



AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and First Public Hearing
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: **CONSIDER PROPOSED ORDINANCE NO. 864 – AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO CIDER BUSINESS AND FARM BREWERY STANDARDS**

Presented by: Stephen Roberts, Director of Land Use & Transportation;
Alan Rappleyea, County Counsel

SUMMARY:

Ordinance No. 864 proposes to amend the Community Development Code (CDC) to address changes in state law that the County must implement to allow cider businesses and farm breweries and associated activities in exclusive farm use districts (EFU and AF-20). Ordinance No. 864 also proposes minor amendments to accommodate these added uses. The proposed ordinance is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

At its June 17, 2020 public hearing for this ordinance, the Planning Commission (PC) voted 8-0 to recommend the Board adopt Ordinance No. 864 as filed. A staff report will be provided to the Board prior to the July 21 hearing and posted on the above land use ordinance webpage. Copies of the report will be available electronically and at the Clerk's desk prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to three minutes for individuals and 12 minutes for a representative of a group.

ADDITIONAL INFORMATION:

Community Feedback (Known Support/Opposition):

The local cider industry association, NW Cider Association, testified in support of adopting the ordinance at the June 17, 2020 PC hearing.

Legal History/Prior Board Action:

This topic was included in the Board-adopted 2020-21 Long Range Planning Work Program.

Budget Impacts: None

The Staff Report is hyperlinked here and is also available at the Clerk's Desk.

DEPARTMENT'S REQUESTED ACTION:

Read Ordinance No. 864 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 864 and associated findings.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>6.f.</u>
Date:	07/21/20

IN THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 864

An Ordinance Amending the Community
Development Code Relating to Cider Business
and Farm Brewery Standards

The Board of County Commissioners of Washington County, Oregon, ("Board") ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-811, 813-815, 820, 822-824, 826-828, 831-835, 838, 840-842, 845-847, 851, 853, and 855-859.

B. As part of its ongoing planning efforts, Washington County staff has identified amendments to the Community Development Code to add Cider Business and Farm Brewery

1 standards to enable the development of these growing economic sectors consistent with state
2 law. The Board recognizes that such changes are necessary for the health, safety and welfare of
3 the residents of Washington County, Oregon.

4 C. Under the provisions of Washington Charter Chapter X, the Department of Land
5 Use and Transportation has carried out its responsibilities, including preparation of notices, and
6 the County Planning Commission has conducted one or more public hearings on the proposed
7 amendments and has submitted its recommendations to the Board. The Board finds that this
8 Ordinance is based on that recommendation and any modifications made by the Board are a
9 result of the public hearings process.

10 D. The Board finds and takes public notice that it is in receipt of all matters and
11 information necessary to consider this Ordinance in an adequate manner and finds that this
12 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
13 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
14 County Charter, the Washington County Community Development Code, the Washington
15 County Transportation System Plan, and the Washington County Comprehensive Plan.

16 SECTION 2

17 The following exhibit, attached hereto and incorporated herein by reference, is adopted
18 as an amendment to the designated document as follows:

19 A. Exhibit 1 (12 pages) amends the following sections of the Community
20 Development Code:

- 21 1. Multiple CDC sections will be amended to renumber a Special Use section
22 and associated cross-references;

2. Section 340 – Exclusive Farm Use District (EFU);
3. Section 344 – Agriculture and Forest District (AF-20); and
4. Section 430 – Special Use Standards.

SECTION 3

All other Comprehensive Plan provisions that have been adopted by prior ordinance, which are not expressly amended or repealed herein, shall remain in full force and effect.

SECTION 4

All applications received prior to the effective date shall be processed in accordance with ORS 215.427.

SECTION 5

If any portion of this Ordinance, including the exhibit, shall for any reason be held invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

SECTION 6

The Office of County Counsel and Department of Land Use and Transportation are authorized to prepare planning documents to reflect the changes adopted under Section 2 of this Ordinance, including deleting and adding textual material and maps, renumbering pages or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format.

SECTION 7

This ordinance shall take effect thirty days after adoption.

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1 ENACTED this 21st day of July, 2020, being the first reading and
2 first public hearing before the Board of County Commissioners of Washington County,
3 Oregon.

4 BOARD OF COUNTY COMMISSIONERS
5 FOR WASHINGTON COUNTY, OREGON

6  07/22/20
7 CHAIR KATHRYN HARRINGTON

8 
9 RECORDING SECRETARY

10
11 READING

PUBLIC HEARING

12 First July 21, 2020
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____

12 First July 21, 2020
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____

15 VOTE: Aye: Chair Harrington
Commissioner Rogers
Commissioner Schouten
Commissioner Treese
Commissioner Willey

Nay: NONE

17 Recording Secretary: Catherine Jacoby Date: 7.22.20

18
19 **ADOPTED**
20
21
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Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. MULTIPLE CDC SECTIONS THROUGHOUT THE CDC – SECTION NUMBER UPDATES

Move Section 430-45 (Flag Lots) to a new Section 430-46 (Flag Lots) and renumber the associated cross-references.

2. SECTION 340 – EXCLUSIVE FARM USE DISTRICT (EFU)

340-4 Uses Permitted Through a Type II Procedure

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

T. Winery - Section 430-145 (see also AA., below).

Y. Cider Business - Section 430-28 (see also AA., below).

Z. Farm Brewery - Section 430-45 (see also AA., below).

AA. Agritourism events on more than six ~~seven (7)~~ and up to eighteen (18) days per calendar year at a tract occupied by one or more of the following:

(1) Cider business described under 430-28.1 (Section 430-28.3 D.).

(2) Farm brewery described under 430-45.1 (Section 430-45.3 D.).

(3) Sstandard winery described under 430-145.1 (Section 430-145.5 C.).

Events limited to 18 days per calendar year, subject to applicable review procedures and standards found in Section 430.

340-4.2 Permitted Uses which are subject to Section 340-4.3:

F. Home Occupation – Section 430-63. Applications to renew a home occupation do not have to address Section 340-4.3 if that section was addressed in a prior application. A home occupation on high-value farmland shall be operated in the dwelling or other buildings normally associated with uses permitted in the district. A home occupation shall not unreasonably interfere with other uses permitted on surrounding land in the EFU, EFC and AF-20 Districts.

A bed and breakfast facility operated in conjunction with any of the following uses may be processed as a home occupation under Section 430-63:

(1) Cider business (Section 430-28).

(2) Farm brewery (Section 430-45).

(3) ~~at a wWinery described under 430-145.1 or 430-145.2 may be processed as a home occupation subject to Section 430-63-(Section 430-145.4 C).~~

3. SECTION 344 – AGRICULTURE AND FOREST DISTRICT (AF-20)

344-4 Uses Permitted Through a Type II Procedure

344-4.1 Permitted Uses which are exempt from Section 344-4.3:

T. Winery - Section 430-145 (see also Section AA., below).

Y. Cider Business - Section 430-28 (see also Section AA., below).

Z. Farm Brewery - Section 430-45 (see also Section AA., below).

AA. Agritourism events on more than six (7) and up to eighteen (18) days per calendar year at a tract with one or more of the following:

(1) Cider business described under 430-28 (Section 430-28.3 D.).

(2) Farm brewery described under 430-45 (Section 430-45.3 D.).

(3) Sstandard winery described under 430-145.1 (Section 430-145.5 C.).

Events limited to 18 days per calendar year, subject to applicable review procedures and standards found in Section 430.

344-4.2 Permitted Uses which are subject to Section 344-4.3:

F. Home Occupation - Section 430-63. Applications to renew a home occupation do not have to address Section 344-4.3 if that section was addressed in a prior application. A home occupation on high-value farmland shall be operated in the dwelling or other buildings normally associated with uses permitted in the district. A home occupation shall not unreasonably interfere with other uses permitted on surrounding land in the EFU, EFC and AF-20 Districts.

A bed and breakfast facility operated in conjunction with any of the following uses may be processed as a home occupation under Section 430-63:

(1) Cider business (Section 430-28).

(2) Farm brewery (Section 430-45).

(3) ~~at a wWinery described under 430-145.1 or 430-145.2 may be processed as a home occupation subject to Section 430-63-(Section 430-145.4 C).~~

4. SECTION 430 – SPECIAL USE STANDARDS

In addition to the requirements of Sections 400 through 425, the following special use standards are provided for specific uses. Additional or amended special use standards that are applicable in the North Bethany Subarea of the Bethany Community Plan are located in Section 390, North Bethany Subarea Overlay District.

430-28 Cider Business

A **Cider Business** is a facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions or warehousing of cider.

As used in Section 430-28:

Agritourism or other commercial events includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of cider produced in conjunction with the cider business is a secondary purpose of the event. Agritourism and other commercial events allowed at EFU/AF-20 cider businesses by ORS 215 differ from provisions that the state allows counties to adopt for agritourism and other commercial events in connection with other farm uses.

Cider means an alcoholic beverage made from the fermentation of the juice of apples or pears. Cider includes but is not limited to flavored cider, sparkling cider and carbonated cider.

Cidermaker means a person who makes cider.

On-site retail sale includes the retail sale of cider in person at the site of the cider business, through a club, or over the internet or telephone.

Orchard means a piece of land planted with apple or pear trees.

430-28.1 In the EFU and AF-20 Districts, a cider business as described by ORS 215.451, may be established as a permitted use subject to findings and evidence establishing compliance with A. or B. below, and the standards of Section 430-28.2:

A. Produces less than 100,000 gallons of cider annually and;

- (1) Owns an on-site orchard of at least 15 acres;
- (2) Owns a contiguous orchard of at least 15 acres;
- (3) Has a long-term contract for the purchase of all apples or pears from at least 15 acres of an orchard contiguous to the cider business; or
- (4) Obtains apples and pears from any combination of sources described in (1), (2), or (3) of this subsection; or

- B. Produces at least 100,000 gallons of cider annually and:
- (1) Owns an on-site orchard of at least 40 acres;
 - (2) Owns a contiguous orchard of at least 40 acres;
 - (3) Has a long-term contract for the purchase of all apples or pears from at least 40 acres of an orchard contiguous to the cider business;
 - (4) Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider business site; or
 - (5) Obtains apples and pears from any combination of sources described in (1), (2), (3) or (4) of this subsection.

430-28.2 In the EFU and AF-20 Districts, to limit demonstrated conflicts with accepted farming or forest practices on adjacent lands, approval to establish a cider business as described under Section 430-28.1 is subject to findings and evidence demonstrating:

- A. Establishment of a setback of at least 100 feet from all property lines for the cider business and all public gathering places, except as allowed through Section 435 (Variances and Hardship Relief).
- B. Parking is provided for all activities or uses of the lot, parcel, or tract on which the cider business is established. Parking requirements shall be based on the maximum number of employees at the cider business, the size of the cider business and associated facilities, and the expected number of visitors.
- C. Provision of direct road access for the cider business and all public gathering places, including safety and operational considerations and the standards of Section 501-9.3.
- D. Provision of internal circulation, based upon the maximum number of people at the cider business and associated facilities, including times of special events. Access shall be approved by the appropriate fire district or fire marshal.
- E. Compliance with standards of Section 421 (Flood Plain and Drainage Hazard Area Development) and other standards regarding geologic hazards, solar access, and airport safety, when applicable.
- F. Compliance with standards of Section 422 (Significant Natural Resources) and other regulations for resource protections acknowledged to comply with any Statewide Planning Goal respecting open spaces, scenic and historic areas and natural resources, when applicable.
- G. Compliance with regulations of general applicability for the public health and safety, including County Environmental Health (Health and Human Services) requirements and applicable requirements of Section 501-9 (Limited Application of the Public Facility and Service Standards Outside the UGB).

430-28.3 In addition to producing and distributing cider, cider businesses may conduct the following related activities, consistent with A. through E., below, as applicable.

A. The gross income of the cider business from the sale of incidental items or services provided pursuant to Sections 430-28.3 B.(3) and (4), and D.(1), below, may not exceed 25% of the gross income from the on-site retail sale of malt beverages produced in conjunction with the cider business.

The County may require a written statement, prepared by a certified public accountant, that certifies compliance with this requirement for the previous tax year, with application submittal and/or for periodic submittal as a condition of approval. The gross income of the cider business does not include income received by third parties unaffiliated with the cider business.

B. A cider business established under the standards of this section may:

(1) Market and sell cider produced in conjunction with the cider business.

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

(a) Cider tastings in a tasting room or other location on the premises occupied by the cider business.

(b) Cider club activities.

(c) Cidermaker luncheons and dinners.

(d) Cider business and orchard tours.

(e) Meetings or business activities with cider business suppliers, distributors, wholesale customers and cider industry members.

(f) Cider business staff activities.

(g) Open house promotions of cider produced in conjunction with the cider business.

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

(3) Host charitable activities for which the cider business does not charge a facility rental fee.

(4) Market and sell items directly related to the sale or promotion of cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of cider, including food and beverages that are:

(a) Required to be made available in conjunction with the consumption of cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or

(b) Served in conjunction with an activity authorized by Section 430-28.3 B.(2) or (3).

C. Subject to submittal and approval of an application for a Type II home occupation permit via Section 430-63, cider businesses established under the standards of this section may operate a bed and breakfast facility in association with the cider business and on the same tract as the cider business, and may:

(1) Prepare two meals per day for the registered guests of the bed and breakfast facility.

(2) Serve the meals at the bed and breakfast facility or at the cider business.

As an alternative to the above, the applicant may request bed and breakfast approval through Type II Room and Board provisions of Section 340-4.2 N. or 344-4.2 N.

D. In addition to activities allowed under 430-28.3 B. and C., above, a cider business established by the standards of this section may:

(1) Carry out agritourism or other commercial events on the tract occupied by the cider business subject to Section 430-28.4, below.

(2) Include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Section 430-28.3 B.(4) or D.(1). Food and beverage services authorized under this subsection may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

430-28.4 Standards for agritourism or other commercial events on a tract occupied by a cider business described under 430-28.1:

A. The cider business may carry out up to 18 days of agritourism or other commercial events annually on the tract occupied by the cider business, subject to the following:

(1) Agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items in conjunction with these, are subordinate to the production and sale of cider.

(2) Income cap requirements described under Section 430-28.3 A. apply, including certification of compliance from a certified public accountant.

(3) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied – Section 430-28.4 C.(3).

(4) A license pursuant to 430-28.4 B. and/or a permit pursuant to 430-28.4 C. is required, whichever is applicable.

B. Events on the first six days of the 18-day limit per calendar year must be authorized by the County through a renewable license with a term of five years. The County's decision on a license under Subsection 430-28.4 B. is not a land use decision as defined in ORS 197.015.

- C. Events on days seven through the maximum of 18 per calendar year must be authorized by the County via approval of an application for a renewable multiyear permit with a term of five years, subject to:
- (1) Type II land use review to determine conditions necessary to ensure compliance with 430-28.4 C.(3), below.
 - (2) Evidence that a license, as required under 430-28.4 B., was obtained for events on the first six days of the 18-day limit.
 - (3) As necessary to ensure that agritourism or other commercial events on a tract occupied by a cider business are subordinate to the production and sale of cider and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions related to:
 - (a) The number of event attendees.
 - (b) The hours of event operation.
 - (c) Access and parking.
 - (d) Traffic management.
 - (e) Noise management.
 - (f) Sanitation and solid waste.

430-45 Farm Brewery

A **Farm Brewery** is a facility located on or contiguous to a hop farm, used primarily for the commercial production, shipping and distribution, wholesale or retail sales, or tasting of malt beverages made with ingredients grown on the hop farm.

As used in Section 430-45:

Agritourism or other commercial events includes outdoor concerts for which admission is charged; educational, cultural, health or lifestyle events; facility rentals; celebratory gatherings; and other events at which the promotion of malt beverages produced in conjunction with the farm brewery is a secondary purpose of the event. Agritourism and other commercial events allowed at EFU/AF-20 farm breweries by ORS 215 differ from provisions that the state allows counties to adopt for agritourism and other commercial events in connection with other farm uses.

Brewer means a person who makes malt beverages.

Hop farm means a tract of land planted with hops.

Malt beverage means an alcoholic beverage obtained from fermented grain, consistent with the alcohol by volume requirements in ORS 471.001.

On-site retail sale includes the retail sale of malt beverages in person at the farm brewery site, through a club, or over the internet or telephone.

430-45.1 In the EFU and AF-20 Districts, a farm brewery as described by ORS 215.449 may be established as a permitted use subject to findings and evidence establishing compliance with A., B. and C. below, and the standards of Section 430-45.2:

- A. Produces less than 150,000 barrels of malt beverages annually, inclusive of malt beverages produced by the farm brewery's owners or operators at the farm brewery or elsewhere, through any entity owned or affiliated with the farm brewery;
- B. Produces less than 15,000 barrels of malt beverages annually on the farm brewery site; and
- C. (1) Owns an on-site hop farm of at least 15 acres;
(2) Owns a contiguous hop farm of at least 15 acres;
(3) Has a long-term contract for the purchase of all hops from at least 15 acres of a hop farm contiguous to the farm brewery; or
(4) Obtains hops from a total of 15 acres from any combination of sources described in (1), (2), or (3) of this subsection.

For purposes of this standard, land planted with other ingredients used in malt beverages produced by the farm brewery counts toward the acreage minimums.

430-45.2 In the EFU and AF-20 Districts, to limit demonstrated conflicts with accepted farming or forest practices on adjacent lands, approval to establish a farm brewery as described under Section 430-45.1 is subject to findings and evidence demonstrating:

- A. Establishment of a setback of at least 100 feet from all property lines for the farm brewery and all public gathering places, except as allowed through Section 435 (Variances and Hardship Relief).
- B. Parking is provided for all activities or uses of the lot, parcel, or tract on which the farm brewery is established. Parking requirements shall be based on the maximum number of employees at the farm brewery, the size of the farm brewery and associated facilities, and the expected number of visitors.
- C. Provision of direct road access for the farm brewery and all public gathering places, including safety and operational considerations and the standards of Section 501-9.3.
- D. Provision of internal circulation, based upon the maximum number of people at the farm brewery and associated facilities, including times of special events. Access shall be approved by the appropriate fire district or fire marshal.
- E. Compliance with standards of Section 421 (Flood Plain and Drainage Hazard Area Development) and other standards regarding geologic hazards, solar access, and airport safety, when applicable.

- F. Compliance with standards of Section 422 (Significant Natural Resources) and other regulations for resource protections acknowledged to comply with any Statewide Planning Goal respecting open spaces, scenic and historic areas and natural resources, when applicable.
- G. Compliance with regulations of general applicability for the public health and safety, including County Environmental Health (Health and Human Services) requirements and applicable requirements of Section 501-9 (Limited Application of the Public Facility and Service Standards Outside the UGB).
- 430-45.3 In addition to producing and distributing malt beverages, farm breweries may conduct activities consistent with A. through D. below, as applicable.
- A. The gross income of the farm brewery from the sale of incidental items or services provided pursuant to Sections 430-45.3 B.(3) and (4), and D.(1), below, may not exceed 25% of the gross income from the on-site retail sale of malt beverages produced in conjunction with the farm brewery.
- The County may require a written statement, prepared by a certified public accountant, that certifies compliance with this requirement for the previous tax year, with application submittal and/or for periodic submittal as a condition of approval. The gross income of the farm brewery does not include income received by third parties unaffiliated with the farm brewery.
- B. A farm brewery established under the standards of this section may:
- (1) Market and sell malt beverages produced in conjunction with the farm brewery.
 - (2) Conduct operations that are directly related to the sale or marketing of malt beverages produced in conjunction with the farm brewery, including:
 - (a) Malt beverage tastings in a tasting room or other location on the premises occupied by the farm brewery.
 - (b) Malt beverage club activities.
 - (c) Brewer luncheons and dinners.
 - (d) Farm brewery and hop farm tours.
 - (e) Meetings or business activities with farm brewery suppliers, distributors, wholesale customers and malt beverage industry members.
 - (f) Farm brewery staff activities.
 - (g) Open house promotions of malt beverages produced in conjunction with the farm brewery.
 - (h) Similar activities conducted for the primary purpose of promoting malt beverages produced in conjunction with the farm brewery.
 - (3) Host charitable activities for which the farm brewery does not charge a facility rental fee.

- (4) Market and sell items directly related to the sale or promotion of malt beverages produced in conjunction with the farm brewery, the marketing and sale of which is incidental to on-site retail sale of malt beverages, including food and beverages that are:
 - (a) Required to be made available in conjunction with the consumption of malt beverages on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (b) Served in conjunction with an activity authorized by Section 430-45.3 B.(2) or (3).

C. Subject to submittal and approval of an application for a Type II home occupation permit via Section 430-63, farm breweries established under the standards of this section may operate a bed and breakfast facility in association with the farm brewery and on the same tract as the farm brewery, and may:

- (1) Prepare two meals per day for the registered guests of the bed and breakfast facility.
- (2) Serve the meals at the bed and breakfast facility or at the farm brewery.

As an alternative to the above, the applicant may request bed and breakfast approval through Type II Room and Board provisions of Section 340-4.2 N. or 344-4.2 N.

D. In addition to activities allowed under 430-45.3 B. and C., above, a farm brewery established by the standards of this section may:

- (1) Carry out agritourism or other commercial events on the tract occupied by the farm brewery subject to Section 430-45.4, below.
- (2) Include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Section 430-45.3 B.(4) or D.(1). Food and beverage services authorized under this subsection may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.

430-45.4 Standards for agritourism or other commercial events on a tract occupied by a farm brewery described under 430-45.1:

A. The farm brewery may carry out up to 18 days of agritourism or other commercial events annually on the tract occupied by the farm brewery, subject to the following:

- (1) Agritourism or other commercial events and services, including marketing and sale of food, beverages, and incidental items in conjunction with these, are subordinate to the production and sale of malt beverages.
- (2) Income cap requirements described under Section 430-45.3 A. apply, including certification of compliance from a certified public accountant.

- (3) Conditions related to number of event attendees, hours of event operation, access and parking, traffic management, sanitation and solid waste may be applied – Section 430-45.4 C.(3).
- (4) A license pursuant to 430-45.4 B. and/or a permit pursuant to 430-45.4 C. is required, whichever is applicable.
- B. Events on the first six days of the 18-day limit per calendar year must be authorized by the County through a renewable license with a term of five years. The County's decision on a license under 430-45.3 B. is not a land use decision as defined in ORS 197.015.
- C. Events on days seven through the maximum of 18 per calendar year must be authorized by the County via approval of an application for a renewable multiyear permit with a term of five years, subject to:
 - (1) Type II land use review to determine conditions necessary to ensure compliance with 430-45.4 C.(3), below.
 - (2) Evidence that a license, as required under 430-45.4 B., was obtained for events on the first six days of the 18-day limit.
 - (3) As necessary to ensure that agritourism or other commercial events on a tract occupied by a farm brewery are subordinate to the production and sale of malt beverages and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions related to:
 - (a) The number of event attendees.
 - (b) The hours of event operation.
 - (c) Access and parking.
 - (d) Traffic management.
 - (e) Noise management.
 - (f) Sanitation and solid waste.

430-63 Home Occupation

A home occupation is a lawful activity operated ~~carried on~~ within a dwelling by a member or members of the family who occupy the dwelling, where the occupation is secondary to the use of the dwelling for living purposes and the residential character of the dwelling is maintained. Bed and breakfast facilities serving five or fewer persons are permitted as a Type I Home Occupation in all districts except the Institutional, EFU, EFC and AF-20 Districts (Section 430-63.1 C. does not apply to bed and breakfast facilities). Pursuant to Section 430-145.4 C., a bed and breakfast facility serving five or fewer persons, in association with and on the same tract as a cider business described under Section 430-28.1, a farm brewery described under Section 430-45.1, or a winery described under Section 430-145.1 or 430-145.2, is permitted as a Type II Home Occupation in the EFU and AF-20 Districts (Section 430-63.2 D.(2) does not apply). Bed and breakfast facilities serving more than five

persons are subject to the standards of Section 430-19 - Boarding House (including Bed and Breakfast facilities for more than five persons).

430-63.2 Home Occupation - Type II

A Type II Home Occupation shall:

D. Including storage of materials and products, occupy:

(2) Outside the UGB

- (a) Not more than 1,000 square feet or 25 percent of a dwelling or lawful accessory structure, whichever is greater; or
- (b) An area exceeding the above maximums by up to 10 percent, when requested by an applicant with a disability.

For purposes of Section 430-63.2 D.(2), a “dwelling” includes the basement and attached garage. Areas used only for storage of farm equipment or farm vehicles are not considered as part of the maximum allowed home occupation space.



AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 864

Presented by: Stephen Roberts, Director of Land Use & Transportation

SUMMARY:

Ordinance No. 864 amends the Community Development Code (CDC) to address changes in state law that the County must implement to allow cider businesses and farm breweries and associated activities in exclusive farm-use districts (EFU and AF-20). Ordinance No. 864 also proposes minor amendments to accommodate the added uses and associated activities. Ordinance No. 864 is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

Post-acknowledgment comprehensive plan amendments are amendments made to the County's Comprehensive Plan after it was acknowledged by the state Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires that such amendments be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Attached is the Resolution and Order to adopt the findings for Ordinance No. 864. Prior to the July 21, 2020 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance webpage and available at the Clerk's desk.

ADDITIONAL INFORMATION:

Community Feedback (Known Support/Opposition): None known at this time

Legal History/Prior Board Action: None

Budget Impacts: None

Attachment: Resolution and Order

The Ordinance Findings are hyperlinked here and are also available at the Clerk's Desk.

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for Ordinance No. 864 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 20-86

Agenda Item No.	<u>6.g.</u>
Date:	07/21/20

1 IN THE BOARD OF COMMISSIONERS
2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Adopting) RESOLUTION AND ORDER
4 Legislative Findings in Support) No. 20-86
5 of Ordinance No. 864)
6)

7 This matter having come before the Washington County Board of Commissioners (Board)
8 at its meeting of July 21, 2020; and

9 It appearing to the Board that the findings contained in "Exhibit A" summarize relevant
10 facts and rationales with regard to compliance with the Statewide Planning Goals, Oregon
11 Revised Statutes and Administrative Rules, and Washington County's Comprehensive Plan
12 relating to Ordinance No. 864; and

13 It appearing to the Board that the findings attached and herein incorporated as
14 "Exhibit A" constitute appropriate legislative findings with respect to the adopted ordinance; and

15 It appearing to the Board that the Planning Commission, at the conclusion of its public
16 hearing on June 17, 2020, made a recommendation to the Board, which is in the record and has
17 been reviewed by the Board; and

18 It appearing to the Board that, in the course of its deliberations, the Board has considered
19 the record which consists of all notices, testimony, staff reports, and correspondence from
20 interested parties, together with a record of the Planning Commission's proceedings, and other
21 items submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

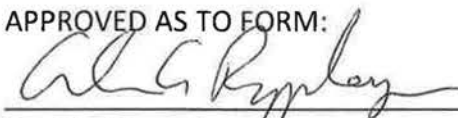
1 RESOLVED AND ORDERED that the attached findings in "Exhibit A" in support of Ordinance
2 No. 864 are hereby adopted.

3 DATED this 21st day of July, 2020.

4
5 BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

6  07/21/2020
Chair Kathryn Harrington

7 APPROVED AS TO FORM:

8 
County Counsel
9 For Washington County, Oregon

10 
Recording Secretary

	AYE	NAY	ABSENT
HARRINGTON	✓	_____	_____
SCHOUTEN	✓	_____	_____
TREECE	✓	_____	_____
ROGERS	✓	_____	_____
WILLEY	✓	_____	_____

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 864

AN ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT CODE RELATING TO CIDER BUSINESS AND FARM BREWERY STANDARDS

July 21, 2020

Part 1 – General Findings

Part 2 – Statewide Planning Goal Findings

Part 3 – Metro Urban Growth Management Functional Plan Findings

Part 1:

GENERAL FINDINGS

Ordinance No. 864 amends the Community Development Code (CDC) to include standards that the County must implement for cider businesses and farm breweries in exclusive farm use districts (EFU and AF-20) pursuant to state legislation.

Key Ordinance Provisions

Ordinance No. 864 proposes updates to incorporate provisions of state law (ORS 215) applicable to cider businesses and farm breweries in the EFU and AF-20 districts to:

- Allow certain cider businesses and farm breweries broader allowances than currently permitted.
- Identify additional activities and events allowed on cider business and farm brewery tracts.
- Incorporate criteria for the limited operation of kitchens on cider business and farm brewery tracts.
- Allow a bed and breakfast facility as a home occupation on a cider business or farm brewery tract.
- Incorporate agritourism or other commercial event standards that apply specifically to cider business and farm brewery tracts.

The ordinance also reformats standards and cross-references associated with the additions. The proposed CDC changes primarily affect Special Use Standards for cider businesses and farm breweries (Sections 430-28 and 430-45). Amendments to other sections are largely for consistency with the proposed Special Use standards. The list of all affected CDC sections is as follows:

- 340 (Exclusive Farm Use – EFU).
- 344 (Agriculture and Forest 20-Acre – AF-20).

The following subsections of Section 430 (Special Use Standards):

- 430-28 (Cider Business).
- 430-45 (Farm Brewery).
- 430-46 (Flag Lot).
- 430-63 (Home Occupation).

Because the ordinance would make changes that do not affect compliance with Oregon’s Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Washington County Board of Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

The County is also required to make findings that the amendments are consistent with the requirements of Metro’s Urban Growth Management Functional Plan (UGMFP). These findings are addressed in this document.

The Board finds that Statewide Planning Goal 14 (Urbanization) is not applicable because the area affected by this ordinance is entirely outside the urban growth boundary. Additionally, Statewide Planning Goal 4 does not apply because proposed changes and the legislation that requires them do not apply to resource forest lands (Exclusive Forest and Conservation District [EFC]).

Part 2:
STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 864 is consistent with Statewide Planning Goals (Goals), Oregon Revised Statutes (ORS), Oregon Administrative Rule (OAR) requirements, Metro’s Urban Growth Management Functional Plan (UGMFP), and Washington County’s Comprehensive Plan (Plan). The County’s Plan was adopted to implement the aforementioned planning documents and was acknowledged by the State of Oregon. The County follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements. No goal compliance issues were raised in the hearing proceedings described below. In addition, no map changes are proposed, and no proposed changes to text of the Plan implicate a goal compliance issue. The following precautionary findings are provided to demonstrate ongoing compliance.

Goal 1 – Citizen Involvement

Goal 1 addresses Citizen Involvement by requiring the implementation of a comprehensive program to stimulate citizen participation in the planning process. Washington County has an acknowledged citizen involvement program that provides a range of opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County's Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has followed these requirements for the adoption of Ordinance No. 864.

Goal 2 – Land Use Planning

Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Plan, which includes documents such as the Rural/Natural Resource Plan, Comprehensive Framework Plan for the Urban Area (CFP), Community Plans, Community Development Code (CDC), and Transportation System Plan (TSP). Washington County utilized this process to adopt Ordinance No. 864.

Notice was coordinated with all affected governmental entities. No comments were received.

Goal 3 – Agricultural Lands

Goal 3 seeks to preserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest and open space, and with the state's agricultural land use policies. Policy 15, Implementing Strategies (a) and (f), of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands.

Ordinance No. 864 updates the Community Development Code to include standards that the County must implement for cider businesses and farm breweries in exclusive farm use districts (EFU and AF-20) pursuant to state legislation. Amendments to the CDC follow state law closely, including existing farmland protections of the law. As such, compliance with Goal 3 is not impacted.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 addresses the protection of natural resources and the conservation of scenic, cultural, and historic areas and open spaces by requiring local programs to protect these resources in order to promote a healthy environment and natural landscape that contributes to Oregon's livability for present and future generations.

In addition, OAR 660-023-0250 requires application of current Goal 5 provisions to post-acknowledgment plan amendments (PAPAs) when the PAPA 1) creates or amends a resource list or a portion of an acknowledged plan or land use regulation that protects a significant Goal 5 resource, or 2) allows new uses that could be conflicting uses with a particular Goal 5

site. Policies 10, 11 and 12 of the CFP, Policies 7, 9, 10, 11, 12 and 13 of the Rural/Natural Resource Plan, and various sections of the Community Plans and the CDC include provisions for the protection of Goal 5 resources.

CDC amendments proposed within Ordinance No. 864 do not affect requirements that are in place for protection of Goal 5 resources.

Goal 8 – Recreational Needs

Goal 8 requires local jurisdictions to satisfy the recreational needs of citizens and visitors by planning and providing for the siting of necessary recreational facilities. Policies 33, 34 and 35 of the CFP, Policy 24 of the Rural/Natural Resource Plan and the individual Community Plans address the recreational needs of Washington County's residents and visitors.

CDC amendments proposed within Ordinance No. 864 do not affect required planning for recreational facilities. Amendments pursuant to state law that allow cider businesses and farm breweries to host events/activities, however, may facilitate potential for recreational opportunities on rural farmland and may in turn contribute to off-site recreational activities such as bicycle touring between cider businesses and farm breweries. Accordingly, proposed amendments retain compliance with Goal 8.

Goal 9 – Economic Development

Goal 9 requires the provision of adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of citizens. Policy 20 of the CFP and Policies 15, 16, 20 and 21 of the Rural/Natural Resource Plan set out the County's policies to strengthen the local economy. The CDC contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion.

ORS 215.449 and .451 reflect provisions of Senate Bill (SB) 677 (2017) and SB 287 (2019), relating to cider businesses and farm breweries on land zoned for resource uses. Ordinance No. 864 implements provisions of the above. Activities allowed on cider business and farm brewery tracts pursuant to state law appear to provide cider businesses and farm breweries with increased marketing and sales potential, thereby increasing potential for rural economic development. Such activities may also serve as economic incubators beyond the scope of beverage sales, drawing visitors to explore other rural businesses and amenities nearby such as farm stands, rural commercial restaurants, historic and recreational sites. Ordinance No. 864 therefore appears consistent with the County's acknowledged policies and strategies for strengthening the local economy as required by Goal 9.

Goal 10 – Housing

Goal 10 requires the provision of housing, including adequate numbers of units within a range of prices, types and densities that provide realistic options to meet citizen needs. Policies 21, 22, 23 and 24 of the CFP, and Policies 19 and 25 of the Rural/Natural Resource Plan address the

provision of housing in the urban and rural areas of the County. The CDC contributes to the provision of adequate housing by establishing standards that facilitate development in an orderly and efficient fashion.

Ordinance No. 864 addresses housing only in the transient sense and to a negligible extent. The existing CDC allows for Bed and Breakfast facilities on exclusive farm use lands via permits for Room and Board arrangements consistent with state law. Pursuant to more recent state law, the ordinance adds an alternative review process for Bed and Breakfast facilities when associated with a cider business or farm brewery site (Home Occupation permit). This provision does not appear to impact compliance with Goal 10 housing requirements.

Goal 11 – Public Facilities and Services

Goal 11 requires a plan for the orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Policies 15, 25, 26, 27, 28, 29, 30 and 31 of the CFP, and Policy 22 of the Rural/Natural Resource Plan address the provision of public facilities and services in the urban and rural areas of unincorporated Washington County. The CDC requires that adequate public facilities and services be available for new development. Proposed amendments do not alter this requirement. therefore compliance with Goal 11 is maintained.

Goal 12 – Transportation

Goal 12 requires the provision and encouragement of a safe, convenient, multimodal, and economic transportation system. Policy 32 of the CFP, Policy 23 of the Rural/Natural Resource Plan, and the Transportation System Plan (TSP) describe the transportation system necessary to accommodate the transportation needs of Washington County. Implementing measures are contained in the Community Plans, the CDC, and the TSP.

Proposed amendments affect standards for cider business and farm brewery activities in rural areas. The amendments maintain the County standards for access to rural roadways and provide for the continued safe operation and management of rural roadways. The amendments provide for the size and scale of cider businesses, farm breweries and wineries to be consistent and compatible with rural lands.

Large events at cider businesses and farm breweries (as well as wineries) in rural areas are limited to no more than 18 calendar days per year. These types of events would have limited and irregular impact on rural roadway traffic conditions. A permit is required for such events allowing for the appropriate management of event-related traffic.

The spacing and traffic generated by allowing such uses would not result in:

- Any change to the functional classification of an existing or planned transportation facility or a change to the standards for assessing the performance of any transportation facility;

- Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
- Degrade the performance of an existing or planned transportation facility.

Therefore, staff finds the proposed amendments do not have a significant effect on the transportation system and are consistent with the requirements of 660-012-0060 of the TPR. The amendments maintain compliance with the County’s acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12 (the Transportation Planning Rule or TPR, implemented via OAR Chapter 660, Division 12).

Part 3:
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS

Section 3.07.810 of Title 8 of Metro’s Urban Growth Management Functional Plan (UGMFP) requires that County Comprehensive Plan changes be consistent with the UGMFP. The following Ordinance No. 864 findings have been prepared to address Title 8 of the UGMFP.

Title 8 – Compliance Procedures

Title 8 sets forth Metro’s procedures for determining compliance with the UGMFP. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to comprehensive plans. Title 8 requires jurisdictions to submit notice to Metro at least 35 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan.

RESPONSE

Consistent with Title 8, a copy of proposed Ordinance No. 864 was mailed to Metro on May 13, 2020, 35 days prior to the first evidentiary hearing.