceeding. We look forward to working with the County and other constituencies toward a productive outcome.

Brian Jobson  
Foothill Conservancy

---

 Draft Amador Winery Standards\_mara-1.pdf  
86K

Amador County is home to a growing wine making and grape growing industry. It possesses a unique combination of attributes, including its agricultural productivity, rural character, scenic beauty, and quality of life for growers, wineries and residents alike. As other winegrowing areas in California have demonstrated, it can be challenging to maintain these amenities when pressures from economics, growth and tourism increase. We face these challenges in Amador County as well.

We believe that the benefits of preserving our winery and grape growing industry with its unique attributes intact is well worth taking proactive measures to ensure our success. One way to do this is to develop standards to promote the attributes we enjoy. Such standards can help us avoid conflicts with residential land uses and avoid undesired levels of commercialization that would threaten our rural quality of life and agricultural character.

Some growers and wine makers have been working with local citizens and County planners to advance a draft plan of action. Below is a list of key points discussed to date. (This is a work in progress and additional input is welcome and encouraged).

- Agricultural activities associated with grape growing and wine making are essential to our local economy and shall be respected as a primary land use.
- Wineries and tasting rooms are also essential industry land uses for both promoting locally-produced wine and selling it both on and off site.
- Regulations regarding adjunct food service at wineries and tasting rooms need to be clear, reasonable and followed so food service is truly incidental to wine tasting and not resulting in restaurants sprawling in agricultural areas with associated impacts. .
- Events that bring traffic, light, and noise into rural residential areas after dark adversely impact neighbors and create conflicts we need to avoid.
- The growing array of commercialized signage at existing wineries needs to comply with clearer design guidelines

Discussion: Other activities taking place at wineries, including food service and entertainment events, have been characterized as incidental to wineries, but this concept has been difficult to regulate by ordinance for a variety of reasons. These activities are less essential to a healthy grape and wine industry. They can provide the opportunity to attract more customers but can also create conflict with residences and lead to degradation of the rural quality and agricultural character we want to keep. Our challenge is to strike a balance that allows some benefits of these non-essential activities to occur but avoids negative impacts.

It has been suggested that results-oriented standards be adopted rather than a single arbitrary rule regardless of unique site circumstances. An event held at a well-designed facility in the middle of a 640 acre parcel with improved roads and parking may have acceptable results compared to such an event on a smaller parcel and near the property line shared with neighboring residences.

Occasional catered events with reasonable music until dark may well have acceptable results, whereas unlimited concerts or full blown commercial restaurant food service are not consistent with rural and agricultural land uses. Our General Plan and zoning regulations generally contemplate locating these activities in urban areas with commercial general plan and zoning designation. This reduces undesired effects on rural living and contributes to the economic vitality of our towns and cities.

Consistent design and size/type of signage used by all participants can result in an attractive rural environment, whereas unlimited designs, sizes and colors of signs can commercialize our wine making and grape growing regions, losing our unique historic, agricultural character and rural quality.

Given these factors, and our need to plan and take action that will obtain the desired results and avoid the results we don't want, the following standards are proposed for adoption:

#### Events:

- Only at licensed, bonded, producing Amador wineries
- Setback - more than 500 feet existing regulations apply
  - less than 500 feet the following apply
- Frequency - 10/year excluding wine club
- Hours - 10 a.m. - dark/10 p.m.
- Lighting - all external lights directed inward
- Noise- comply with County noise ordinance

#### Food Service:

- Catering or food truck for events
- Packaged food for tasting room

Restaurants in commercial zones not at A, Ag, or R1A

#### Signage

- Sign posts with winery names per existing signpost design and colors

Day of event temporary signs on site and/or at nearest intersection consistent with signpost design and colors.

## Legal Requirements and Need for Enforcement

To operate a winery (and tasting room), an owner must obtain a variety of permits from federal, state, and local authorities.

### Federal Permits

Anyone producing alcoholic beverages in the United States must have appropriate permits from the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB). To operate a winery, it is necessary to obtain a Basic Permit from TTB. A winegrower must have facilities and equipment for the conversion of fruit into wine and engage in the production of wine (Section 23013).<sup>1</sup>

### State Permits

The California Department of Alcoholic Beverage Control (ABC) regulates wine production permits within the state. The agricultural basis of a Wine Grower's permit is defined in the State Code: "A winegrower shall actually produce on his or her licensed premises by conversion of grapes, berries, or other fruit, into wine, not less than 50 percent of all wines sold to consumers on his or her licensed premise or premises and any licensed branch premise or premises." [ Every winery with an 02 license is allowed to have one duplicate license The duplicate location is a tasting room only; wine cannot be made at this location. The state does not require that the duplicate license (for a tasting room not at the winery location) be located in the same county as the winery. Individual counties, however, have ordinances that can require this.

### Amador County

Many agricultural properties in Amador County may have wineries (with tasting rooms, if desired) "by right" with appropriate agricultural zoning. Properties zoned R1A have the right to grow grapes and make wine, but can only open a tasting room if they obtain a Conditional Use Permit from the county to do so.

In 2009-2010, an Ad Hoc Committee of wine industry representatives worked with county staff to revise the winery ordinance. There was concern among vintners at the time that wineries making wine in other parts the state (especially Napa and Sonoma) would open tasting rooms in Amador County and directly compete with local grape growers and winemakers. To prevent this, the new ordinance specifies that only wineries whose 02 license is located in Amador County

---

<sup>1</sup> This pertains to new winegrowers' licenses issued by TTB after September 17, 1965. Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations also permit a winegrower to use the facilities and equipment of another winegrower to produce wine. This is commonly referred to as an "alternating proprietorship."

can have a tasting room (including a duplicate tasting room) in Amador County. The ordinance also included clear criteria for what constitutes a winery or wine production facility:

**“19.08.687 Winery. “Winery” means an agricultural facility used for processing (fermentation when combined with any two of the following: crushing, pressing, aging, blending or bottling) of juices into wine or the re-fermenting of still wine into sparkling wine and which is currently bonded as such by the Alcohol and Tobacco Tax and Trade Bureau and has a current California Alcoholic Beverage Control Winegrowers 02 Master License.**

In other words, no one could open a tasting room if they were not actually making wine on their agricultural property.

The new ordinance went into effect in 2011, but there has been very weak enforcement. There are numerous examples of local tasting rooms that violate the county ordinance and/or State law (ABC does have some enforcement staff, but they seem to be most focused on serving to minors and rarely inspect wineries to see if they are actually making wine). Violations include:

- Operating a tasting room without having an ABC 02 Master License located in the County and/or not making wine in the county. Examples include C. G. D’Arie (Master License in El Dorado County); Paul J. Wines (O2 Master license but not making wine on the premises), and Casino Mine (Master 02 license in Napa, appears to be making no wine in the county).

While operating a tasting room in agricultural areas without a winery is prohibited, it is possible to open a tasting room in a town (Plymouth, Amador City, Sutter Creek, etc.). This is what Scott Harvey did for years, for example, before he moved his 02 license from Napa to Amador County and legally opened his winery and tasting room on Shenandoah Road.

The Amador County Wine Ordinance clearly defines the purpose of a tasting room:

**The primary use of the tasting room shall be the marketing and sale of wine produced in Amador County.**

The ordinance goes on to describe other privileges and amenities that can go along with tasting rooms, including:

1. Unlimited events with up to 125 attendees;
2. Picnic areas for wine tasting events;
3. A food preparation facility for catering on-premise indoor or outdoor functions;
4. Agriculture-related museums

5. Gift display area not to exceed 500 square feet for retail sale of wine related items, gift items, and pre-packaged foods;
6. Social gatherings and weddings for up to and including 450 persons, including 12 events per year with no more than 4 such events per month;
7. Indoor or outdoor amplified music until 10:00 p.m.

Items 1, 6 and 7 above appear to create most of the conflicts between tasting rooms and rural residential uses and deserve close review and possible revision. It may be appropriate to define minimum buffers from existing residential uses, or outline a process for evaluating tasting room locations on a case-by-case basis with consideration of unique site attributes.

Item 3 above is neither well defined nor enforced. There are commercial kitchens in the Shenandoah Valley that are being used to provide meals to the public outside of catered winery events. While this appears to be less of a concern to area residents, it is a concern to some winery owners, who feel the rules should be clarified to prevent unfair business competition. Operating a restaurant was not what the Winery Ordinance contemplated.

Finally, the Ordinance should contain a much clearer definition of what constitutes an “Event.” Should an event be wine-related, to conform with the goal of showcasing Amador County wine? Should a rock concert or a car show constitute an event? Some types of events clearly have the potential to bring adverse traffic and noise impacts, disrupting the quality of life to nearby residents, without necessarily promoting our local wine industry.