

A RESOLUTION TO APPROVE THE APPLICATION MADE BY ABK LIMITED TO HAVE CERTAIN LAND OWNED BY IT DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, the General Assembly of the State of Ohio has enacted Sections 929.01 through 929.05 and 6111.034 of the Ohio Revised Code (ORC) to permit the establishment of agricultural districts to preserve agricultural land, to exempt land in those districts from the collection of specified utility assessments, to provide other benefits for land in those districts, to forbid township and county zoning from restricting certain farm markets, and to provide a right to farm by exempting generally accepted agriculture practices from air pollution laws and certain nuisance statutes, rules, and ordinances; and

WHEREAS, ORC Section 929.03(D) provides that the legislative authority of a municipal corporation may apply to the Water and Sewer Commission created by Division (C) of ORC Section 1525.11 for an advance of monies from the Water and Sewer Fund, created by Division (A) of ORC Section 1525.11, in an amount equal to that portion of the costs of water and sewer improvement authorized by law that is to be financed by assessments whose collection would be prohibited on real property that is placed within an agricultural district; and

WHEREAS, ORC Section 929.02(B) provides that the legislative authority of a municipal corporation may reject or modify an application for inclusion in an agricultural district filed pursuant to ORC Section 929.02(A) if such rejection or modification is necessary to prevent a substantial adverse effect on, among other things, the provision of municipal services within the municipal corporation or on the public health, safety, or welfare; and

WHEREAS, the City of Avon Lake is experiencing economic difficulties due to increased cost of municipal operation and reduced sources of funding, which place a burden and handicap upon its ability to provide municipal services and thus protect the public health, safety, and welfare at this time and in the foreseeable future; and

WHEREAS, the legislative authority of a municipal corporation is required to deal with each application for inclusion in agriculture districts made by an owner of real property which is located within the municipal corporation by approving, rejecting, or approving with modifications within a statutory time frame; and

WHEREAS, ABK Limited has filed such an application, which is attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF  
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That said application is approved for all purposes encompassed by ORC Sections 929.01 through 929.05 and 6111.034, except for the following, which constitutes a modification authorized by ORC Section 929.02(B), the necessity of which is demonstrated by the above recitals.

The real estate devoted to agricultural production, which is the subject of the instant application, shall be limited to 21.69 acres and shall not be deemed exempt from the collection of special assessments for water, sewer, or electrical service until such time as (1) the statutory Water and Sewer Commission has established rules for application by municipalities for advance monies to cover the assessment exemptions; (2) the statutory Water and Sewer Fund has been funded; (3) the Council of the City of Avon Lake has obtained approval upon its application for an advance of monies from said fund; and (4) the applicant has signed an agreement to pay any and all fees assessed by the Ohio Water and Sewer Rotary Commission for processing said loan.

At such time in the future when Council shall resolve to enact any relevant improvement for which a special assessment must be levied upon real estate, including that which falls within the designation of an agricultural district, the Clerk of Council will notify all property owners, whose application for inclusion in an agricultural district has been approved, with the instant modification by Certified Mail, Return Receipt Requested, of the fact that such resolution has been made.

At the time of such resolution, Council will pursue the application for advancement of monies from the Water and Sewer Commission to cover the assessments allocated to property located within agricultural districts. All property owners will be advised at public meetings of the progress and/or results of Council's application for funds. Owners of property located within an agricultural district will be notified of the result of such application by Certified Mail, Return Receipt Requested.

At such time as Council deems itself assured of the receipt of the advanced funds and upon payment of the aforementioned administrative fees to the Ohio Water and Sewer Rotary Commission by the applicant, it shall lift the instant modification and, thereby, grant exemption to all properties located within agricultural districts, effective on the date of their original application.

In the event that Council's application is rejected by the Water and Sewer Commission due to lack of funds in its Water and Sewer Fund, or for any other reason, or in the event that the response of the Water and Sewer Commission is such that Council deems itself unassured that such funds will be forthcoming from the Water and Sewer Commission, then the instant modification will remain in effect and special assessment taxes will be levied upon property within agricultural districts until such time as the situation changes and Council deems itself assured of receiving an advance

of monies from the Water and Sewer Fund.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including ORC Section 121.22.

Section No. 3: That this Resolution is hereby declared to be an emergency, the emergency being the necessity of meeting the time limitations prescribed by the State statutes. Therefore, this Resolution shall be in full force and effect from and after its passage and approval by the Mayor.

1<sup>st</sup> Reading: 1/27/2025

2<sup>nd</sup> Reading: 2/10/2025

3<sup>rd</sup> Reading:

PASSED: 2/24/2025

*/s/ Jennifer J. Fenderbosch*  
Council President

POSTED: 2/28/2025

APPROVED: 2/24/2025

ATTEST: */s/ Valeria E. Rosmarin*  
Clerk of Council

*/s/ Mark A. Spatzel*  
Mayor

**APPLICATION FOR PLACEMENT OF  
FARMLAND IN AN AGRICULTURAL DISTRICT  
(O.R.C. Section 929.02)**

(See page 4 for General Information regarding this Application)

New Application \_\_\_\_\_  
Renewal Application \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING APPLICATION**

Print or type all entries.

- List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- Describe location of property by roads, etc., and taxing district where located.
- State whether any portion of land lies within a municipal corporation.  
**Note:** See "Where to File" on page 4 to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
- A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
- If the acreage totals 10 acres or more, do not complete Part D.
- If the acreage totals less than 10 acres, complete either D (1) or (2).
- Do not complete page 3. This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

A. **Owner's Name:** ABK Limited

**Owner's Address:**  
33050 Webber Rd Avon Lake OH 44012

**Owner's Email (optional):**<sup>1</sup> lee@klingshirnwine.com

**Description of Land as Shown on Property Tax Statement:**  
AVERAGE 19.740000  
FROM 098 & - 101-031  
AVERAGE = 1.950000

**Location of Property:**  
Street or Road- 33050 Webber Rd  
County- Lorain

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
11 AvonLake City/AvonLake CSD Classification: Farm	04-00-008-104-192	19.74
11 AvonLake City/AvonLake CSD Classification: Farm	04-00-008- <del>104</del> 101-186	1.95
Total Number of Acres		21.69

- B. Does any of the land lie within a municipal corporation limit or subject to pending annexation?  
Yes X No \_\_\_\_\_

If YES, REMEMBER a copy of this application must be submitted to the Clerk of the municipal legislative body.

<sup>1</sup> Enter the "internet identifier record" typically know as an electronic mail address, or any other designation used for self-identification or routing in internet communication or posting, provided for the purpose of receiving communication.

- C. Is the land presently being taxed at its current agricultural use valuation under Section 5713.31 of the Ohio Revised Code?  
Yes X No

*If NO, complete the following showing how the land was used the past three years:*

	<u>ACRES</u>		
	LAST YEAR	TWO YEARS AGO	THREE YEARS AGO
Cropland			
Permanent Pasture used for animal husbandry			
Woodland devoted to commercial timber and nursery stock			
Land Retirement or Conservation Program pursuant to an agreement with a federal agency			
Building areas devoted to agricultural production			
Roads, building areas, and all other areas not used for agricultural production			
<b>Total Acres</b>			

- D. Does the land for which the application is being made total 10 acres or more devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government?  
Yes X No

*If NO, complete the following:*

1. Attach evidence of the gross income for each of the past 3 years, if the average yearly income from agricultural production was at least twenty-five hundred (\$2,500.00) dollars or more, or
2. If the owner anticipates that the land will produce an annual gross income of twenty-five hundred (\$2,500.00) dollars or more, evidence must be attached showing the anticipated gross income.

#### Authorization and Declaration

By signing this application, I authorize the county auditor or his duly appointed agent to inspect the property described above to verify the accuracy of this application. I declare this application (including accompanying exhibits) has been examined by me and to the best of my knowledge and belief is a true, accurate and correct application. I understand that land removed from this program before the 5-year enrollment period is subject to penalty, in accordance with Section 929.02(D) of the Ohio Revised Code.

Signature of Owner:

Date:

Lee Klighman, Managing Partner

1/13/25