

COUNTY OF AMADOR

ORDINANCE NO. 1848

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF AMADOR
ADDING CHAPTER 3.18 TO THE AMADOR COUNTY CODE ESTABLISHING THE
AMADOR COUNTY WINE HERITAGE DISTRICT AND ASSESSMENT

WHEREAS, wineries who will pay more than fifty percent (50%) of the proposed assessment have petitioned the Board of Supervisors to form the Amador County Wine Heritage District (ACWHD); and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on wineries to pay for marketing and brand awareness, quality and education programs, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed businesses within the ACWHD will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on March 12, 2024 at 9:00 AM at the Board of Supervisors Chambers, located at 810 Court Street, Jackson, CA 95642, the Board of Supervisors adopted a Resolution of Intention, Resolution No.24-030; and

WHEREAS, the public meeting and public hearing to consider the formation of the ACWHD have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on April 9, 2024, at 9:00 AM at the Board of Supervisors Chambers, located at 810 Court Street, Jackson, CA 95642, the Board of Supervisors held a public meeting regarding the formation of the ACWHD, conducted an introduction of the ordinance to form the ACWHD and the levy of assessments, and the Board of Supervisors heard and received objections and protests, if any, to the formation of the ACWHD and the levy of the proposed assessment; and

WHEREAS, on May 14, 2024 at 9:00 AM at the Board of Supervisors Chambers, located at 810 Court Street, Jackson, CA 95642, the Board of Supervisors held a public hearing to form the ACWHD and implement the levy of assessments, and the Board of Supervisors heard and received all objections and protests, if any, to the formation of the ACWHD and the levy of the proposed assessment; and

WHEREAS, following the public hearing, on May 14, 2024, at the Board of Supervisors Chambers, located at 810 Court Street, Jackson, CA 95642, the Board considered adoption of this ordinance, forming the ACWHD and levying the assessment; and

WHEREAS, the County Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the formed ACWHD who would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each assessed business; and

WHEREAS, pursuant to the Taxpayer Protection and Government Accountability Act (TPGAA), an initiative certified eligible for qualification for the November 5, 2024, general election ballot, the proposed assessment is an exempt charge pursuant to TPGAA Section 5(j)(6), (Ordinance No. 1848)

(05/14/2024)

as the ACWHD is a winery heritage district formed under the provisions of the Property and Business Improvement District Law of 1994, as set forth in the Streets and Highways Code §36600, et seq.; and

WHEREAS, the amount of the proposed assessment for the ACWHD will total approximately \$342,000 in the first year. Pursuant to the TPGAA, the County of Amador has found the proposed assessment amount is reasonable given the scope of services to be provided and shall not exceed the actual cost of providing the ACWHD services to the payors; and

WHEREAS, adoption of this Ordinance does not diminish the legal effect of the adoption of the Resolution of Formation.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF AMADOR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.18 of the Amador County Code is hereby added to Title 3 of the Amador County Code to read as follows:

3.18.010 CREATED.

The County of Amador hereby creates the Amador County Wine Heritage District (ACWHD), for a five (5) year life, beginning June 1, 2024, or as soon as possible thereafter, and ending five (5) years from its start date, under the provisions of the Property and Business Improvement District Law of 1994, as set forth in the Streets and Highways Code of the state of California, Section 36600 et seq.

3.18.020 Management District Plan.

The Management District Plan (Plan) presented at the final public hearing of the formation of the ACWHD held pursuant to the Property and Business Improvement District Law of 1994 is hereby adopted and approved.

3.18.030 Activities and Improvements.

1. The activities to be provided to benefit businesses in the ACWHD will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the ACWHD; to provide activities or improvements outside the ACWHD; or for any purpose other than the purposes specified in this ordinance, the Resolution of Intention, the Resolution of Formation, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the ACWHD boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the ACWHD.
2. The Board of Supervisors finds as follows:
 - a. The activities funded by the assessment will provide a specific benefit to assessed businesses within the ACWHD that is not provided to those not paying the assessment.
 - b. The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
 - c. The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does

- not exceed the reasonable costs to the local government of providing the service or product.
- d. Assessments imposed pursuant to the ACWHD are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a customer, that portion shall be specifically called out and identified for the customer in any and all communications from the business owner as the “ACWHD Assessment” as specified in the Plan.
3. The assessments levied for the ACWHD shall be applied toward marketing and brand awareness, quality and education programs, and other improvements and activities as set forth in the Plan.
 4. Assessments levied on wineries pursuant to this ordinance shall be levied on the basis of benefit. Because the services provided are intended to increase sales revenue for assessed winery businesses, an assessment based on gross direct to consumer sales revenue on winery sales is the best measure of benefit.

3.18.040 Budget.

The assessments for the entire ACWHD will total approximately \$342,000 in year one (1). A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as sales do and if the assessment rate is increased or decreased.

3.18.050. Bonds

Bonds shall not be issued to fund the ACWHD.

3.18.060 Boundaries.

The established ACWHD includes all wineries, existing and in the future, within the boundaries of the County of Amador, including the cities of Plymouth, Amador City and Sutter Creek as described and shown on the map in the Management District Plan.

3.18.070 Assessments.

1. The annual assessment rate is one percent (1%) of gross direct to consumer sales revenue on winery sales. Based on the benefit received, assessments will not be collected on purchases made outside of the County of Amador. Revenue generated from the ACWHD is intended only to provide programs and services for assessed businesses, all of which are located in the County of Amador. Sales made outside of the ACWHD boundaries are not subject to assessment due to a lack of benefit. Assessment dollars will not be spent on any programs or activities to benefit individual winery businesses outside of the County of Amador.
2. During the five (5) year term, the assessment rate may be increased annually by the ACWHD Owners’ Association upon approval from the Board of Supervisors by a maximum of one-half of one percent (0.5%) of gross direct to consumer sales revenue per year. The total assessment rate may not exceed two percent (2%). The assessment rate may also be decreased but shall not drop below the initial assessment rate of one percent (1%). Any proposed assessment rate increase or decrease approved by the Owners' Association shall be included in the annual report and shall not be effective until approved by the Board of Supervisors.

3. The assessments shall be used for the purposes set forth herein and any funds remaining at the end of any year may be used in subsequent years in which the ACWHD assessment is levied as long as they are used consistent with the requirements set forth herein.

3.18.080 Collections.

The County or a third-party collection agency will be responsible for collecting the assessment on a quarterly basis (including any delinquencies, interest, and overdue charges) from each winery located in the boundaries of the ACWHD. The County or a third-party collection agency shall take all reasonable efforts to collect the assessments from each winery.

3.18.090 Owners' Association.

The Board of Supervisors through adoption of this ordinance and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the ACWHD as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that a new 501(c)(6) non-profit corporation shall be formed to serve as the ACWHD Owners' Association. Passage of this ordinance authorizes the Board of Supervisors to contract with the Owners' Association to administer the ACWHD.

3.18.100. Annual Report.

The Owners' Association, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the ACWHD.

3.18.110 Amendments to Enabling Legislation.

The ACWHD formed pursuant to this ordinance shall be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Amador declares that it would have passed and adopted this ordinance and each and all provisions irrespective of the fact that any one or more of said provisions may be declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 3. Effective Date. This ordinance of the County of Amador shall be effective thirty (30) days after its passage, this ordinance or a summary thereof, as provided in Government Code Section 25124, shall be published at least once in a newspaper of general circulation published and circulated in the County of Amador, along with the names of the Board of Supervisors voting for and against its passage.

INTRODUCED by the Board of Supervisors of the County of Amador on the 9th day of April, 2024, and PASSED and APPROVED on the 14th day of May, 2024, by the following roll call vote:

AYES: Supervisors Axe, Forster, Oneto and Crew
NOES: None
ABSENT: None
ABSTAINING: Supervisor Jeff Brown



Brian Oneto, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County, California

