

# Wineries

## Application of Agricultural Exemption

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**Statutory reference:** Oregon Revised Statute (ORS) 455.315 (1) and (2), and ORS 455.068

**Date:** Issued—May 26, 2011  
Last updated—Oct. 1, 2022

**Subject:** Wineries—Application of the agricultural exemption to the Oregon Structural Specialty Code (OSSC)

### Question:

1. Does a winery structure that includes a wine tasting room within the building footprint and is open to the public qualify for an agricultural building exemption?
2. From the activities listed in the definition of a winery in ORS 455.068, it appears that the only use that would trigger a non-exempt status is the tasting room that is open to the public. Are there any other specific uses listed in the definition of winery that would disqualify the structure as exempt?
3. Would supplemental use of the building such as winery tours or special events such as weddings or parties held partially or entirely in the building trigger a change of use requirement to obtain a permit?
4. In the definition of an “agricultural building,” ORS 455.315(2)(a)(E) provides that the term includes; “[a]ny other agricultural or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal, by marketing or otherwise, of farm produce or forest products” Is a winery that qualifies for an agricultural exemption permitted to incorporate an office for “marketing” where the public may normally be expected to interact such as general deliveries, and office generated sales and transactions?
5. ORS 455.068 (2) states: “In adopting any construction standards impacting a winery, the Department of Consumer and Business Services shall ensure the standards are applicable to all wineries producing wine, as defined in ORS 471.001, and cider, as defined in ORS 471.023.” If a winery located on a farm operation, without a tasting room, may be exempt from the structural specialty code, does this not create different construction standards, where a winery located on a farm operation with a tasting room is not exempt from the structural specialty code?
6. Given that an agricultural exempt winery structure is not given a building code occupancy classification as it is exempt from such determination and given that a non-exempt agricultural building is classed as a Group U occupancy per the OSSC Section C101.1; how does that correlate with the building code classification of a winery as a Group F occupancy and not a Group U occupancy? In other words, how is one considered an agricultural building (Group U) and the other a factory (Group F) if they perform and are used for the same operation?

**Answer:**

1. No. ORS 455.315(2)(b) states that an “agricultural building” does not include; “a structure used by the public.”
2. The legislative intent for the exemption is that it only applies where the public is not routinely in the building. Accordingly, brief incidental visits from the public such as deliveries, shipping, or minor transitory administrative functions should not be perceived as a violation of the intent. However, areas such as public tasting rooms, public sales rooms, conference rooms and those with similar functions, do not meet the statutory intent for use in an “exempt” building.
3. For the purposes of ORS 455.315, “winery tours or special events such as weddings or parties” are public uses and should not be allowed. Special event or temporary use permits should be discussed exclusively with the local municipality.
4. See answer to item 2.
5. No. Winery structures meeting the parameters of ORS 455.315 are simply exempt from having to comply with any structural specialty code construction standard. Non-exempt wineries must comply with the state building code.
6. There is no correlation between the statutory definition and the OSSC definition of an “agricultural building.” They serve two distinct and separate purposes. The statutorily derived agricultural building definition in ORS 455.315 is broad in its scope and specific to the application of the statute. Again, it establishes a class of structures for which construction standards do not apply.

This is in stark contrast to OSSC Section C101 which lists 8 agricultural uses which may qualify as a “Group U – Agricultural Building” for the purposes of complying with Appendix C of the OSSC. Other non-exempt uses must either comply with the “Utility and Miscellaneous Group U” provisions of OSSC Section 312 or other germane provisions as dictated by the building code.

Uses associated with a typical winery structure are not included in either of the “lists” found in OSSC Section C101 or Section 312. Accordingly, the designer must look elsewhere for the appropriate application of the building code. OSSC Section 202 defines wineries and OSSC Section 306 assigns them either an “F-1” or “F-2” occupancy classification based on the “alcohol percent by volume” of the wine being produced.

**Analysis:**

Winery structures often include spaces such as office, de-stemming, crushing, wine laboratory, processing area, barrel aging, bottling machinery, and case goods storage areas. The following questions relate to winery structures located on a properly designated farm operation and which meet the statutory parameters of ORS 455.315(2)(a) and (b) for consideration as an agricultural building exempt from structural specialty code construction standards.

With regard to wineries regulated by the OSSC, a “white paper” discussing the proper application of the code is available at [Oregon.gov/bcd](http://Oregon.gov/bcd).

Other interpretations related to ORS 455.315:

- Equine Facilities: [Oregon.gov/bcd/codes-stand/Documents/interp-equine-exemption.pdf](http://Oregon.gov/bcd/codes-stand/Documents/interp-equine-exemption.pdf)
- AG/Forestry/Additional uses: [Oregon.gov/bcd/codes-stand/Documents/interp-ag-forestry-exemption.pdf](http://Oregon.gov/bcd/codes-stand/Documents/interp-ag-forestry-exemption.pdf)
- Dog training facilities: [Oregon.gov/bcd/codes-stand/Documents/interp-dogtraining-exemption.pdf](http://Oregon.gov/bcd/codes-stand/Documents/interp-dogtraining-exemption.pdf)

**Contact:** Visit the division website to [contact a building code specialist](#).