

2024-2029



**AMADOR COUNTY  
WINE HERITAGE DISTRICT  
MANAGEMENT DISTRICT PLAN**

*Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.*

**April 25, 2024**

**Contents**

- I. OVERVIEW .....3
- II. BACKGROUND .....5
- III. BOUNDARY .....6
- IV. ASSESSMENT BUDGET AND SERVICES.....7
  - A. Annual Service Plan..... 7
  - B. Annual Budget ..... 9
  - C. California Constitutional Compliance ..... 10
  - D. Assessment..... 11
  - E. Overdue Charges and Interest..... 12
  - F. Time and Manner for Collecting Assessments ..... 13
- V. GOVERNANCE.....14
  - A. Owners’ Association..... 14
  - B. Brown Act and California Public Records Act Compliance ..... 14
  - C. Annual Report..... 14
- APPENDIX 1 – LAW.....15
- APPENDIX 2 – ASSESSED BUSINESSES .....27



## I. OVERVIEW

Developed by Amador Vitners' Association (AVA), the Amador County Wine Heritage District (ACWHD) is an assessment district proposed to provide specific benefits to payors, by funding marketing and brand awareness efforts and quality and education programs for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional sales directly to payors.

*Location:* The ACWHD includes all wineries, existing and in the future, located within the boundaries of the County of Amador, including the cities of Plymouth, Amador City and Sutter Creek, as shown on the map in Section III.

*Services:* The ACWHD is designed to provide specific benefits directly to payors by increasing winery sales and revenue therefrom. Marketing and brand awareness, and quality and education programs will promote assessed wineries in the ACWHD to increase winery sales revenue.

*Budget:* The total ACWHD annual assessment budget for the initial year of its five (5) year operation is anticipated to be approximately \$342,000. 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 pursuant to this Plan.

*Cost:* 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.

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.

*Collection:* 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.

*Duration:* The ACWHD will have a five (5) year life, beginning June 1, 2024 or as soon as possible thereafter, and ending five (5) years from its start date. After the life of the

ACWHD, the ACWHD may be renewed pursuant to the 94 Law if assessed business owners support continuing the ACWHD programs. Once per year, beginning on the anniversary of ACWHD formation, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a Board of Supervisors hearing on ACWHD termination.

*Management:* Following the ACWHD formation, the AVA shall form a new 501(c)(6) non-profit corporation to serve as the ACWHD's Owners' Association, and shall guide the ratification of a Governance & Elections Policy, the adoption of bylaws, and the election for the initial board of directors for the new 501(c)(6) non-profit corporation. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan and must provide annual reports to the Board of Supervisors.

## II. BACKGROUND

Wine Heritage Districts (WHDs) are an evolution of the traditional Business Improvement District (BID). BIDs utilize the efficiencies of private sector operation in the market-based promotion of business districts. BIDs allow business owners to organize their efforts to increase sales and promotional efforts. Business owners within the district fund a BID, and those funds are used to provide services that the businesses desire and benefit the businesses within the district.

### **Business Improvement District services may include, but are not limited to:**

- Marketing of the District
- Business Promotion Activities
- Infrastructure Improvements

In California, BIDs are formed pursuant to the Property and Business Improvement District Law of 1994 (94 Law). This law allows for the creation of special benefit assessment districts to raise funds within a specific geographic area. *The key difference between BIDs and other special benefit assessment districts is that funds raised are managed by the private non-profit corporation governing the district.*

### **There are many benefits to Business Improvement Districts:**

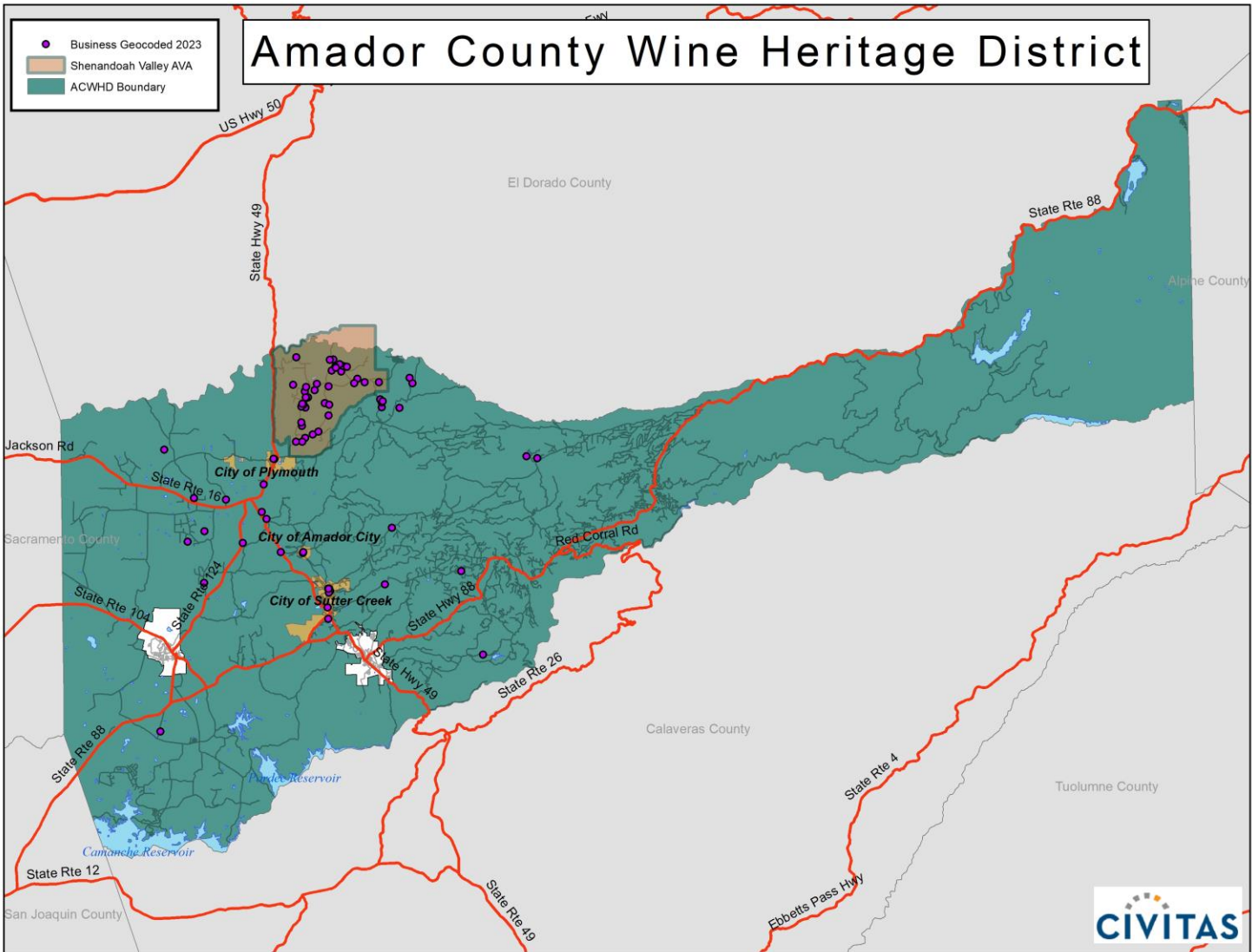
- Funds cannot be diverted for other government programs;
- Services are customized to fit the needs of each district;
- They allow for a wide range of services, including those listed above;
- Business Improvement Districts are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable funding source for business promotion.

The 94 Law is provided in Appendix 1 of this document.

### III. BOUNDARY

The ACWHD will include 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 shown on the map below. A complete listing of wineries within the ACWHD can be found in Appendix 2.

The term "winery" as used herein means: an agricultural facility used for the processing (fermentation when combined with any two of the following: crushing, pressing, aging, blending or bottling) of wine grapes into wine or the re-fermenting of still wine into sparkling wine. "Wineries" as defined herein must be a bonded wine premises as determined by the Alcohol and Tobacco Tax and Trade Bureau, and must have a current California Alcohol Beverage Control winegrower's 02 master license to process and sell wine at retail locations within the boundaries of the ACWHD. (Ord. 1708 §2, 2011: Ord. 1320 §2, 1993).

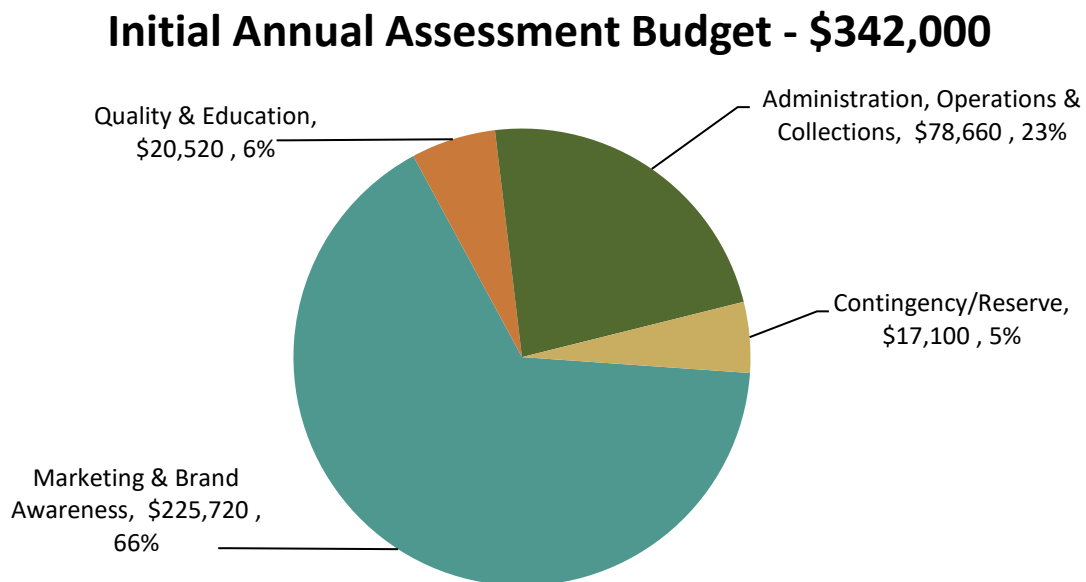


## IV. ASSESSMENT BUDGET AND SERVICES

### A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the County of conferring the benefits or granting the privileges. The privileges and services provided with the ACWHD funds are marketing and brand awareness and quality and education programs available only to assessed businesses.

A service plan assessment budget has been developed to deliver services that benefit the assessed businesses. A detailed annual assessment budget will be developed and approved by the Owners' Association. The table below illustrates the initial annual assessment budget allocations. These activities and allocations will also apply in subsequent years. The total initial assessment budget is \$342,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the County and the Owners' Association board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the ACWHD, any and all assessment funds may be used for the costs of defending the ACWHD. Over the (5) year term, the costs of creating the ACWHD may be repaid by deducting repayment funds proportionally from budget categories. Repayment costs shall not exceed \$15,000 annually.

Each budget category includes all costs related to providing that service. For example, the marketing and brand awareness budget includes the cost of staff time dedicated to overseeing and implementing the marketing and brand awareness program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories. The staffing levels necessary to provide the services below will be determined by the Owners' Association on an as-needed basis.

## **Marketing & Brand Awareness**

A brand awareness marketing program will promote the ACWHD as a premium winegrowing region and as a leader in the global wine community. The brand awareness marketing program will have a central theme of promoting the ACWHD as a desirable place to experience Amador County wineries, and as a desirable area to purchase wines and other estate produced products. The program has the goal of increasing demand for visitation to the winegrowing region, retail sales, affinity for ACWHD grapes and wines, and recognition at and for assessed businesses, and may include but is not limited to the following activities:

- **Advertising** across any and all media channels to promote assessed winery tasting rooms on an Amador County level, including but not limited to: digital, print, television, radio and strategic brand partnerships;
- **Media Relations** – Promoting assessed winery tasting rooms through development of media relations strategies, including but not limited to: media familiarization tours, proactive media pitching and influencer relations;
- **Digital Marketing** – Utilizing paid, earned and owned social media to increase awareness of and engagement with assessed businesses;
- **Events** – Developing and executing winery focused special events to attract customers to assessed businesses;
- **Trade & Industry Engagement** – Ensuring representatives are provided the opportunity to attend trade shows, meetings, industry conferences, road shows, and events to promote assessed businesses; Create programs that engage key trade and industry influencers with Amador County;
- **Print Collateral** – Preparing and producing collateral, promotional materials such as brochures, flyers and maps for assessed winery tasting rooms;
- **Brand Enhancement** – Engage with third party brand development agency to develop brand platform and materials to assist with marketing assessed winery hospitality facilities;
- **Consumer Analytics** – Identify and leverage consumer demographic, geographic and psychographic data to target messaging that markets Amador County as a premier, unique wine destination to attract customers to assessed winery hospitality facilities; and
- **Signage Program** – Ensure coordinated local signage for Amador County.

## **Quality & Education**

Educational programs for assessed wineries shall be designed to establish excellence and leadership in the industry and developed with the goal of increasing visitation, sales, and brand value for assessed wineries. The program may include initiatives to enhance wine quality and secure industry recognition for Amador County Wine Country as a premier wine region, and to provide support for assessed wineries in emerging technical trends. Educational programs and training for assessed wineries may be developed related to sales, hospitality, direct to consumer, marketing, media interviews, business operations and best practices.

## **Administration, Operations & Collections**

The administration, operations & collections portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees. Amador County or a third-party collection agency shall be paid a fee to cover the amount of assessment collected to cover its costs of collection and administration. This fee shall not exceed the actual costs to collect the ACWHD assessment.



### Contingency / Reserve

The budget includes a contingency line item to account for lower than anticipated assessments. If there are contingency funds collected, they may be held in a reserve fund or utilized for other programs, administration or renewal costs at the discretion of the Owners' Association. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the Owners' Association. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the Owners' Association. The reserve fund may be used for the costs of renewing the ACWHD.

### B. Annual Budget

The total five (5) year assessment budget is projected at approximately \$342,000 annually, or \$3,113,319 through 2029 if maximum assessment rates are adopted. 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 pursuant to this Plan.

The table below demonstrates the estimated maximum total assessment with the assumption that assessment rates will be increased by one half percent (0.5%) in each fiscal year until the maximum assessment rate of two percent (2%) has been reached, as it is a required disclosure, it is not the anticipated course of action. If the maximum annual assessment increases are adopted by the Owners' Association, the estimated annual budget may increase as shown in the table below. Additionally, a three percent (3%) annual increase in the total budget is shown to account for estimated increased sales as a result of ACWHD efforts. This three percent (3%) annual increase is a conservative estimate based on the effect of similarly sized WHD budgets.

Year	Marketing & Brand Awareness	Quality & Education	Administration/ Operations/ Collections	Contingency /Reserve	Total
2024-25	\$225,720	\$20,520	\$78,660	\$17,100	\$342,000
2025-26	\$348,737	\$31,703	\$121,530	\$26,420	\$528,390
2026-27	\$478,933	\$43,539	\$166,901	\$36,283	\$725,656
2027-28	\$493,301	\$44,846	\$171,908	\$37,371	\$747,425
2028-29	\$508,100	\$46,191	\$177,065	\$38,492	\$769,848
<b>Total</b>	<b>\$2,054,790</b>	<b>\$186,799</b>	<b>\$716,063</b>	<b>\$155,666</b>	<b>\$3,113,319</b>

The table below demonstrates the estimated annual improvement and service plan budget with the assumption that the rates will not be increased during the ACWHD's five (5) year term. Additionally, a three percent (3%) annual increase in the total budget is shown to account for estimated increased sales as a result of ACWHD efforts.

Year	Marketing & Brand Awareness	Quality & Education	Administration/ Operations/ Collections	Contingency /Reserve	Total
2024-25	\$225,720	\$20,520	\$78,660	\$17,100	\$342,000
2025-26	\$232,492	\$21,136	\$81,020	\$17,613	\$352,260
2026-27	\$239,466	\$21,770	\$83,450	\$18,141	\$362,828
2027-28	\$246,650	\$22,423	\$85,954	\$18,686	\$373,713
2028-29	\$254,050	\$23,095	\$88,533	\$19,246	\$384,924

<b>Total</b>	<b>\$1,198,378</b>	<b>\$108,943</b>	<b>\$417,617</b>	<b>\$90,786</b>	<b>\$1,815,724</b>
--------------	--------------------	------------------	------------------	-----------------	--------------------

### **C. California Constitutional Compliance**

The ACWHD assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.<sup>1</sup> Rather, the ACWHD assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the ACWHD, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the County of conferring the benefits or providing the services.

#### ***1. Specific Benefit***

Proposition 26 requires that assessment funds be expended on, “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.”<sup>2</sup> The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the ACWHD. The activities described in this Plan are specifically targeted to increase sales for assessed wineries within the boundaries of the ACWHD, and are narrowly tailored. ACWHD funds will be used exclusively to provide the specific benefit of increased sales directly to the assessees. Assessment funds shall not be used to feature non-assessed wineries in ACWHD programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses. Nothing in this Plan limits the ability of the Owners’ Association to enter into private contracts with non-assessed wineries for the provision of services to those businesses.

The assessment imposed by this ACWHD is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in sales. The specific benefit of an increase in sales for assessed wineries will be provided only to wineries paying the district assessment, with marketing and brand awareness and quality and education programs promoting wineries paying the ACWHD assessment. The marketing and brand awareness, and quality and education programs will be designed to increase sales at each assessed winery. Because they are necessary to provide the marketing and brand awareness and quality and education programs that specifically benefit the assessed wineries, the administration and contingency services also provide the specific benefit of increased sales to the assessed wineries.

Although the ACWHD, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”<sup>3</sup>

#### ***2. Specific Government Service***

<sup>1</sup> *Jarvis v. the City of San Diego* 72 Cal App. 4<sup>th</sup> 230

<sup>2</sup> Cal. Const. art XIII C § 1(e)(1)

<sup>3</sup> Government Code § 53758(a)

The assessment may also be utilized to provide, “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.”<sup>4</sup> The legislature has recognized that marketing and promotions services like those to be provided by the ACWHD are government services within the meaning of Proposition 26<sup>5</sup>. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”<sup>6</sup>

### **3. Reasonable Cost**

ACWHD services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by the Owners’ Association, and reports submitted on an annual basis to the County. Only assessed wineries will be featured in marketing materials, receive sales leads generated from ACWHD-funded activities, be featured in advertising campaigns, and benefit from other ACWHD-funded services. Non-assessed wineries will not receive these, nor any other, ACWHD-funded services and benefits.

The ACWHD-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed wineries receive incremental sales, that portion of the promotion or program generating those sales shall be paid with non-ACWHD funds. ACWHD funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental sales for non-assessed businesses.

### **D. Assessment**

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, including those sales made to ship wine from assessed wineries within the ACWHD, as described below. Assessment dollars will not be spent on any programs or activities to benefit individual winery businesses outside of the County of Amador. Assessments shall only be levied on sales conducted within the boundaries of the ACWHD. Sales derived from wine shipping purchases, including but not limited to those made in relation to wine club memberships, out of state purchases, or purchases made by phone, shall not be subject to ACWHD assessment. For example, if an assessed winery owner travels outside of the state of California to sell wine from their ACWHD assessed business, such sales shall not be subject to assessment. However, if a customer from outside of the state travels to wineries assessed within the ACWHD and purchases wine, such sales shall be subject to assessment.

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

---

<sup>4</sup> Cal. Const. art XIII C § 1(e)(2)

<sup>5</sup> Government Code § 53758(b)

<sup>6</sup> Government Code § 53758(b)

the Owners' Association shall be included in the annual report and shall not be effective until approved by the Board of Supervisors.

The term “gross sales revenue” as used herein means: the consideration charged by wineries, for all direct-to-consumer sales of wine, wine club purchases picked up on site, ticket sales, tasting fees, tours and private and public special events, or events where the assessed winery business furnishes food and/or beverages as part of a facility use fee or listed as a separate fee, merchandise, prepared and packaged foods for on-premise or off-premise consumption (whether sold in a tasting room or a stand-alone restaurant on-premise), pick up orders placed via telemarketing, telephone, online, or email. Gross sales revenue shall not include, and therefore the assessment shall not be charged upon, any federal, state or local taxes collected, including but not limited to sales and use taxes.

The assessment is levied upon and a direct obligation of the assessed winery. However, the assessed winery may, at its discretion, pass the assessment on to customers. The amount of assessment, if passed on to each customer, shall be disclosed in advance and separately stated from the amount charged and any other applicable taxes, and each customer shall receive a receipt for payment from the business. If the ACWHD assessment is identified separately it shall be disclosed as the “ACWHD Assessment.” The assessment is imposed solely upon, and is the sole obligation of the assessed winery even if it is passed on to customers. The California Department of Tax and Fee Administration (CDTFA) issued a written opinion that state sales tax applies to the revenue generated from Business Improvement District assessments on items where state sales tax is levied. In light of CDTFA’s opinion, businesses that pay both state sales tax and ACWHD assessments on sales are advised to collect sales tax on the assessment revenue.

Bonds shall not be issued.

#### **E. Interest and Overdue Charges**

The ACWHD shall reimburse the County of Amador or the third-party collection agency for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent ACWHD assessment are sought to be recovered in the same collection action by the County, the ACWHD shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

*1. Original Delinquency*

Any winery that fails to remit any assessment imposed by this section within the time required shall pay an overdue charge of ten percent (10%) of the amount of the assessment in addition to the assessment.

*2. Continued Delinquency*

Any winery that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency overdue charge of ten percent (10%) of the assessment in addition to the assessment and the ten percent (10%) overdue charge first imposed.

*3. Fraud*

If the County or third-party collection agency determines that the nonpayment of any remittance due under this article is due to fraud, an overdue charge of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the overdue charges stated in paragraph one (1) and two (2) above of this section.

*4. Interest*

In addition to the overdue charges imposed, any winery who fails to remit any assessment imposed by this section shall pay interest at the rate of one-quarter of one percent (0.25%) per

month or fraction thereof on the amount of the assessment, exclusive of overdue charges, from the date on which the remittance first became delinquent until paid.

**F. Time and Manner for Collecting Assessments**

The ACWHD assessment will be implemented beginning June 1, 2024, or as soon as possible thereafter, and will continue five (5) years from the start date. 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. The County or a third-party collection agency shall take all reasonable efforts to collect the assessments from each winery. The County or a third-party collection agency shall forward the assessments collected to the Owners' Association.

## **V. GOVERNANCE**

### **A. Owners' Association**

The Board of Supervisors, through adoption of this Management District 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 Owners' Association for the ACWHD. Following the ACWHD formation, the AVA shall form a new 501(c)(6) non-profit corporation to serve as the ACWHD's Owners' Association, and shall guide the ratification of a Governance & Elections Policy, the adoption of bylaws, and the election for the initial board of directors for the new 501(c)(6) non-profit corporation. The Owners' Association must provide an annual report on activities and expenditures to the County, which is also available to business owners.

### **B. Brown Act and California Public Records Act Compliance**

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Owners' Association board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

### **C. Annual Report**

The Owners' Association shall present an annual report at the end of each year of operation to the Board of Supervisors pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

# APPENDIX 1 – LAW

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2023 EXTRA SESSION CH 1, 2023 REGULAR SESSION CH. 890\*\*\*  
(ALL 2023 LEGISLATION)

## STREETS AND HIGHWAYS CODE DIVISION 18. PARKING PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

### CHAPTER 1. General Provisions

#### ARTICLE 1. Declarations

##### **36600. Citation of part**

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

##### **36601. Legislative findings and declarations; Legislative guidance**

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
  - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
  - (2) Job creation.
  - (3) Business attraction.
  - (4) Business retention.
  - (5) Economic growth.
  - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
  - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
  - (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not

assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

### **36602. Purpose of part**

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

### **36603. Preemption of authority or charter city to adopt ordinances levying assessments**

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

### **36603.5 Part prevails over conflicting provisions**

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

### **36604. Severability**

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

## ARTICLE 2. Definitions

### **36606. “Activities”**

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

### **36606.5. “Assessment”**

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

### **36607. “Business”**



“Business” means all types of businesses and includes financial institutions and professions.

**36608. “City”**

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

**36609. “City council”**

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

**36609.4. “Clerk”**

“Clerk” means the clerk of the legislative body.

**36609.5. “General benefit”**

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

**36610. “Improvement”**

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

**36611. “Management district plan”; “Plan”**

“Management district plan” or “plan” means a proposal as defined in Section 36622.

**36612. “Owners’ association”**

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all records relating to activities of the district.

**36614. “Property”**

“Property” means real property situated within a district.

**36614.5. “Property and business improvement district”; “District”**

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

**36614.6. “Property-based assessment”**

“Property-based assessment” means any assessment made pursuant to this part upon real property.

**36614.7. “Property-based district”**

“Property-based district” means any district in which a city levies a property-based assessment.

**36615. “Property owner”; “Business owner”; “Owner”**

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

**36615.5. “Special benefit” [Effective January 1, 2023]**

(a) “Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

(b) “Special benefit” also includes, for purposes of a property-based district, a particular and distinct benefit provided directly to each assessed parcel within the district. Merely because parcels throughout an assessment district share the same special benefits does not make the benefits general.

**36616. “Tenant”**

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

**ARTICLE 3 Prior Law**

**36617. Alternate method of financing certain improvements and activities; Effect on other provisions**

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

**CHAPTER 2. Establishment**

**36620. Establishment of property and business improvement district**

A property and business improvement district may be established as provided in this chapter.

**36620.5. Requirement of consent of city council**

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

### **36621. Initiation of proceedings; Petition of property or business owners in proposed district**

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
  - (1) A map showing the boundaries of the district.
  - (2) Information specifying where the complete management district plan can be obtained.
  - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
  - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
  - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

### **36622. Contents of management district plan**

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the estimated cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities

and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against their property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years.

Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k)

(1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(3) In a property-based district, properties throughout the district may share the same special benefits. In a district with boundaries that define which parcels are to receive improvements, maintenance, or activities over and above those services provided by the city, the improvements, maintenance, or activities themselves may constitute a special benefit. The city may impose assessments that are less than the proportional special benefit conferred, but shall not impose assessments that exceed the reasonable costs of the proportional special benefit conferred. Because one or more parcels pay less than the special benefit conferred does not necessarily mean that other parcels are assessed more than the reasonable cost of their special benefit.

(l) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(m) Any other item or matter required to be incorporated therein by the city council.

### **36623. Procedure to levy assessment**

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing

by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

#### **36624. Changes to proposed assessments**

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

#### **36625. Resolution of formation**

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
- (2) The number, date of adoption, and title of the resolution of intention.
- (3) The time and place where the public hearing was held concerning the establishment of the district.
- (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
- (5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
- (6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

### **36627. Notice and assessment diagram**

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

### **36628. Establishment of separate benefit zones within district; Categories of businesses**

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

### **36628.5. Assessments on businesses or property owners**

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

### **36629. Provisions and procedures applicable to benefit zones and business categories**

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

### **36630. Expiration of district; Creation of new district**

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

## **CHAPTER 3: Assessments**

### **36631. Time and manner of collection of assessments; Delinquent payments**

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

### **36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property**

- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.
- (b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.
- (c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

**36633. Time for contesting validity of assessment**

The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36625. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

**36634. Service contracts authorized to establish levels of city services**

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

**36635. Request to modify management district plan**

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

**36636. Modification of plan by resolution after public hearing; Adoption of the resolution of intention**

- (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:
  - (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
  - (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

**36637. Reflection of modification in notices recorded and maps**

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

**36638. Assessment as government improvised fee on Civ C § 1770 transaction [Operative July 1, 2024]**

- (a) A business assessment pursuant to this part is a fee imposed by a government on the transaction for purposes of paragraph (29) of subdivision (a) of Section 1770 of the Civil Code.
- (b) This section shall become operative on July 1, 2024.

## CHAPTER 3.5 Financing

### **36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments**

- (a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks–Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.
- (b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.
- (c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

## CHAPTER 4. Governance

### **36650. Report by owners' association; Approval or modification by city council**

- (a) The owners' association 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 improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.
- (b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:
- (1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.
  - (2) The improvements, maintenance, and activities to be provided for that fiscal year.
  - (3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.
  - (4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.
  - (5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
  - (6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.
- (c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.
- The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

### **36651. Designation of owners' association to provide improvements, maintenance, and activities**



The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

## **CHAPTER 5. Renewal**

### **36660. Renewal of district; Transfer or refund of remaining revenues; District term limit**

- (a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

## **CHAPTER 6. Disestablishment**

### **36670. Circumstances permitting disestablishment of district; Procedure**

- (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
  - (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
  - (2) During the operation of the district, there shall be a 30-day period each year in which assesses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.
- (b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

### **36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district**

- (a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in

which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

## APPENDIX 2 – ASSESSED BUSINESSES\*

Winery	Address	City, State, Zip
2m3ys Llc	59 Main St	Sutter Creek CA 95685
Amador Cellars	11093 Shenandoah Rd	Plymouth CA 95669
Amador Foothill Winery	12500 Steiner Rd	Plymouth CA 95669
Amador Heights Wine	15010 Ridge Rd	Sutter Creek CA 95685
Andis Wines	11000 Shenandoah Rd	Plymouth CA 95669
August Legendre Cellars Llc	16953 Mary Ln	Fiddletown CA 95629
Avio Vineyards	14520 Ridge Rd	Sutter Creek CA 95685
Baiocchi Wines & Vineyards	82 Main St	Sutter Creek CA 95685
Bar Lazy J Wines	10776 Shenandoah Rd	Plymouth CA 95669
Bella Grace Vineyards	22715 Upton Rd	Plymouth CA 95669
Bella Grace Vineyards	73 Main St	Sutter Creek CA 95685
Belldor Vineyards	13391 Shenandoah Rd	Plymouth CA 95669
Bianchini Cellars	18590 Ponderosa Hills Rd	Volcano CA 95689
Binz Wines	14167 Main Street	Amador City CA 95601
Borjon Winery	11270 Shenandoah Rd	Plymouth CA 95669
Bray Vineyards	10590 Shenandoah Rd	Plymouth CA 95669
Casino Mine Ranch	10690 Shenandoah, Bldg 1 Rd	Plymouth CA 95669
Cazadd Family Farm & Vineyard Llc	9939 State Highway 88	Jackson CA 95642
CG Di Arie Vineyard & Winery	19919 Shenandoah School Rd	Plymouth CA 95669
Clos Du Lac Cellars / Greenstone Winery	3151 HWY 88	Ione CA 95640
Convergence Vineyards	14650 Highway 124	Plymouth CA 95669
Cooper Vineyards	21365 Shenandoah School Rd	Plymouth CA 95669
Damas Vineyards	21004 Ostrom Rd	Fiddletown CA 95629
Davancy Winery	21220 Ostrom Rd	Fiddletown CA 95629
Deaver Vineyards	12455 Steiner Rd	Plymouth CA 95669
Di Stasio Vineyards And Wines	10788 Shenandoah Rd	Plymouth CA 95669
Dianda Vin	22105 Lawrence Rd	Fiddletown CA 95629
Dillian Wines	12138 Steiner Rd	Plymouth CA 95669
Distasio Vineyards And Wines	10778 Shenandoah Rd	Plymouth CA 95669
Dobra Zemlja Winery	12505 Steiner Rd	Plymouth CA 95669
Domaine De La Terre Rouge	10081 Dickson Rd	Plymouth CA 95669
Driven Cellars	12595 Steiner Rd	Plymouth CA 95669
Drytown Cellars	16030 Highway 49	Drytown CA 95699
Dvin Vintners	23400 Upton Rd	Plymouth CA 95669
End Of Nowhere	14204 Main, Ste 3 St	Amador City CA 95601
Estey Family Vineyard	21271 Latrobe Rd	Plymouth CA 95669
Feist Wines Llc	14125 Old Highway 49	Sutter Creek CA 95685
Helwig Tasting Room	11555 Shenandoah Rd	Plymouth CA 95669
Holgate Hill	18055 Climax Rd	Jackson CA 95642
Iron Hub Winery	12500 Steiner Rd	Plymouth CA 95669
J & M Fenaux Wines Llc	16105 Main St	Volcano CA 95689
James M Gullett	11011 Shenandoah Rd	Plymouth CA 95669
Jeff Runquist Wines	10776 Shenandoah Rd	Plymouth CA 95669
Karmere Vineyards & Winery	11970 Shenandoah Rd	Plymouth CA 95669
Kraemer Family Wines	51 Hanford St	Sutter Creek CA 95685
La Mesa Vineyards	13200 Shenandoah Rd	Plymouth CA 95669
L'azienda D'agostini	12557 Steiner Rd	Plymouth CA 95669
Le Mulet Rouge Vineyard & Winery	16915 Red Mule Rd	Fiddletown CA 95629
Linsteadt Family Winery	23200 Upton Rd	Plymouth CA 95669

Winery	Address	City, State, Zip
Lusso Della Terra	21390 Ostrom Rd	Fiddletown CA 95629
Matthew Gibson Winery	85 Main St	Sutter Creek CA 95685
Meikle Family Vineyards	19001 Ponderosa Way	Volcano CA 95689
Miller Wine Works Llc	33 Main St	Sutter Creek CA 95685
Montevina Winery/TDO	20680 Shenandoah School Rd	Plymouth CA 95669
Morse Wines	22355 Lawrence Rd	Fiddletown CA 95629
Paul J Wines	10775 Shenandoah Rd	Plymouth CA 95669
Paul M Schmitz	17585 Ca-49	Plymouth CA 95669
Pleinair Vineyards	21090 Ostrom Rd	Fiddletown CA 95629
Rancho Victoria Vineyard	16920 Greulich Rd	Plymouth CA 95669
Ravens Reach	83 Main St	Sutter Creek CA 95685
Ravens Reach Winery	14030 Meath Dr	Sutter Creek CA 95685
Rombauer Vineyards	12225 Steiner Rd	Plymouth CA 95669
Rubidoux Ridge Vineyard	15000 Tyler Rd	Fiddletown CA 95629
Scott Harvey Wines	10861 Shenandoah Rd	Plymouth CA 95669
Scott Harvey Wines	79 Main St	Sutter Creek CA 95685
Sera Fina Cellars	17000 Latrobe Rd	Plymouth CA 95669
Shenandoah Vineyards	12300 Steiner Rd	Plymouth CA 95669
Six Blocks Winery	14920 Muller Rd	Plymouth CA 95669
SLO 2 20 Winery & Vineyard	19955 Shenandoah School Rd	Plymouth CA 95669
Sobon Estate	14430 Shenandoah Rd	Plymouth CA 95669
Stone Barn	6525 Old Sacramento Rd	Plymouth CA 95669
Story Winery	10525 Bell Rd	Plymouth CA 95669
Tabeaux Cellars	10201 Tabeaud Rd	Jackson CA 95642
Tanis Vineyards	13120 Willow Creek Rd	Ione CA 95640
Teneral Cellars at Wilderotter Vineyard	19890 Shenandoah School Rd	Plymouth CA 95669
TKC Vineyards	11001 Valley Dr	Plymouth CA 95669
Turley Wine Cellars	10851 Shenandoah Rd	Plymouth CA 95669
Uphill Vineyards	46 Main St	Sutter Creek CA 95685
Bella Piazza	19900 Shenandoah School Rd	Plymouth CA 95669
Villa Toscano	10600 Shenandoah Rd	Plymouth CA 95669
Villegas Family Vineyard	15401 Barney Rd	Plymouth CA 95669
Vino Noceto	11011 Shenandoah Rd	Plymouth CA 95669
Wine Tree Farm	14467 Ca-49	Amador City CA 95601
Yorba Wines	51 Hanford St	Sutter Creek CA 95685
Youngs Vineyard	10120 Shenandoah Rd	Plymouth CA 95669

\* The list was developed with the most reliable information provided; however, the list may contain discrepancies. This list shall include any future to-be opened businesses. Any business that may have been missed in this list, but is still within the boundaries of the ACWHD, shall also be subject to assessment.