

A RESOLUTION TO APPROVE THE APPLICATION MADE BY LNK 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, LNK 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 4.78 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.

1st Reading: 1/27/2025

2nd Reading: 2/10/2025

3rd Reading:

PASSED: 2/24/2025

/s/Jennifer J. Fenderbosch
Council President

POSTED: 2/28/2025

APPROVED: 2/24/2025

ATTEST: /s/Valerie 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)**

New Application _____
Renewal Application _____

(See page 4 for General Information regarding this Application)

INSTRUCTIONS FOR COMPLETING APPLICATION

Print or type all entries.

- o List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- o Describe location of property by roads, etc., and taxing district where located.
- o 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.
- o 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.
- o If the acreage totals 10 acres or more, do not complete Part D.
- o If the acreage totals less than 10 acres, complete either D (1) or (2).
- o 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:	LNK Limited
Owner's Address:	33090 Webber Rd Avon Lake OH 44012
Owner's Email (optional):¹	Lee@Klingshirnwine.com
Description of Land as Shown on Property Tax Statement:	From -044 & -188 Acreage 4.78
Location of Property:	
Street or Road-	33090 Webber Rd
County-	Lorain

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
11 Avonlake City/Avon Lake CSD Classification: Farm	04-00-008-101-189	4.78
Total Number of Acres		4.78

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

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

¹ 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 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			
Total Acres			

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 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 Whypkin, Managing Partner

1/13/25

DO NOT COMPLETE FOR OFFICIAL USE ONLY

CAUV Application No. _____

Action of County Auditor

Application Approved _____ Rejected _____ *

Date Application Filed with County Auditor _____

Date Filed (if required) with Clerk of Municipal Corporation _____

County Auditor's Signature _____ Date _____

Date Decision Mailed and Emailed¹ to Applicant _____

Email Address ¹ _____

OR

Date Decision Sent Certified Mail to Applicant _____

Certified Mail No. _____

Action of Legislative Body of Municipal Corporation

Application Approved _____ Approved with Modifications _____ * Rejected _____ *

Date Application Filed with Clerk _____

Date of Public Hearing _____

Date of Legislative Action _____

Clerk's Signature _____ Date _____

Date Decision Mailed and Emailed¹ to Applicant _____

Email Address ¹ _____

OR

Date Decision Sent Certified Mail to Applicant _____

Certified Mail No. _____

* IF MODIFIED OR REJECTED, ATTACH SPECIFIC REASONS FOR MODIFICATION OR REJECTION

¹ 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.

INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.

Fiscal Year Ending →

Klingshirm Winery, Inc
Income Statement
01/01/23 to 01/31/23

	Period	%	YTD	%
Income				
SALES WINE RETAIL	\$ 4,641.85	15.6	\$ 114,720.78	30.3
SALES-WINE WHOLESALE	3,934.77	13.2	82,386.44	21.7
SALES BULK WINE NONTXBL	19,447.50	65.4	119,830.00	31.6
SALES-GRAPES	21.00	0.1	1,018.73	0.3
SALES-JUICE WINEMAKERS	0.00	0.0	29,303.30	7.7
SALES JUICE DRINKING	15.00	0.1	18,261.42	4.8
SALES SUPPLIES NONTAXABLE	415.56	1.4	1,235.26	0.3
SALES GLASS WHOLESALE	1,184.00	4.0	5,275.40	1.4
SALES GLASS RETAIL	52.00	0.2	1,277.22	0.3
SALES MISCELLANEOUS	1.96	0.0	949.90	0.3
OTHER INCOME	0.00	0.0	2,903.24	0.8
INTEREST INCOME	0.05	0.0	0.05	0.0
RETURNS & ALLOWANCES	0.00	0.0	(10.00)	-0.0
DISCOUNTS EARNED	9.64	0.0	79.19	0.0
SALES-SERVICES	3.50	0.0	1,760.34	0.5
Total Income	29,726.83	100.0	378,991.27	100.0
Cost of Sales				
BEGINNING INVENTORY	243,144.64	817.9	243,144.64	64.2
PURCHASES-SUPPLIES	37,851.59	127.3	53,416.66	14.1
PURCHASES-RAW MATERIALS	0.00	0.0	82,375.05	21.7
UPS CHARGES&CREDITS	46.18	0.2	387.54	0.1
ENDING INVENTORY	(236,518.57)	-795.6	(236,518.57)	-62.4
Total Cost of Sales	44,523.84	149.8	142,805.32	37.7
Gross Margin	(14,797.01)	-49.8	236,185.95	62.3
Operating Expenses				
SALARIES-OFFICERS	49,910.50	167.9	49,910.50	13.2
WAGES	70,853.46	238.3	70,853.46	18.7
WAGES-GRAPES	(38,532.50)	-129.6	0.00	0.0
WAGES-WINERY	(38,225.62)	-128.6	0.00	0.0
WAGES-SALES	(44,005.84)	-148.0	0.00	0.0
HSA-Employer Contribution	0.00	0.0	4,800.00	1.3
RENT	1,500.00	5.0	13,500.00	3.6
UTILITIES	668.43	2.2	5,626.24	1.5
TELEPHONE	248.36	0.8	3,073.80	0.8
AUTOMOBILE EXPENSE	(350.00)	-1.2	10,255.03	2.7
TRAVEL	0.00	0.0	379.53	0.1
ADVERTISING&PROMOTION	76.05	0.3	6,719.15	1.8
VISA/MC CHARGES	890.46	3.0	7,436.57	2.0
DUES & SUBSCRIPTIONS	167.00	0.6	2,885.49	0.8
EMPLOYEE WELFARE	15.00	0.1	1,542.70	0.4
INSURANCE	7.00	0.0	8,056.75	2.1
INTEREST	0.00	0.0	358.00	0.1
INTEREST EXPENSE-BAK	0.00	0.0	550.46	0.1
INTEREST EXPENSE-LOC	534.79	1.8	4,070.13	1.1
LEGAL&PROF. FEES	0.00	0.0	1,250.00	0.3
MAINTENANCE & REPAIRS	0.00	0.0	7,893.43	2.1
OFFICE SUPPLIES & EXPENSE	18.77	0.1	5,377.71	1.4
OUTSIDE SERVICES	(4,375.30)	-14.7	5,713.92	1.5
PERMITS FEES & LICENSES	50.00	0.2	263.60	0.1
MEETINGS & SEMINARS	0.00	0.0	502.70	0.1
FARM SUPPLIES	0.00	0.0	1,271.01	0.3

Current fiscal year, not yet complete

Klingshirn Winery, Inc
Income Statement
12/01/24 to 12/31/24

	Period	%	YTD	%
Income				
SALES WINE RETAIL	\$ 9,387.32	42.4	\$ 100,051.17	30.8
SALES-WINE WHOLESALE	4,521.73	20.4	63,131.80	19.5
SALES-EXEMPT ORG-NONTXBL	394.42	1.8	2,961.85	0.9
SALES BULK WINE NONTXBL	6,570.00	29.6	95,266.53	29.4
SALES-GRAPES	0.00	0.0	680.37	0.2
SALES-JUICE WINEMAKERS	0.00	0.0	27,268.56	8.4
SALES JUICE DRINKING	716.50	3.2	17,742.82	5.5
SALES SUPPLIES NONTAXABLE	0.10	0.0	2,610.14	0.8
SALES GLASS WHOLESALE	369.00	1.7	9,520.33	2.9
SALES GLASS RETAIL	106.50	0.5	1,039.00	0.3
SALES MISCELLANEOUS	73.36	0.3	954.62	0.3
OTHER INCOME	0.00	0.0	36.96	0.0
RETURNS & ALLOWANCES	0.00	0.0	338.65	0.1
SALES-SERVICES	20.00	0.1	2,918.21	0.9
Total Income	<u>22,158.93</u>	100.0	<u>324,521.01</u>	100.0
Cost of Sales				
UPS CHARGES&CREDITS	<u>(150.00)</u>	-0.7	<u>(337.00)</u>	-0.1
Total Cost of Sales	<u>(150.00)</u>	-0.7	<u>(337.00)</u>	-0.1
Gross Margin	22,308.93	100.7	324,858.01	100.1
Operating Expenses				
Other Expenses				
Net Income (loss)	<u>\$ 22,308.93</u>	<u>100.7</u>	<u>\$ 324,858.01</u>	<u>100.1</u>

Current fiscal year, not yet complete

Klingshirn Winery, Inc
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12/01/24 to 12/31/24

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Income				
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SALES MISCELLANEOUS	73.36	0.3	954.62	0.3
OTHER INCOME	0.00	0.0	36.96	0.0
RETURNS & ALLOWANCES	0.00	0.0	338.65	0.1
SALES-SERVICES	20.00	0.1	2,918.21	0.9
Total Income	<u>22,158.93</u>	<u>100.0</u>	<u>324,521.01</u>	<u>100.0</u>
Cost of Sales				
UPS CHARGES&CREDITS	<u>(150.00)</u>	<u>-0.7</u>	<u>(337.00)</u>	<u>-0.1</u>
Total Cost of Sales	<u>(150.00)</u>	<u>-0.7</u>	<u>(337.00)</u>	<u>-0.1</u>
Gross Margin	22,308.93	100.7	324,858.01	100.1
Operating Expenses				
Other Expenses				
Net Income (loss)	<u>\$ 22,308.93</u>	<u>100.7</u>	<u>\$ 324,858.01</u>	<u>100.1</u>