

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. _____

Amending MCC Chapters 33, 34, 35 and 36 Relating to Wineries.

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Periodically, there is a need to amend County land use policies or regulations to address a change in law or circumstance; to implement elements of the Multnomah County Comprehensive Plan; or to make technical corrections for, among other things, clarification and consistency (commonly referred to as “housekeeping amendments”). Having identified such need, the Multnomah County Planning Commission recommended the adoption of this ordinance to the Board of County Commissioners. The Planning Commission made that recommendation through adoption of the resolution described below and pursuant to its authority in MCC 33.0140, 34.0140, 35.0140, 36.0140, and 37.0710 and in ORS 215.110.
- b. Planning Commission Resolution No. PC 2017-7341 relates to wineries in unincorporated Multnomah County and implements state law as well as policies set forth in the Multnomah County Comprehensive Plan, including, but not limited to, Policy 3.21, which calls for the adoption of local standards for wineries. State law authorizes the establishment and operation of wineries and associated activities, such as agri-tourism or other commercial events, in the exclusive farm use (EFU) zone. In addition to setting forth certain standards for that use, state law authorizes the County to establish certain local standards, including standards for agri-tourism or other commercial events. This ordinance adopts local standards that are responsive to the Comprehensive Plan policies and are within the scope of the statutory authorization.
- c. The Planning Commission held two work sessions on the proposals. The Planning Commission also held a public hearing on May 1, 2017, during which all interested persons were given the opportunity to appear and be heard. Notice of the Planning Commission’s hearings was published in the Oregonian newspaper and on the website of the Multnomah County Land Use Planning Program. In addition, prior to the Planning Commission hearing on this ordinance, the County mailed notices to individual property owners as required by ORS 215.503 (commonly referred to as “Ballot Measure 56 notice”).
- d. The Planning Commission’s recommendation is sound and derives from the proper execution of its duties and authority. It is in the public interest to adopt this ordinance.

Multnomah County Ordains as Follows:

Section 1. MCC 33.0005, 34.0005, 35.0005 and 36.0005 are amended as follows:

§ 33.0005	DEFINITIONS.
§ 34.0005	DEFINITIONS.
§ 35.0005	DEFINITIONS.

§ 36.0005

DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

* * *

Large Winery.

(A) A farm operation that owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard; and

(B) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in subsection A of this definition; and

(C) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine from grapes in at least three of the five calendar years before the winery was established as a large winery.

* * *

Section 2. MCC 33.2625 is amended as follows:

§ 33.2625 REVIEW USES.

* * *

(H) A winery, as described and regulated in ORS 215.452, and subject to MCC 33.6800 – 33.6820, including uses and activities listed in MCC 33.6815.

* * *

(S) A large winery, as described and regulated in ORS 215.453.

(T) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 33.6820.

Section 3. MCC 34.2625 is amended as follows:

§ 34.2625 REVIEW USES.

* * *

(H) A winery, as described and regulated in ORS 215.452, and subject to MCC 34.6800 – 34.6820, including uses and activities listed in MCC 34.6815.

* * *

(S) A large winery, as described and regulated in ORS 215.453.

(T) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 34.6820.

Section 4. MCC 35.2625 is amended as follows:

§ 35.2625 REVIEW USES.

* * *

(H) A winery, as described and regulated in ORS 215.452, and subject to MCC 35.6800 – 35.6820, including uses and activities listed in MCC 35.6815.

* * *

(S) A large winery, as described and regulated in ORS 215.453.

(T) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 35.6820.

Section 5. MCC 36.2625 is amended as follows:

§ 36.2625 REVIEW USES.

* * *

(H) A winery, as described and regulated in ORS 215.452, and subject to MCC 36.6800 – 36.6820, including uses and activities listed in MCC 36.6815.

* * *

(T) A large winery, as described and regulated in ORS 215.453.

(U) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 36.6820.

Section 6. MCC 33.6800, 34.6800, 35.6800 and 36.6800 are added as follows:

WINERIES

§ 33.6800 PURPOSES.

§ 34.6800 PURPOSES.

§ 35.6800 PURPOSES.

§ 36.6800 PURPOSES.

The purposes of these regulations are to establish standards for siting wineries in accordance with the provisions of ORS 215.452 and to specify the uses and activities that may be conducted as part of a

winery. Other purposes are to regulate the area, location, design and function of agri-tourism or other commercial events at wineries to the extent allowed by law in order to retain a maximum supply of land in agricultural production, to ensure public health and safety, to minimize impacts on nearby farming operations, residents, roads, traffic circulation, wildlife and other natural resources and to maintain the rural character.

Section 7. MCC 33.6805 is added as follows:

§ 33.6805 DEFINITIONS.

As used in MCC 33.6800 through 33.6820:

AGRI-TOURISM OR OTHER COMMERCIAL EVENTS - Includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

ON-SITE RETAIL SALE - Includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

WINERY - Means an operation with a maximum annual production of:

- (1) Less than 50,000 gallons of wine from grapes and:
 - (a) Owns an on-site vineyard of at least 15 acres;
 - (b) Owns a contiguous vineyard of at least 15 acres;
 - (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - (d) Obtains grapes from any combination of subsection (1) (a), (b) or (c) of this definition; or
- (2) At least 50,000 gallons of wine from grapes and the winery:
 - (a) Owns an on-site vineyard of at least 40 acres;
 - (b) Owns a contiguous vineyard of at least 40 acres;
 - (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
 - (d) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 - (e) Obtains grapes from any combination of subsection (2)(a), (b), (c) or (d) of this definition.

Section 8. MCC 34.6805 is added as follows:

§ 34.6805 DEFINITIONS.

As used in MCC 34.6800 through 34.6820:

AGRI-TOURISM OR OTHER COMMERCIAL EVENTS - Includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

ON-SITE RETAIL SALE - Includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

WINERY - Means an operation with a maximum annual production of:

(1) Less than 50,000 gallons of wine from grapes and:

- (a) Owens an on-site vineyard of at least 15 acres;
- (b) Owens a contiguous vineyard of at least 15 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (d) Obtains grapes from any combination of subsection (1) (a), (b) or (c) of this definition; or

(2) At least 50,000 gallons of wine from grapes and the winery:

- (a) Owens an on-site vineyard of at least 40 acres;
- (b) Owens a contiguous vineyard of at least 40 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (d) Owens an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (e) Obtains grapes from any combination of subsection (2)(a), (b), (c) or (d) of this definition.

Section 9. MCC 35.6805 is added as follows:

§ 35.6805 DEFINITIONS.

As used in MCC 35.6800 through 35.6820:

AGRI-TOURISM OR OTHER COMMERCIAL EVENTS - Includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

ON-SITE RETAIL SALE - Includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

WINERY - Means an operation with a maximum annual production of:

(1) Less than 50,000 gallons of wine from grapes and:

- (a) Owns an on-site vineyard of at least 15 acres;
- (b) Owns a contiguous vineyard of at least 15 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (d) Obtains grapes from any combination of subsection (1) (a), (b) or (c) of this definition; or

(2) At least 50,000 gallons of wine from grapes and the winery:

- (a) Owns an on-site vineyard of at least 40 acres;
- (b) Owns a contiguous vineyard of at least 40 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (d) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (e) Obtains grapes from any combination of subsection (2)(a), (b), (c) or (d) of this definition.

Section 10. MCC 36.6805 is added as follows:

§ 36.6805 DEFINITIONS.

As used in MCC 36.6800 through 36.6820:

AGRI-TOURISM OR OTHER COMMERCIAL EVENTS - Includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

ON-SITE RETAIL SALE - Includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

WINERY - Means an operation with a maximum annual production of:

(1) Less than 50,000 gallons of wine from grapes and:

- (a) Owns an on-site vineyard of at least 15 acres;
- (b) Owns a contiguous vineyard of at least 15 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
- (d) Obtains grapes from any combination of subsection (1) (a), (b) or (c) of this definition; or

(2) At least 50,000 gallons of wine from grapes and the winery:

- (a) Owns an on-site vineyard of at least 40 acres;
- (b) Owns a contiguous vineyard of at least 40 acres;
- (c) Has a long-term contract of at least three years for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
- (d) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
- (e) Obtains grapes from any combination of subsection (2)(a), (b), (c) or (d) of this definition.

Section 11. MCC 33.6810 is added as follows:

§ 33.6810 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.

A winery authorized under MCC 33.2625(H) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term “winery” in MCC 33.6805 have been planted or that the contract has been executed, as applicable.

(B) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(1) There must be a setback of at least 100 feet from all property lines for the winery and all public gathering places unless an adjustment or variance allowing a setback of less than 100 feet is granted.

(2) The winery shall have direct access onto a public road. Internal vehicle circulation shall avoid conflicts with accepted farming or forest practices on adjacent lands.

(C) In addition to the off-street parking and loading standards of MCC 33.4100 through 33.4215, a winery shall provide minimum required off-street parking spaces for all activities or uses of the lot, parcel or tract on which the winery is established in accordance with the following:

<u>Winery (production, bottling and storage)</u>	<u>One space for each two employee positions on the largest shift.</u>
<u>Areas for use by or for patrons, including tasting room, reception area and retail sales</u>	<u>One space for each 300 square feet of gross floor area.</u>
<u>Agri-tourism or other commercial events</u>	<u>One space per each 2.5 expected attendees. The total area provided for event parking shall be based on a ratio of 300 square feet for every 2.5 persons anticipated.</u>

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Section 12. MCC 34.6810 is added as follows:

§ 34.6810 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.

A winery authorized under MCC 34.2625(H) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term “winery” in MCC 34.6805 have been planted or that the contract has been executed, as applicable.

(B) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(1) There must be a setback of at least 100 feet from all property lines for the winery and all public gathering places unless an adjustment or variance allowing a setback of less than 100 feet is granted.

(2) The winery shall have direct access onto a public road. Internal vehicle circulation shall avoid conflicts with accepted farming or forest practices on adjacent lands.

(C) In addition to the off-street parking and loading standards of MCC 34.4100 through 34.4215, a winery shall provide minimum required off-street parking spaces for all activities or uses of the lot, parcel or tract on which the winery is established in accordance with the following:

<u>Winery (production, bottling and storage)</u>	<u>One space for each two employee positions on the largest shift.</u>
<u>Areas for use by or for patrons, including tasting room, reception area and retail sales</u>	<u>One space for each 300 square feet of gross floor area.</u>
<u>Agri-tourism or other commercial events</u>	<u>One space per each 2.5 expected attendees. The total area provided for event parking shall be based on a ratio of 300 square feet for every 2.5 persons anticipated.</u>

Section 13. MCC 35.6810 is added as follows:

§ 35.6810 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.

A winery authorized under MCC 35.2625(H) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term “winery”

in MCC 35.6805 have been planted or that the contract has been executed, as applicable.

(B) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(1) There must be a setback of at least 100 feet from all property lines for the winery and all public gathering places unless an adjustment or variance allowing a setback of less than 100 feet is granted.

(2) The winery shall have direct access onto a public road. Internal vehicle circulation shall avoid conflicts with accepted farming or forest practices on adjacent lands.

(C) In addition to the off-street parking and loading standards of MCC 35.4100 through 35.4215, a winery shall provide minimum required off-street parking spaces for all activities or uses of the lot, parcel or tract on which the winery is established in accordance with the following:

<u>Winery (production, bottling and storage)</u>	<u>One space for each two employee positions on the largest shift.</u>
<u>Areas for use by or for patrons, including tasting room, reception area and retail sales</u>	<u>One space for each 300 square feet of gross floor area.</u>
<u>Agri-tourism or other commercial events</u>	<u>One space per each 2.5 expected attendees. The total area provided for event parking shall be based on a ratio of 300 square feet for every 2.5 persons anticipated.</u>

Section 14. MCC 36.6810 is added as follows:

§ 36.6810 STANDARDS FOR ESTABLISHMENT AND OPERATION OF WINERIES.

A winery authorized under MCC 36.2625(H) shall comply with the following:

(A) The applicant shall show that vineyards described in the definition of the term “winery” in MCC 36.6805 have been planted or that the contract has been executed, as applicable.

(B) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(1) There must be a setback of at least 100 feet from all property lines for the winery and all public gathering places unless an adjustment or variance allowing a setback of less than 100 feet is granted.

(2) The winery shall have direct access onto a public road. Internal vehicle circulation shall avoid conflicts with accepted farming or forest practices on adjacent lands.

(C) In addition to the off-street parking and loading standards of MCC 36.4100 through 36.4215, a winery shall provide minimum required off-street parking spaces for all activities or uses of the lot, parcel or tract on which the winery is established in accordance with the following:

<u>Winery (production, bottling and storage)</u>	<u>One space for each two employee positions on the largest shift.</u>
<u>Areas for use by or for patrons, including tasting room, reception area and retail sales</u>	<u>One space for each 300 square feet of gross floor area.</u>
<u>Agri-tourism or other commercial events</u>	<u>One space per each 2.5 expected attendees. The total area provided for event parking shall be based on a ratio of 300 square feet for every 2.5 persons anticipated.</u>

Section 15. MCC 33.6815 is added as follows:

§ 33.6815 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.

(A) In addition to producing and distributing wine, a winery authorized under MCC 33.2625(H) may engage in the following uses and activities subject to the standards in MCC 33.6810 and the applicable standards in this section:

- (1) Market and sell wine produced in conjunction with the winery.
- (2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (a) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (b) Wine club activities;
 - (c) Winemaker luncheons and dinners;
 - (d) Winery and vineyard tours;
 - (e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (f) Winery staff activities;
 - (g) Open house promotions of wine produced in conjunction with the winery; and
 - (h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(3) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine.

(a) Items allowed to be marketed and sold under this subsection (A)(3) of this section include food and beverages:

- (i) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
- (ii) Served in conjunction with an activity authorized by subsection (A)(2), (A)(4), or (A)(5) of this section.

(b) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this subsection (A)(3) of this section. Food and beverage services authorized under this subsection (A)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

(4) Carry out agri-tourism or other commercial events on the tract occupied by the winery, subject to the provisions in MCC 33.6820.

(5) Host charitable activities for which the winery does not charge a facility rental fee.

(B) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (A)(3), (A)(4) and (A)(5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. A winery shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(C) When a bed and breakfast facility is sited as a home occupation within a lawfully established dwelling on the same tract as a winery established under MCC 33.2625(H) and in association with the winery:

(1) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(2) The meals may be served at the bed and breakfast facility or at the winery.

Section 16. MCC 34.6815 is added as follows:

§ 34.6815 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.

(A) In addition to producing and distributing wine, a winery authorized under MCC 34.2625(H) may engage in the following uses and activities subject to the standards in MCC 34.6810 and the applicable standards in this section:

- (1) Market and sell wine produced in conjunction with the winery.
- (2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (a) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (b) Wine club activities;
 - (c) Winemaker luncheons and dinners;
 - (d) Winery and vineyard tours;
 - (e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (f) Winery staff activities;
 - (g) Open house promotions of wine produced in conjunction with the winery; and
 - (h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
- (3) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine.
 - (a) Items allowed to be marketed and sold under this subsection (A)(3) of this section include food and beverages:
 - (i) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (ii) Served in conjunction with an activity authorized by subsection (A)(2), (A)(4), or (A)(5) of this section.
 - (b) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this subsection (A)(3) of this section. Food and beverage services authorized under this subsection (A)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (4) Carry out agri-tourism or other commercial events on the tract occupied by the winery, subject to the provisions in MCC 34.6820.
- (5) Host charitable activities for which the winery does not charge a facility rental fee.

(B) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (A)(3), (A)(4) and (A)(5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. A winery shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(C) When a bed and breakfast facility is sited as a home occupation within a lawfully established dwelling on the same tract as a winery established under MCC 34.2625(H) and in association with the winery:

(1) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(2) The meals may be served at the bed and breakfast facility or at the winery.

Section 17. MCC 35.6815 is added as follows:

§ 35.6815 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.

(A) In addition to producing and distributing wine, a winery authorized under MCC 35.2625(H) may engage in the following uses and activities subject to the standards in MCC 35.6810 and the applicable standards in this section:

(1) Market and sell wine produced in conjunction with the winery.

(2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

(a) Wine tastings in a tasting room or other location on the premises occupied by the winery;

(b) Wine club activities;

(c) Winemaker luncheons and dinners;

(d) Winery and vineyard tours;

(e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;

(f) Winery staff activities;

(g) Open house promotions of wine produced in conjunction with the winery; and

(h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(3) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine.

(a) Items allowed to be marketed and sold under this subsection (A)(3) of this

section include food and beverages:

- (i) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
- (ii) Served in conjunction with an activity authorized by subsection (A)(2), (A)(4), or (A)(5) of this section.

(b) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this subsection (A)(3) of this section. Food and beverage services authorized under this subsection (A)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

(4) Carry out agri-tourism or other commercial events on the tract occupied by the winery, subject to the provisions in MCC 35.6820.

(5) Host charitable activities for which the winery does not charge a facility rental fee.

(B) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (A)(3), (A)(4) and (A)(5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. A winery shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(C) When a bed and breakfast facility is sited as a home occupation within a lawfully established dwelling on the same tract as a winery established under MCC 35.2625(H) and in association with the winery:

(1) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(2) The meals may be served at the bed and breakfast facility or at the winery.

Section 18. MCC 36.6815 is added as follows:

§ 36.6815 USES AND ACTIVITIES IN CONJUNCTION WITH A WINERY.

(A) In addition to producing and distributing wine, a winery authorized under MCC 36.2625(H) may engage in the following uses and activities subject to the standards in MCC

36.6810 and the applicable standards in this section:

- (1) Market and sell wine produced in conjunction with the winery.
- (2) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (a) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (b) Wine club activities;
 - (c) Winemaker luncheons and dinners;
 - (d) Winery and vineyard tours;
 - (e) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (f) Winery staff activities;
 - (g) Open house promotions of wine produced in conjunction with the winery; and
 - (h) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
- (3) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine.
 - (a) Items allowed to be marketed and sold under this subsection (A)(3) of this section include food and beverages:
 - (i) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (ii) Served in conjunction with an activity authorized by subsection (A)(2), (A)(4), or (A)(5) of this section.
 - (b) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this subsection (A)(3) of this section. Food and beverage services authorized under this subsection (A)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (4) Carry out agri-tourism or other commercial events on the tract occupied by the winery, subject to the provisions in MCC 36.6820.
- (5) Host charitable activities for which the winery does not charge a facility rental fee.
- (B) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (A)(3), (A)(4) and (A)(5) of this section may not exceed 25 percent of the

gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. A winery shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

(C) When a bed and breakfast facility is sited as a home occupation within a lawfully established dwelling on the same tract as a winery established under MCC 36.2625(H) and in association with the winery:

(1) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(2) The meals may be served at the bed and breakfast facility or at the winery.

Section 19. MCC 33.6820 is added as follows:

§ 33.6820 STANDARDS FOR AGRI-TOURISM OR OTHER COMMERCIAL EVENTS AT WINERIES.

Agri-tourism or other commercial events carried out by a winery as authorized by MCC 33.2625(T) shall be subject to the following:

(A) Events on the first six days of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year license that:

(1) Has a term of five years; and

(2) Is subject to a Type I administrative review to determine necessary conditions pursuant to subsection (E) of this section.

(B) The decision on a license under subsection (A) of this section is not:

(1) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(2) A permit, as defined in ORS 215.402.

(C) Events on days seven through 18 of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year permit that:

(1) Has a term of five years;

(2) Is subject to a Type II administrative review to determine necessary conditions pursuant to subsection (E) of this section; and

(3) Is subject to notice as specified in ORS 215.416(11).

(D) The decision on a permit under subsection (C) of this section is:

(1) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(2) A permit, as defined in ORS 215.402.

(E) As is necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the following standards shall apply to a license or permit issued pursuant to subsection (A) or (C) of this section:

(1) Hours of Operation: Events shall begin no earlier than 8:00 AM and shall conclude no later than 9:00 PM.

(2) Parking and Traffic Management: Events shall comply with the following:

(a) The event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited. The amount of land used for parking associated with agri-tourism or other commercial events at wineries shall be the minimum necessary to accomplish the objective of supporting winery operations on the property and retaining farm land in production. The amount of land used for temporary event parking shall not exceed five percent or five acres of the tract on which the winery is located, whichever is less.

(b) The event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(c) Temporary parking for agri-tourism or other commercial events shall use areas on the property that are not high-value soils if available, but if lacking these soils, temporary parking may use farmed areas of the property that have already been harvested or on areas that were not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered less productive for agricultural use in the following growing season.

(3) Noise Management: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(4) Sanitation Facilities: Sufficient restroom facilities meeting County health

standards for the expected number of attendees shall be provided.

- (5) Solid Waste: The event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

Section 20. MCC 34.6820 is added as follows:

§ 34.6820 STANDARDS FOR AGRI-TOURISM OR OTHER COMMERCIAL EVENTS AT WINERIES.

Agri-tourism or other commercial events carried out by a winery as authorized by MCC 34.2625(T) shall be subject to the following:

(A) Events on the first six days of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year license that:

- (1) Has a term of five years; and
- (2) Is subject to a Type I administrative review to determine necessary conditions pursuant to subsection (E) of this section.

(B) The decision on a license under subsection (A) of this section is not:

- (1) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.
- (2) A permit, as defined in ORS 215.402.

(C) Events on days seven through 18 of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year permit that:

- (1) Has a term of five years;
- (2) Is subject to a Type II administrative review to determine necessary conditions pursuant to subsection (E) of this section; and
- (3) Is subject to notice as specified in ORS 215.416(11).

(D) The decision on a permit under subsection (C) of this section is:

- (1) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.
- (2) A permit, as defined in ORS 215.402.

(E) As is necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant

adverse impacts to uses on surrounding land, the following standards shall apply to a license or permit issued pursuant to subsection (A) or (C) of this section:

- (1) Hours of Operation: Events shall begin no earlier than 8:00 AM and shall conclude no later than 9:00 PM.
- (2) Parking and Traffic Management: Events shall comply with the following:
 - (a) The event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited. The amount of land used for parking associated with agri-tourism or other commercial events at wineries shall be the minimum necessary to accomplish the objective of supporting winery operations on the property and retaining farm land in production. The amount of land used for temporary event parking, shall not exceed five percent or five acres of the tract on which the winery is located, whichever is less.
 - (b) The event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.
 - (c) Temporary parking for agri-tourism or other commercial events shall use areas on the property that are not high-value soils if available, but if lacking these soils, temporary parking may use farmed areas of the property that have already been harvested or on areas that were not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered less productive for agricultural use in the following growing season.
- (3) Noise Management: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)
- (4) Sanitation Facilities: Sufficient restroom facilities meeting County health standards for the expected number of attendees shall be provided.
- (5) Solid Waste: The event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

Section 21. MCC 35.6820 is added as follows:

§ 35.6820 STANDARDS FOR AGRITOURISM OR OTHER COMMERCIAL EVENTS AT

WINERIES.

Agri-tourism or other commercial events carried out by a winery as authorized by MCC 35.2625(T) shall be subject to the following:

(A) Events on the first six days of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year license that:

(1) Has a term of five years; and

(2) Is subject to a Type I administrative review to determine necessary conditions pursuant to subsection (E) of this section.

(B) The decision on a license under subsection (A) of this section is not:

(1) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.

(2) A permit, as defined in ORS 215.402.

(C) Events on days seven through 18 of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year permit that:

(1) Has a term of five years;

(2) Is subject to a Type II administrative review to determine necessary conditions pursuant to subsection (E) of this section; and

(3) Is subject to notice as specified in ORS 215.416(11).

(D) The decision on a permit under subsection (C) of this section is:

(1) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.

(2) A permit, as defined in ORS 215.402.

(E) As is necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the following standards shall apply to a license or permit issued pursuant to subsection (A) or (C) of this section:

(1) Hours of Operation: Events shall begin no earlier than 8:00 AM and shall conclude no later than 9:00 PM.

(2) Parking and Traffic Management: Events shall comply with the following:

(a) The event will be conducted in compliance with a parking plan approved

by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited. The amount of land used for parking associated with agri-tourism or other commercial events at wineries shall be the minimum necessary to accomplish the objective of supporting winery operations on the property and retaining farm land in production. The amount of land used for temporary event parking shall not exceed five percent or five acres of the tract on which the winery is located, whichever is less.

(b) The event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(c) Temporary parking for agri-tourism or other commercial events shall use areas on the property that are not high-value soils if available, but if lacking these soils, temporary parking may use farmed areas of the property that have already been harvested or on areas that were not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered less productive for agricultural use in the following growing season.

(3) Noise Management: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(4) Sanitation Facilities: Sufficient restroom facilities meeting County health standards for the expected number of attendees shall be provided.

(5) Solid Waste: The event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(F) If a winery conducts agri-tourism or other commercial events authorized by ORS 215.452(5) and MCC 35.2625(T), the winery may not conduct agri-tourism or other commercial events or activities authorized by ORS 215.283(4) and MCC 35.2620(BB), 35.2625(U), 35.2820(L), or 35.2825(L).

Section 22. MCC 36.6820 is added as follows:

§ 36.6820 STANDARDS FOR AGRITOURISM OR OTHER COMMERCIAL EVENTS AT WINERIES.

Agri-tourism or other commercial events carried out by a winery as authorized by MCC 36.2625(U) shall be subject to the following:

(A) Events on the first six days of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year license that:

- (1) Has a term of five years; and
- (2) Is subject to a Type I administrative review to determine necessary conditions pursuant to subsection (E) of this section.

(B) The decision on a license under subsection (A) of this section is not:

- (1) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.
- (2) A permit, as defined in ORS 215.402.

(C) Events on days seven through 18 of the 18-day limit per calendar year are authorized through the issuance of a renewable multi-year permit that:

- (1) Has a term of five years;
- (2) Is subject to a Type II administrative review to determine necessary conditions pursuant to subsection (E) of this section; and
- (3) Is subject to notice as specified in ORS 215.416(11).

(D) The decision on a permit under subsection (C) of this section is:

- (1) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.
- (2) A permit, as defined in ORS 215.402.

(E) As is necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the following standards shall apply to a license or permit issued pursuant to subsection (A) or (C) of this section:

- (1) Hours of Operation: Events shall begin no earlier than 8:00 AM and shall conclude no later than 9:00 PM.
- (2) Parking and Traffic Management: Events shall comply with the following:
 - (a) The event will be conducted in compliance with a parking plan approved by the Planning Director. All event parking shall be accommodated on the tract; off-tract parking is prohibited. The amount of land used for parking associated with agri-tourism or other commercial events at wineries shall be the minimum necessary to accomplish the objective of supporting

winery operations on the property and retaining farm land in production. The amount of land used for temporary event parking shall not exceed five percent or five acres of the tract on which the winery is located, whichever is less.

(b) The event will be conducted in compliance with a traffic control plan providing safe and efficient on-site and off-site traffic management approved by the County Engineer, unless the County Engineer finds that a traffic control plan is unnecessary due to the nature of the event or finds that the characteristics of the tract or any other factor inherently ensures that traffic circulation and management will occur in a safe manner.

(c) Temporary parking for agri-tourism or other commercial events shall use areas on the property that are not high-value soils if available, but if lacking these soils, temporary parking may use farmed areas of the property that have already been harvested or on areas that were not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered less productive for agricultural use in the following growing season.

(3) Noise Management: No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall the event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(4) Sanitation Facilities: Sufficient restroom facilities meeting County health standards for the expected number of attendees shall be provided.

(5) Solid Waste: The event will be conducted in compliance with a solid waste plan that explains how solid waste generated by the event will be collected and disposed of at a Metro designated regional solid waste facility.

(F) If a winery conducts agri-tourism or other commercial events authorized by ORS 215.452(5) and MCC 36.2625(U), the winery may not conduct agri-tourism or other commercial events or activities authorized by ORS 215.283(4) and 36.2620(BB) or 36.2625(V).

FIRST READING: _____

SECOND READING AND ADOPTION: _____

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:

JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Katherine Thomas, Assistant County Attorney

SUBMITTED BY: Kim Peoples, Director, Department of Community Services