

ORDINANCE NO. _____

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS,
STATE OF CALIFORNIA, AMENDING SECTION 18.10.020 OF CHAPTER 18.10
(ZONING ADMINISTRATOR), SECTION 18.124.130 OF CHAPTER 18.124
(USE PERMITS), AND ADDING A NEW SECTION 18.08.377 TO CHAPTER 18.08
(DEFINITIONS) OF TITLE 18 (ZONING) OF THE NAPA COUNTY CODE
REGARDING ISSUANCE OF MICRO-WINERY USE PERMITS AND
MODIFICATIONS TO WINERY USE PERMITS**

WHEREAS, in 2008, the Napa County Board of Supervisors adopted a comprehensive update to the General Plan, which reaffirmed the County’s longstanding commitment to ensure that agriculture and related activities remain the primary land use in the unincorporated area; and

WHEREAS, in support of this commitment, the General Plan included Agricultural Preservation and Land Use (AG/LU) Policy AG/LU-16, which recognizes the limited impacts of wineries that produce a small quantity of wine using grapes mostly grown on site and that host a limited number of small marketing events each year, and states that the County will consider creating a streamlined permitting process for such wineries; and

WHEREAS, Action Item AG/LU 16.1 in the General Plan directs the consideration of amendments to the Zoning Ordinance in the County Code to define “small wineries,” a “small quantity of wine,” “small marketing events,” and “mostly grown on site,” and to establish a streamlined permitting process for such wineries; and

WHEREAS, for the purposes of Policy AG/LU-16 AND Action Item AG/LU 16.1, “small wineries” includes “micro-wineries” which are those facilities that produce up to 5,000 gallons annually using grapes mostly grown on site, where marketing events are not allowed; and

WHEREAS, in 2019, Napa County adopted a Strategic Plan to guide policymaking for the years 2019 through 2022, which prioritized efforts to sustain agriculture and the environment and advance the health, safety, and the economic well-being of its residents; and

WHEREAS, Strategic Action 9.H sets a goal to protect family-owned businesses, local wineries, and small farmers as a vital part of the economy; and

WHEREAS, a process improvement study conducted in the Napa County Planning, Building, and Environmental Services (PBES) Department in 2018 identified opportunities to shorten the processing times for various land use approvals; and

WHEREAS, after a public meeting on March 2, 2021, the Board of Supervisors directed staff to prepare this proposed ordinance to (1) create a streamlined process to allow new micro-winery use permits to be considered through a public hearing before the Zoning Administrator; and (2) delineate categories of modifications to micro-winery use permits, with appropriate levels of public review and approval based on the extent of the modifications; and

WHEREAS, the proposed ordinance would create a streamlined process for considering new and/or modified micro-winery use permits; and

WHEREAS, projects processed as new micro-winery use permits would remain discretionary and subject to public notice and hearing requirements and all zoning requirements applicable to wineries in the County Code, including but not limited to the provisions of the Winery Definition Ordinance (Ordinance No. 947, 1990) as amended, unless specifically exempted herein; and

WHEREAS, the proposed ordinance would modify the scope of use permit minor modifications with regards to micro-winery use permits that could be approved by the Zoning Administrator without a public hearing but with public notice; and

WHEREAS, the proposed ordinance is consistent with the 2008 General Plan as adopted by Napa County, and is consistent with the Environmental Impact Report as certified by Napa County for the General Plan; therefore, pursuant to Section 15183 of the California Environmental Quality Act (CEQA) Guidelines (Projects Consistent with a Community Plan, General Plan, or Zoning), no additional environmental review is required for the proposed ordinance, and the Board has complied with the requirements of CEQA with respect to this ordinance; and

WHEREAS, prior to the consideration and adoption of this ordinance, the County complied with the noticing requirements of County Code Section 18.136.040.

The Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. A new Section 18.08.377 “Micro-winery” is added to Chapter 18.08 (Definitions) of the Napa County Code to read in full as follows:

18.08.377 Micro-winery.

"Micro-winery" means a new winery or an existing micro-winery that modifies its use permit pursuant to Section 18.124.130.(F) below, both of which meet all of the requirements of the County Code applicable to a winery as well as the following specific restrictions and prohibitions:

- A. Has a maximum annual production capacity of 5,000 gallons of wine;
- B. At least 75 percent of the grapes used in production are grown on the same property as the micro-winery or contiguous parcels under the same ownership. For the purpose of this section, “the same property as the micro-winery” means any parcel or parcels identified as included within the Use Permit application;
- C. Has a maximum of 5,000 square feet of total enclosed space including storage, processing facilities, tasting areas, and caves;
- D. No more than twenty Average Daily Trips (ADT) (ten daily round trips) are generated by tasting room visitors, all winery employees including seasonal employees, and deliveries to and/or from the winery;
- E. No marketing events as defined in Section 18.08.370, are conducted on site;
- F. Tours and tastings, as defined in Section 18.08.620, and retail sales as defined in Sections 18.16.030(G)(5)(C) for wineries in the Agricultural Preserve and 18.20.030.(H).(5).(C) for the Agricultural Watershed, may be conducted on-site but are limited to between the hours of 9:00 a.m. and 6:00 p.m.;

G. No subsequent application for an increase in the production of wine or tasting room visitation shall be considered within two years after the approval of the original micro-winery use permit.

SECTION 2. Section 18.10.020 (Duties - Specific subjects) of Chapter 18.10 (Zoning Administrator) of the Napa County Code is amended to read in full as follows:

18.10.020 Duties—Specific subjects.

The zoning administrator shall hear and decide all applications for the following unless, in the zoning administrator's sole discretion, the zoning administrator determines that the matter (1) is of a size, importance, or unique nature such that it is judged not to be a routine matter; (2) involves potentially significant environmental impacts; or (3) is such that the public interest would be furthered by having a particular application heard and decided by the planning commission:

- A. Permits and modifications thereof for the following:
 - 1. Farmworker housing as defined by Section 18.08.294 of this code;
 - 2. Cottage food operations;
 - 3. Kennels and veterinary facilities;
 - 4. Multiple-family dwelling units;
 - 5. Micro-wineries as defined by Section 18.08.377 of this code. No application for a new micro-winery use permit or modification of a micro-winery use permit, whether minor or major, shall be considered beginning three years after [the effective date of this ordinance to be inserted], unless the provisions in this code pertaining to micro-wineries are extended, re-adopted or amended by the board of supervisors. Applications that are accepted by the Director as complete prior to the deadline shall be allowed to complete their processing. In the event that the provisions in this code pertaining to micro-wineries are not extended, re-adopted or amended by the board of supervisors, use permits for micro-wineries that have been issued under these provisions shall remain valid unless allowed to expire pursuant to Section 18.124.080 or revoked pursuant to 18.124.120;
 - 6. Undergrounding of gas, electric, telephone, or cable television lines;
 - 7. Noncommercial wind energy and conversion systems;
 - 8. Child day care centers;
 - 9. Residential care facilities (medium) and (large);
 - 10. Following a public hearing noticed in accordance with Section 18.136.040, use permits for small wineries as defined by Section 18.08.600 of this code that were issued a certificate of exemption prior to February 22, 1990, recognizing the extent of existing legal entitlements or allowing the following uses provided the application meets all of the following qualifications:
 - a. Has an annual maximum of 20,000 gallons or less of wine production;
 - b. Generates no more than 40 Average Daily Trips (ADT) (20 round trips) by tasting room visitors, all winery employees including seasonal employees, and deliveries to the winery. The use permit will not trigger application of the Napa County Road and Street Standards unless the total

ADT from all uses exceeds 40 ADT or the inspection authority determines that improvements are required to comply with the State Fire Code, State Responsibility Area Regulations, or adopted left-turn warrants required for all projects;

c. Has a maximum of 10,000 square feet of occupied space, including buildings, caves, and cut and cover caves, but excluding unenclosed space, such as covered crush pads;

d. Conducts a maximum of 11 marketing events per year. Ten such events may allow attendees up to a total amount of vehicle trips that does not exceed 24 ADT (12 daily round trips) and one such event may allow attendees up to a total amount of vehicle trips that does not exceed 40 ADT (20 daily round trips). The ADT for all winery uses, including deliveries, tours and tastings, and employees, on days when a marketing event occurs shall not exceed 40 ADT; and

e. Following approval of a use permit under this subsection, no subsequent application for an increase in production of wine, tasting room visitation, or marketing events shall be considered within two years after approval;

11. (Reserved);

12. (Reserved);

13. Modifications of use permits under subsection (E) of Section 18.124.130;

14. Farmworker centers as defined by Section 18.08.293 of this code;

15. (Reserved);

16. (Reserved);

B. (Reserved);

C. Merger of substandard parcels, but only if the parcels meet the requirements set forth in Section 17.48.040;

D. (Reserved);

E. Summary revisions to acreage, but only after making the findings required by Section 17.50.070;

F. (Reserved);

G. Licenses for Category 3 temporary events as defined in Section 5.36.015 if a hearing is requested, and Category 4 temporary events as defined in Section 5.36.015 if not referred to the board;

H. Certificates of present extent of legal nonconformity, in accordance with the procedure set forth in Section 18.132.050;

I. Minor amendments of tentative, parcel and final maps in accordance with the procedure set forth in Sections 17.26.030 through 17.26.050 and Section 17.26.060 for modifications to or elimination of slope easements, and for this purpose the zoning administrator shall be deemed an “advisory agency” as defined in Chapter 17.02;

J. Variances, pursuant to Chapter 18.128 of this code (commencing with Section 18.128.010) and excepting therefrom any variances from the terms of the Conservation Regulations as set forth in Chapter 18.108;

K. (Reserved);

L. Applications for extensions of the life of a tentative map;

- M. Minor modifications to use permits as described in Section 18.124.130 (B) and modifications to winery use permits as described in Section 18.124.130(C)(1) through (7) of Section 18.124.130, after making the findings required by Section 18.124.130;
- N. Variances from the standards for mobile home parks in accordance with Section 15.40.310, or any successor amendment thereof;
- O. (Reserved); and
- P. Applications for exceptions to the county's adopted road and street standards in connection with a building permit clearance for a single-family residence or other ministerial permit clearance.

SECTION 3. Section 18.124.130 (Use permit modifications – Procedure – Categories)

of Chapter 18.124 (Use Permits) of the Napa County Code is amended to read in full as follows:

18.124.130 Use permit modifications—Procedure—Categories.

- A. Except as otherwise provided in subsections (B), (C) and (D) of this section, modifications to an approved use permit shall be processed in the same manner and in compliance with the procedures set forth herein for use permits and appeals, including notice and the payment of applicable permit application fees.
- B. Upon receipt of a written request from the holder of a use permit, other than a winery use permit which shall be processed as set forth in subsection (C) below, or, for micro-winery use permit modifications as in (F) below, the zoning administrator may approve minor non-controversial modifications to approved use permits after giving notice of intent to approve or deny, but without a public hearing in regard to project design or permit conditions which do not affect the overall concept, density, intensity or environmental impact of, or substantially alter or delete any environmental mitigation measure for the project. Consistent with the foregoing, the zoning administrator may approve changes in location and/or size of approved structures or portions thereof, provided that, the zoning administrator shall not consider or approve a minor modification if the result of the approval of the requested minor modification would result in any structure or the aggregate of all approved structures being increased more than 25 percent in size or one story in height based on the size allowed under the approved use permit. Equipment enclosures whose permanent installation outdoors was approved by use permit are not subject to this size limitation.
 - 1. Notice of intent to approve or deny, for purposes of this subsection, shall include a general explanation of the matter to be considered, a general description, in text or by diagram, of the location of the subject real property, and a statement that the zoning administrator intends to approve or deny the requested modification on a certain date not less than ten calendar days after the date of mailing of the notice unless a member of the public requests a public hearing prior to that date.
 - 2. Notice of intent, for purposes of this subsection, shall be mailed or delivered as follows:
 - a. To the owner of the subject real property or the owner's duly authorized agent and to the project applicant if the project applicant is

neither the owner of the property nor the owner's duly authorized agent;
and

b. To all owners of real property, including businesses, corporations or other public or private entities, as shown on the latest equalized assessment roll within 1,000 feet of the real property that is the subject of the proposed zoning change. In lieu of utilizing the assessment roll, the records of the county assessor or tax collector which contain more recent information than the assessment roll may be used.

3. If any member of the public requests a public hearing during the comment period, then the zoning administrator will provide public notice in accordance with Section 18.136.040 and conduct a public hearing.

C. Upon receipt of a written request from the holder of a winery use permit, the zoning administrator may approve minor modifications to winery use permits in accordance with the procedures set forth in subsection (D) below, except for micro-wineries, which are addressed in subsection (F) below. There will be no public hearing for such minor modifications. Such minor modifications will not trigger application of the Napa County Road and Street Standards unless the total ADT from all uses exceeds forty ADT or the inspection authority determines that improvements are required to comply with the State Fire Code, State Responsibility Area Fire Safe Regulations, or adopted left-turn land warrants required for all projects. Modifications to winery use permits are considered minor modifications under this subsection if the change in operations consists of any of the following:

1. Any increase in the number of full-time equivalent existing permitted employees up to a total of ten employees or by up to ten percent, whichever is greater;
2. Any increase in (1) the number of full-time equivalent existing permitted employees, including seasonal employees, (2) tours and tastings, or (3) deliveries, such that the total number of vehicle trips for all such uses on the property does not exceed 40 ADT or 20 round trips;
3. An increase in wine production up to a maximum of 30,000 gallons annually, or an increase of ten percent over the existing approved amount;
4. An addition or increase in the number of marketing events, up to a total of 11 marketing events per year. Ten such events may allow attendees for each event up to a total that does not exceed 24 ADT (12 daily trips) and one such event may allow attendees for such event up to a total that does not exceed 40 ADT (20 daily round trips). The ADT for all winery uses on days when a marketing event occurs shall not exceed 40 ADT. The approval of marketing events under this subsection may change in hours of operation during which such event may occur to include times after 6:00 pm, provided the project applicants cease all operations by 11:00 pm;
5. Any change in days of operation provided there is no increase in visitation, except pursuant to this section;
6. Any change in aggregate building footprint (including caves) by a maximum of 10,000 square feet or 25 percent of the total footprint, whichever is greater, where there is no cumulative increase in paved or impervious ground

surface area beyond 25 percent of the subject parcel or 15 acres, whichever is less; and/or

7. Addition of a new high-risk commercial kitchen where there is an existing medium- or low-risk kitchen on the property.

D. Notice of intent to approve or deny, for purposes of subsection (C) above, shall include a general explanation of the matter to be considered, a general description, in text or by diagram, of the location of the subject real property, and a statement that the zoning administrator intends to approve or deny the requested modification on a certain date not less than ten calendar days after the date of mailing of the notice. Notice of intent, for purposes of this subsection, shall be given as follows:

1. To the owner of the subject real property or the owner's duly authorized agent and to the project applicant if the project applicant is neither the owner of the property nor the owner's duly authorized agent;

2. To all owners of real property, including businesses, corporations or other public or private entities, as shown on the latest equalized assessment roll within 1,000 feet of the real property that is the subject of the proposed project. In lieu of utilizing the assessment roll, the records of the county assessor or tax collector which contain more recent information than the assessment roll may be used; and

3. By posting the notice on the county's website for the PBES Department.

E. Upon receipt of a written request from the holder of a use permit relating to a property subject to the Napa Valley Business Park Specific Plan, including winery use permits, the zoning administrator may approve any modification to approved use permits after giving notice and holding a public hearing pursuant to subsection (B), above.

F. Upon receipt of a written request from the holder of a use permit relating to a micro-winery, the zoning administrator may approve minor modifications to micro-winery use permits in accordance with the procedures set forth in subsection (D) above. There will be no public hearing for such minor modifications. Modifications to micro-winery use permits are considered minor modifications under this subsection if the change in operations consists of any of the following:

1. Any increase in the number of full-time equivalent existing permitted employees so long as the total number of such employees does not exceed five;

2. Any increase in (1) the number of full-time equivalent existing permitted employees, including seasonal employees, (2) tours and tastings, or (3) deliveries, so long as the total number of vehicle trips for all such uses on the property does not exceed 40 ADT or 20 round trips;

3. An increase in wine production so long as the total annual production does not exceed 5,000 gallons annually;

4. Any change in days of operation provided there is no increase in visitation, except pursuant to this section; and

5. Any increase in aggregate building footprint (including caves) so long as the total does not exceed 5,000 square feet.

G. Upon receipt of a written request from the holder of a use permit, other than a winery use permit, which shall be processed as set forth in subsection (C) above, the director may administratively approve very minor, non-controversial modifications to approved use permits without public notice, including the following:

1. An extension of use permit expiration time not to exceed one year beyond the then-operative date of use permit expiration as established in conformance with this chapter, provided that the director shall not approve more than three such extensions of any one use permit or use permit modification approval; and
 2. Small (less than ten percent) changes in square footage or building footprint;
 3. Realignment of internal circulation roads;
 4. Similar items at the discretion of the director.
- H. Any modification to a use permit that exceeds the thresholds listed above in this section will be considered a major modification subject to consideration and a decision by the planning commission. A micro-winery with an approved major modification shall no longer be classified as a micro-winery.

SECTION 7. As set forth in the staff report accompanying this ordinance, the Board of Supervisors finds that this ordinance is consistent with the 2008 General Plan as adopted by Napa County, and is consistent with the Environmental Impact Report as certified by Napa County for the General Plan; therefore, pursuant to Section 15183 of the California Environmental Quality Act (CEQA) Guidelines (Projects Consistent with a Community Plan, General Plan, or Zoning), this ordinance requires no additional environmental review. Further, the Board of Supervisors finds that adoption of this ordinance is exempt from the provisions of the CEQA pursuant to Categorical Exemption Class 3 (“New Construction of Small Structures”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15303; Categorical Exemption Class 4 (“Minor Alterations to Land”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15304; Class 3 (“New Construction or Conversion of Small Structures”) which may be found in the Napa County’s Local Procedures for Implementing the California Environmental Quality Act, revised in February 2020; and the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines for the Implementation of the CEQA 14 CCR §15061(b)(3)].

The Board further finds that this ordinance will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works.

SECTION 8. Pursuant to Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this ordinance is consistent with the following policies and goals of the 2008 General Plan: Goals AG/LU-3 and AG/LU-6; Policies AG/LU-1, AG/LU-2, AG/LU-4, AG/LU-8, AG/LU-16, AG/LU-107, and Economic Development (E) Goal E-1 and Policy E-2.

SECTION 9. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 10. This ordinance shall be effective 30 days from and after the date of its passage.

SECTION 11. A summary of this ordinance shall be published at least once five days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing ordinance was recommended for adoption and public hearing held thereon before the Napa County Planning Commission at a regular meeting of the Commission on the _____ day of _____, 2021. The Planning Commission's recommendation was considered by the Board of Supervisors and this ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors (the Board), State of California, held on the ____ day of _____, 2021, and passed at a regular meeting of the Board held on the ____ day of _____, 2021, by the following vote:

AYES: SUPERVISORS _____

 NOES: SUPERVISORS _____

 ABSTAIN: SUPERVISORS _____

 ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the
 State of California

 ALFREDO PEDROZA, Chair of the
 Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ County Counsel</p> <p>By: _____ Code Services</p> <p>Date: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
---	--	--

Doc. No. 50501

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD

STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
NEHA HOSKINS, CLERK OF THE BOARD