

AB 2004 (Evans) Sale of Wine for On-Site Consumption

Regulatory Change- In July 2008, the State adopted AB 2004 (Evans), which amended the State's Business and Professional Code to allow wineries to sell their wine to customers for consumption on-premises.

Modification Status- In most circumstances, the addition of retail wine sales for on-site consumption to an existing winery Use Permit will require a Use Permit Modification. It is not the sale of wine itself which triggers the need for a Modification, but the need to create a space on the property for the on-site consumption. So, for example, if on-site consumption is proposed to occur entirely within existing tasting room space, no Modification would be necessary. If, however, a new picnic area or new indoor wine bar area is proposed for on-site consumption, a Modification of some description *would* be necessary. Modifications resulting from these changes will generally be Very Minor or Minor Modifications, with the distinction hanging on the square footage of the proposed new on-site wine consumption areas. Assuming that no increase in visitation is proposed, picnic grounds (or their indoor equivalents) constituting less than a 10% change to winery area would generally be processed as Very Minor Modifications, those proposing a 10%-25% change would be Minor Modifications, and in the rare case that an addition would result in a more than 25% addition, a Major Modification would be necessary.

Food and Wine Pairing as a Component of Tours and Tastings

Regulatory Change- In May 2010, the Board of Supervisors adopted Ordinance № 1340, which, among other things, allows winery's to offer food and wine pairings as a component of traditional "tours and tastings" winery visitation.

Modification Status- The addition of food service to tours and tastings winery visitation will generally require Use Permit Modification. It is important that the County's Department of Environmental Management has an opportunity to vet any changes resulting from the addition of commercial food service, including new or altered kitchen facilities, solid waste facilities, and/or wastewater treatment systems. The Planning Division must also confirm that the "food service..." (does) not involve menu options and meal service such that the winery functions as a café or restaurant." (NCC §18.08.620). As a general rule, the determination as to whether or not the addition of food and wine pairings to tours and tastings winery visitation would qualify as a Major, Minor, or Very Minor Modification will depend on the square footage of any associated improvements. For instance, if a new 800 square foot commercial kitchen is proposed and that constitutes a 12% increase in winery area, it would most likely be processed as a Minor Modification. Alternately, if the winery has an existing commercial kitchen and all of the existing facilities (specifically including its

wastewater systems) are adequate to allow tours and tastings with food pairings, the change could be processed quickly and easily as a Very Minor Modification.

As noted above, the extent of any necessary wastewater treatment and/or disposal improvements will be considered when the County decides how to process Modifications that seek to add food pairings to existing tours and tastings visitation. However, unlike structural changes, the calculus there is less about the square footage of the proposed expansion and more about the qualitative scale of the change. The addition of several leach lines to an existing system to accommodate the tours and tastings food service is unlikely to require more than a Very Minor Modification. If, however, an entirely new or upgraded wastewater disposal system is required, it would likely trigger a Minor Modification or, depending on the environmental sensitivity of the area, even a Major Modification.

Sale of Wine-Related Products

Regulatory Change- Ordinance № 1340 allows winery's to sell "wine-related products."

Modification Status- So long as the sale of wine-related products occurs entirely within existing legal tasting room space (as opposed to any approved "production" area), no Modification is generally necessary to allow it.

Business Meetings as a Component of Marketing

Regulatory Change- Ordinance № 1340 clarifies that business events are allowed as a part of approved winery marketing programs, provided that they are consistent with Board-adopted interpretive language (see Board of Supervisors Resolution № 2010-48).

Modification Status- So long as business events replace existing approved marketing events on a one-to-one basis and so long as they have the same character (timing, size, etc.) as the events they replace, no Modification is generally necessary to allow them.

Please note that this factsheet is intended as a brief summation of Napa County's rules and regulations regarding Use Permit Modifications. It does not, and is not intended to, provide a complete restatement of the various existing rules and regulations concerning the same. Please refer to the Napa County Code or contact the Planning Department at 707.253.4417 if you have specific questions.



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Use Permit Modifications



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