

**City of Linn Valley
Council Meeting
October 28, 2024
6:00pm**

Mayor Lewis Donelson called the meeting to order at 6:00pm.

COUNCIL MEMBERS PRESENT: Richard Gravelle, Robert Suppenbach, Michael Hemphill, Dan Donham, and John Weers.

ALSO IN ATTENDANCE: Public Safety Director Corey Murrison
City Attorney James Brun joined at 6:14pm.

The Pledge of Allegiance was recited.
Invocation given by Councilman John Weers.

APPROVAL OF MINUTES

Councilman Hemphill made the motion to approve the October 14, 2024, meeting minutes. Council President Suppenbach seconded the motion, carried 5-0. Council President Suppenbach made the motion to approve the October 19, 2024, Special Meeting minutes. Councilman Hemphill seconded the motion, carried 5-0.

AUDIT APPROVAL

Council President Suppenbach made the motion to approve the 2023 Audit. Councilman Hemphill seconded the motion, carried 5-0.

LINN VALLEY BURN PILE REGULATIONS

The updated burn policy was reviewed. The burn pile will be available to Linn Valley Property owner's only, anyone wanting to drop off brush will be required to show proof that they own property in Linn Valley. Driver's License with a Linn Valley address, utility bill, or a POA assessment statement. The policy will be available on the website. Councilman Suppenbach made the motion to accept the Brush Pile Policy. Councilman Hemphill seconded the motion, carried 5-0.

AMAZON CREDIT CARD

The current City Clerk credit card is still in the name of the past clerk. There are several software charges that are set up on that card, that card will have to be shut down for the current clerk to get a card. With the current limit on the card, when supplies need to be ordered, there is usually not enough credit for any more purchases. During the IT update they will need a credit card in the current City Clerk's name to set up software charges. The Amazon Business card offers cash back and discounts for Businesses, whereas the current card is on a point system for merchandise. Councilman Weers made the motion to allow the City Clerk to apply for an Amazon Credit Card with a \$5000.00 limit. Council President Suppenbach seconded the motion, carried 5-0.

CEREAL MALT BEVERAGE ORDINANCE

The City Clerk pointed out optional sections of the Ordinance for the Council to decide if they would like them to be included. The council discussed several changes to be made. The Ordinance will be resubmitted at the next meeting.

WATER PROJECT

Mayor Donelson requested an executive session to discuss Project Agreements/USDA. Council President Suppenbach made the motion to move into executive session for legal contractual surrounding the USDA for ten (10) minute executive session to return at 6:55pm. At 6:55pm Council President Suppenbach, Councilman Weers and Councilman Hemphill returned. Council President Suppenbach made the motion to extend the Executive session five (5) minutes to return at 7:00pm, Councilman Weers seconded the motion, carried 3-0.

Mayor Donelson called the meeting back to order at 7:00pm with no action taken.

Mayor Donelson asked if the council would support him reaching out to BG Consultants to discuss the cost of another logo on the water tower. The council agreed.

WASTEWATER PROJECT

Councilman Donham stated that at the beginning of the project, initially they only required 90 acres to expand the lagoons, using the existing lagoons as wetlands. When negotiations started with the landowner, he did not want to split the land, so the City purchased the entire 139 acres. The lagoons were then pushed back to the highway, leaving room for expansion to the North. The wetlands were then moved West of the lagoons, this would leave 200 feet between the wetlands and Ullrey Road that could be utilized as Commercial property for business. This would increase the land values and City assets. Councilman Gravelle suggested the zoning change to commercial be postponed until the current projects are closer to completion. To make communication better between all parties, Mayor Donelson suggested dissolving both the Water and the Wastewater committees. All communication will be directed to Mayor Donelson, who will act as the point of contact for both projects. Councilman Weers made the motion to dissolve the water and wastewater projects and have the point of contact be Mayor Donelson. Councilman Gravelle seconded the motion, carried 3-1-1, Council Donham voting nay, Councilman Hemphill abstaining.

Mayor Donelson asked the opinion of the council member about having grates on the new dump station to prevent unwanted objects from entering the lift station or a chopping pump. The grates would prevent unwanted objects entering the lift station, the chopping would just chop up the unwanted items. Having grates would require someone to clean them out after every time the sewer truck dumps. The council agreed that chopping pump would be the best route.

COUNCIL COMPUTERS

Council President Suppenbach made the motion to purchase computers for each council member for \$2880.00. Councilman Weers seconded the motion, carried 3-2, Councilman Hemphill and Councilman Donham voting Nay.

Mayor Donelson requested a ten (10) minute Executive Session for Security. Council President Suppenbach made a motion to Legal Executive Session regarding Security to return at 7:35pm. Councilman Hemphill seconded the motion, carried 5-0.

Mayor Donelson called the meeting back to order at 7:35pm with no action taken.

The City will be ordering "No Firearms Allowed" that will be posted at each entrance. All firearms must be removed, with the exception of the Police Officers, before entering City Hall.

Due to the Veteran's Day and Thanksgiving Day holidays, the council will only meet once during November. That meeting will be on Monday November 18, 2024.

Council President Suppenbach made the motion to adjourn the meeting. Councilman Hemphill seconded the motion, carried 5-0.

Submitted by:
Mendi Cyr
City Clerk

October 2024

Total Income	\$99,512.97
Total Vouchers	\$75,158.40
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Checking/Savings	
Money Market	\$279,910.61
Operating Checking	\$129,750.65
Sewer	\$236,475.86
Sewer Investment Pool	\$504,631.51
Street & Highway	\$169,815.19
Wastewater Investment Pool	\$133,425.32
Wastewater Investment Pool 365	\$4,852,881.43
Wastewater Project	\$81,387.18
Water Investment Pool	\$19,282.54
Water Project	\$57,663.40
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Special Revenue Funds	
Parks & Recreation	\$3,550.59
Street & Highway	\$176,675.36
Special Equipment	\$54,695.29
Capital Improvement	\$48,725.70
Wastewater Project	\$5,067,693.93
Water Project	\$76,945.94
ARPA	\$708.95
Public Safety Reserve	\$39,701.74
Mayor's Christmas	\$900.37
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Vouchers	
General Fund	\$40,161.41
Street & Highway	\$900.00
Sewer Utilities	\$12,675.24
Water Project	\$2,947.75
Wastewater Project	\$18,474.00
Total Vouchers	\$75,158.40

	YTD 10/31/24	2024 Budget
General Government	\$158,749.54	\$146,079.00
General Buildings	\$33,626.84	\$47,850.00
Governing Body	\$9,694.09	\$11,020.00
Clerk, Financial, Admin	\$84,402.12	\$134,500.00
Municipal Court/Legal	\$19,586.34	\$99,430.00
Codes Enforcement	\$88,057.24	\$150,750.00
Planning&Zoning	\$7,229.26	\$16,700.00
Police Department	\$236,205.92	\$367,500.00
Fire Department	\$33,284.80	\$33,000.00
Public Works	\$5,511.21	\$176,106.00
Sewer Enterprise	\$238,989.69	\$410,009.00
Water Project	\$751,623.01	
Wastewater Project	\$246,541.34	

City of Linn Valley
Profit & Loss Budget vs. Actual
 January through October 2024

	Jan - Oct 24	Budget
Ordinary Income/Expense		
Income		
A • Taxes		
A1 • Taxes Levied on Property		
4000 • Ad Valorem Tax	731,089.95	762,399.00
4001 • Delinquent Tax	2,357.79	
4002 • 16/20m Truck Tax	0.00	608.00
4004 • Motor Vehicle Tax	58,378.41	55,873.00
4005 • Water Craft Tax	0.00	2,646.00
4006 • Recreational Vehicle Tax	4,442.63	3,782.00
4007 • Prior Year Personal Property	298.94	
4008 • Real Estate Redemption	10,588.92	15,000.00
Total A1 • Taxes Levied on Property	807,156.64	840,308.00
A2 • Taxes - Franchise		
4050 • Franchise Tax-Telephone	682.18	1,500.00
4053 • Franchise Tax - Electric	11,851.32	27,000.00
Total A2 • Taxes - Franchise	12,533.50	28,500.00
A3 • Other City Taxes		
4101 • Public Safety Special Assessmen	0.00	31,000.00
4103 • Special Utility Assessment	0.00	
Total A3 • Other City Taxes	0.00	31,000.00
Total A • Taxes	819,690.14	899,808.00
B • Licenses & Permits		
4202 • Contractors Registration	4,281.00	3,300.00
4203 • Pet License	980.00	75.00
4205 • Building Permits	66,792.48	40,000.00
4208 • Cereal Malt Beverage License	50.00	
Total B • Licenses & Permits	72,103.48	43,375.00
C • Use of Money & Property		
4300 • Interest	5,329.39	750.00
4301 • Cell Tower Rent	5,687.00	6,700.00
Total C • Use of Money & Property	11,016.39	7,450.00
D • Intergovernmental		
D1 • State Shared Revenue		
4403 • Miami Co. Interlocal Agreement	15,000.00	15,000.00
Total D1 • State shared Revenue	15,000.00	15,000.00
Total D • Intergovernmental	15,000.00	15,000.00
E • Charges for Services		
E2 • Sewer		
4514 • Installs	6,000.00	
Total E2 • Sewer	6,000.00	
Total E • Charges for Services	6,000.00	
F • Miscellaneous Revenue		
4601 • Refunds & Reimbursements		
Insurance Dividends	7,609.00	7,500.00
Total 4601 • Refunds & Reimbursements	7,609.00	7,500.00
4602 • Sale of Property & Merchandise	360.00	
4603 • Fines & Fee Revenue	28,975.25	45,000.00

City of Linn Valley
Profit & Loss Budget vs. Actual
 January through October 2024

	Jan - Oct 24	Budget
4690 • Other Miscellaneous Revenue		
Other Miscellaneous	5,161.18	2,500.00
Total 4690 • Other Miscellaneous Revenue	5,161.18	2,500.00
Total F • Miscellaneous Revenue	42,105.43	55,000.00
Total Income	965,915.44	1,020,633.00
Gross Profit	965,915.44	1,020,633.00
Expense		
Governmental Activities		
100 • General Government		
101 • GENERAL GOVERNMENTAL		
Capital Outlay	0.00	12,479.00
Contractual Services		
Audit	10,395.00	7,000.00
Contract Labor	0.00	
Health Insurance Expense	68,384.16	
Insurance Expense	59,326.00	64,000.00
Other Contractual Services	0.00	5,500.00
Professional Services	0.00	2,500.00
Total Contractual Services	138,105.16	79,000.00
Operations		
Dues & Subscriptions	1,444.43	1,800.00
Equipment Expense	3,580.25	10,000.00
Fees & Penalties	608.78	3,000.00
Postage & Shipping	347.38	600.00
Printing & Publishing	984.37	3,200.00
Software	5,032.93	25,000.00
Supplies	4,402.11	4,000.00
Total Operations	16,400.25	47,600.00
Staff Development	774.13	
Utilities		
Electric/Gas Expense	532.46	
Telecommunications/Internet	2,722.95	7,000.00
Total Utilities	3,255.41	7,000.00
101 • GENERAL GOVERNMENTAL- Other	113.56	
Total 101 • GENERAL GOVERNMENTAL	158,648.51	146,079.00
102 • GENERAL BUILDINGS, CITY HALL		
Contractual Services		
Janitorial	2,500.00	2,800.00
Maintenance & Repairs	10,000.00	10,000.00
Rent	18,388.27	19,700.00
Total Contractual Services	30,888.27	32,500.00
Operations		
Equipment Expense	0.00	5,500.00
Printing & Publishing	-145.22	500.00
Supplies	304.91	1,850.00
Total Operations	159.69	7,850.00

City of Linn Valley
Profit & Loss Budget vs. Actual
January through October 2024

	Jan - Oct 24	Budget
Utilities		
Electric/Gas Expense	2,002.88	7,000.00
Water/Sewer Expense	358.80	500.00
Utilities - Other	50.00	
Total Utilities	2,411.68	7,500.00
Total 102 • GENERL BUILDINGS, CITY HALL	33,459.64	47,850.00
104 • GOVERNING BODY		
Contractual Services		
Software	1,300.50	
Total Contractual Services	1,300.50	
Operations		
Staff Development	260.43	2,500.00
Supplies	1,113.67	
Total Operations	1,374.10	2,500.00
Payroll Total	7,019.49	8,520.00
Total 104 • GOVERNING BODY	9,694.09	11,020.00
105 • CLERK, FINANCIAL, ADMIN		
Contractual Services		
Equipment Expense	22.16	
Software	331.05	
Total Contractual Services	353.21	
Operations		
Fees & Penalties	3.00	
Printing & Publishing	224.43	
Staff Development	225.00	2,500.00
Supplies	348.00	
Total Operations	800.43	2,500.00
Payroll Total	82,792.34	132,000.00
Utilities		
Telecommunications/Internet	71.14	
Total Utilities	71.14	
105 • CLERK, FINANCIAL, ADMIN - Other	385.00	
Total 105 • CLERK, FINANCIAL, ADMIN	84,402.12	134,500.00
107 • MUNICIPAL COURT		
Contractual Services		
Judge	2,050.00	2,800.00
Law Enforcement Fees	4,639.00	11,400.00
Software	706.39	1,000.00
Contractual Services - Other	1,979.79	
Total Contractual Services	9,375.18	15,200.00
Fees & Penalties	50.00	
Operations		
Equipment Expense	105.00	
Printing & Publishing	60.18	
Supplies	177.93	600.00
Total Operations	343.11	600.00
Payroll Total	8,555.58	13,780.00

City of Linn Valley
Profit & Loss Budget vs. Actual
 January through October 2024

	Jan	Oct 24	<u>Budget</u>
Utilities			
Telecommunications/Internet		958.97	750.00
Total Utilities		958.97	750.00
107 • MUNICIPAL COURT • Other		303.50	
Total 107 • MUNICIPAL COURT		19,586.34	30,330.00
108 • LEGAL SERVICES, CITY ATTORNEY			
Payroll Total		49,897.64	69,100.00
Total 108 • LEGAL SERVICES, CITY ATTOR...		49,897.64	69,100.00
130 • CODES ENFORCEMENT			
Contractual Services			
Other Services		0.00	3,750.00
Professional Services		1,979.79	12,000.00
Contractual Services - Other		775.00	
Total Contractual Services		2,754.79	15,750.00
Operations			
Equipment Expense		90.02	
Fees & Penalties		147.50	
Postage & Shipping		1,239.36	1,100.00
Printing & Publishing		609.50	600.00
Total Operations		2,086.38	1,700.00
Payroll Total		80,005.86	126,900.00
Supplies			
Other Supplies		558.28	1,000.00
Supplies - Other		362.04	
Total Supplies		920.32	1,000.00
Utilities			
Telecommunications/Internet		1,478.30	900.00
Total Utilities		1,478.30	900.00
Vehicle Operations			
Fuel		501.25	2,000.00
Vehicle Repairs & Maintenance		258.45	
Vehicle Operations • Other		28.75	
Total Vehicle Operations		788.45	2,000.00
Vehicle Repair		0.00	2,500.00
130 • CODES ENFORCEMENT • Other		23.14	
Total 130 • CODES ENFORCEMENT		88,057.24	150,750.00
140 • PLANNING & ZONING			
Contractual Services			
Consultant		6,669.57	
Contractual Services • Other		0.00	15,000.00
Total Contractual Services		6,669.57	15,000.00
Operations			
Printing, Postage & Publishing		429.21	700.00
Supplies		130.48	1,000.00
Total Operations		559.69	1,700.00
Total 140 • PLANNING & ZONING		7,229.26	16,700.00

City of Linn Valley
Profit & Loss Budget vs. Actual
 January through October 2024

	Jan - Oct 24	Budget
180 • DISCRETIONARY		
Contractual Services	100.00	
Total 180 • DISCRETIONARY	100.00	
Total 100 • General Government	451,074.84	606,329.00
200 • PUBLIC SAFETY		
201 • POLICE DEPARTMENT		
Capital Outlay		
Vehicles & Equipment	0.00	27,000.00
Total Capital Outlay	0.00	27,000.00
Commodities		
Equipment Expense	2,629.21	2,500.00
Fees & Penalties	92.95	500.00
Printing & Publishing	124.79	200.00
Uniforms	63.31	400.00
total Commodities	2,910.26	3,600.00
Contractual Services		
Property Repairs	2,027.78	700.00
Staff Training	1,763.98	100.00
Contractual Services - Other	166.80	
Total Contractual Services	3,958.56	800.00
Payroll Total	204,523.98	307,000.00
Supplies		
Other Supplies	854.02	1,800.00
Supplies - Other	-26.73	
Total Supplies	827.29	1,800.00
Utilities		
Electric/Gas Expense	3,974.95	2,000.00
Telecommunications/Internet	5,971.56	7,300.00
Water/Sewer Expense	196.90	
Total Utilities	10,143.41	9,300.00
Vehicle Operations		
Fuel	6,884.65	12,000.00
Vehicle Equipment & Supplies	925.75	3,000.00
Vehicle Repair	4,892.52	3,000.00
Vehicle Operations - Other	57.50	
Total Vehicle Operations	12,760.42	18,000.00
201 • POLICE DEPARTMENT - Other	971.00	
Total 201 • POLICE DEPARTMENT	236,094.92	367,500.00
202 • FIRE DEPARTMENT		
Capital Outlay	0.00	6,000.00
Commodities		
Fees & Penalties	0.00	
Total Commodities	0.00	
Contractual Services		
Maintenance & Repairs	1,047.00	2,200.00
Total Contractual Services	1,047.00	2,200.00
Payroll Total	17,911.55	13,000.00
Staff Development	-717.00	

City of Linn Valley
Profit & Loss Budget vs. Actual
January through October 2024

	<u>Jan - Oct 24</u>	<u>Budget</u>
Supplies		
Other Supplies	4,532.37	1,550.00
Supplies - Other	871.35	
Total Supplies	<u>5,403.72</u>	<u>1,550.00</u>
Utilities		
Electric/Gas Expense	5,322.64	5,000.00
Water/Sewer Expense	722.90	<u>1,250.00</u>
Total Utilities	<u>6,045.54</u>	<u>6,250.00</u>
Vehicle Operations		
Fuel	580.40	1,500.00
Vehicle Repair	2,956.09	2,500.00
Vehicle Operations - Other	57.50	
Total Vehicle Operations	<u>3,593.99</u>	<u>4,000.00</u>
Total 202 • FIRE DEPARTMENT	<u>33,284.80</u>	<u>33,000.00</u>
Total 200 • PUBLIC SAFETY	269,379.72	400,500.00
300 • Public Works		
310 • Street & Highway	500.00	
Total 300 • Public Works	<u>500.00</u>	
710 • DEBT SERVICE		
Debt Service - Principal	3,520.66	22,000.00
Total 710 • DEBT SERVICE	<u>3,520.66</u>	<u>22,000.00</u>
Total Governmental Activities	724,475.22	1,028,829.00
66900 • Reconciliation Discrepancies	1.24	
900 • OTHER ACTIVITIES		
910 • Transfers Out		
to Capital Improvement	0.00	1,000.00
to Equipment Reserve	0.00	1,000.00
to General	0.00	22,000.00
910 • Transfers Out - Other	-3,800.00	
Total 910 • Transfers Out	<u>-3,800.00</u>	<u>24,000.00</u>
Total 900 • OTHER ACTIVITIES	<u>-3,800.00</u>	<u>24,000.00</u>
Total Expense	<u>720,676.46</u>	<u>1,052,829.00</u>
Net Ordinary Income	245,238.98	-32,196.00
Other Income/Expense		
Other Expense		
Fund Balance Transfer	245,238.98	
Total Other Expense	<u>245,238.98</u>	
Net Other Income	<u>-245,238.98</u>	<u>0.00</u>
Net Income	<u>0.00</u>	<u>-32,196.00</u>

From: [Page Enterprise LLC](#)
To: mendi.cvr@linnvalleyks.com; codesclerk@linnvalleyks.com
Subject: October report from Page Enterprise
Date: Friday, November 8, 2024 6:22:31 PM

Mendi.

The October report is as follows:

check lagoons

locates x5 - 24520750 1869 Timber Valley Dr, 24537659 18 N Shady Cir,
24547558 101 Deepwoods Dr, 24556612 Fascination Ln, 24564132 34 N Shady Cir

changed out pump at 1914 Lakeside Cir

set control panel at Shady Circle

worked on sewer pump on Paddleboat

worked on sewer pump on 2 Mystery Ln

did an extra locate for Mike Ingram (no dig safe submitted)

connected Susan Hines sewer/start up

changed out pump at 113 Mystic Valley

Carla Brocker
office manager
Page Enterprise LLC
21368 Earnest Rd
Parker KS 66072
office: 913-898-4722
fax: 913-898-2422
cpageent@gmail.com

Nuisance Codes Report
November 18, 2024
Nuisance Codes for October 2024

Letter:

11 -Certified Mail Letters sent

Violations:

- 3- Skid Shed on lot without permit
- 1 - Inoperable vehicle & sanitation
- 2 - RV on building lot after Sep 30
- 2 - RVs on one lot
- 1- Junked RV
- 1 - Living in structure <600 sf & no sewer hookup
- 1- RV encroaches on side easement & sanitation

Results:

- 1- Canvas tent was removed

Citations Issued:

Court

- 1-RV in front of residence - Continued to DEC court
- 2- Warrant curtesy letters to be sent
- 1- Trial waived - Work to be completed by Nov Court
- 1- Warrant still out
- 2 - Grass has been mowed, court cost to be paid by Nov court

Steve German
Codes Enforcement

- 11-Certified Letters & citations sent@ **\$9.68** each
- 6-Trips to Post Office to send certified letters
- 1 - Trips to Post Office to pick up returned letters (unclaimed)
- 15 - Trips to properties
- 1- Court appearance
- 15- Files updated

Building Codes Report
November 18, 2024
Permit Application Status

YEAR	TOTAL SUBMITTED	TOTAL APPROVED	OPEN AS OF 10/31/2024
2022	276	248	6 (Extended)
2023	184	175	16 (8 Extended-2 Expired)
2024	232	203	123 (2 Stop Work)

Inspections - October 2024

	October 2024	YTD 2024	*YTD 2023
New Residence	5	37	18
Roof Replacement	1	1	1
New Electrical Service or Upgrade	10	94	53
New Skid Shed	3	14	1
Renovation of Existing Structure	0	11	14
Deck Repair or Replace	3	29	14
Accessory Building	2	34	17
New Dock	0	7	11
Carports (Metal Awning)	1	10	13
Lot Clearing	1	6	-
Culverts	2	14	-
Seawall/Retaining Wall	0	5	6
Sewer Holding Tank	5	46	22
Water Holding Tank	6	35	18
Concrete Patio/Slab	0	6	0
Propane Tank	0	6	2
Fence	2	8	0
POA Water	0	0	2
Sewer System	1	4	4
Rural Water	0	5	1
Tornado Shelter	0	1	0
Hot Tub/Swimming Pool	1	1	0
Gazebo/ Lean-To	1	7	10
Garage Addition	0	21	4
Photovoltaic System Installation	1	3	3
Demolition	0	1	0
Totals	45	406	214

*Moratorium was in effect until April 2023

LINN VALLEY PUBLIC SAFETY REPORT

NOVEMBER 2024

POLICE

3 Citations for Illegal Tags

1 Rollover Accident Report

Arrest for Battery and Criminal Damage

2 Check Welfare calls

1 Citation for Dog at large

Report of injured deer which had to be Euthanized

2 reports of cows out, one on Ullery and one on Holiday Dr.

Report of possible rape in progress. Call was determined to be unfounded after speaking with all involved.

Fire Department

Miami County

1 ambulance assist

1 call for non-breather

1 call for Hay Bales on Fire

Linn Valley

2 medical calls for Chest pain

3 brush fires

**LICENSE FOR CEREAL MALT BEVERAGE ALSO COVERS BEER CONTAINING NOT MORE THAN
6% ALCOHOL BY VOLUME**

ORDINANCE NO.267

AN ORDINANCE REGULATING THE SALE OF CEREAL MALT BEVERAGE AND BEER CONTAINING NOT MORE THAN 6% ALCOHOL BY VOLUME WITHIN THE CITY OF LINN VALLEY KANSAS AND REPEALING ORDINANCE NO.200

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LINN VALLEY:

Section 1. DEFINITIONS

- (a) "CEREAL MALT BEVERAGE" means cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto.
- (b) "LICENSE" means a license issued by the City of Linn Valley under the licensing authority accorded to cities by the Kansas cereal malt beverage act, and in accordance with this ordinance, which authorizes retailers so licensed to sell or offer for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption within the corporate limits of the city and not for resale in any form.
- (c) "GENERAL RETAILER" means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption and not for resale in any form.
- (d) "LIMITED RETAILER" means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale, in the original and unopened containers, and not for consumption on the premises, any cereal malt beverage or beer containing not more than 6% alcohol by volume.
- (e) "PERSON" means any individual, firm, partnership, corporation or association.
- (f) "LICENSED PREMISES" means those areas described in an application for a cereal malt beverage retailer license issued pursuant to K.S.A. 41-2702, and amendments thereto, that are under the control of the applicant and that are intended as the area in which cereal malt beverage or beer containing not more than 6% alcohol by volume is to be served pursuant to the applicant's license.

Section 2. LICENSE REQUIRED OF RETAILERS

- (a) It shall be unlawful for any person to sell any cereal malt beverage or beer containing not more than 6% alcohol by volume at retail without a license for each place of business where cereal malt beverages or beer containing not more than 6% alcohol by volume are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages or beer containing not more than 6% alcohol by volume at retail only in the original and unopened containers and not for consumption on the premises, to sell cereal malt beverage or beer containing not more than 6% alcohol by volume in any other manner.
- (c) Retailers' licenses shall be issued annually and shall be valid for a specified calendar year.

Section 3. APPLICATION

Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas.
- (b) The place for which a license is desired.
- (c) The name of the owner of the premises upon which the place of business is located.
- (d) The names and addresses of all persons who hold any financial interest in the place of business for which a license is desired.
- (e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed.

- (g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed.

The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this ordinance. The chief shall report to the City Clerk not later than five working days after the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

Section 4. LICENSE APPLICATION PROCEDURES

- (a) All applications for a new or renewed license for the sale of cereal malt beverage and beer containing not more than 6% alcohol by volume shall be submitted to the city clerk 10 days in advance of the governing body meeting at which the license will be considered.
- (b) The city clerk's office shall notify the holder of an existing license 30 days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when the applications are received. The police department will contact the KBI for a record check on all applicants. The fire department and health department will inspect the premises to be licensed. Each department will then recommend approval, or disapproval, of each application within five (5), working days of the department's receipt of the application.
- (d) The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance or that has not been reviewed by the above city departments.
- (e) An applicant who has not previously held a license for the sale of cereal malt beverage and beer containing not more than 6% alcohol by volume in the city shall attend the governing body meeting when the application for a new license will be considered.

Section 5. LICENSE GRANTED; DENIED

- (a) The journal of the governing body shall show the action taken on the application.
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the calendar year for which it is issued.
- (c) No license shall be transferred to another licensee.
- (d) If the license shall be denied, the license fee shall be immediately returned to the person who has made the application.

Section 6. LICENSE TO BE POSTED

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

Section 7. LICENSE, DISQUALIFICATION

No license shall be issued to:

- (a) A person who is not a citizen of the United States.
- (b) A person who, within two years immediately preceding the date of making application, has been convicted of, released from incarceration for or released from probation or parole for a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
- (c) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- (d) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than the citizenship requirements.
- (e) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.
- (f) A person whose place of business is conducted by a manager or agent unless such

manager or agent possesses the same qualifications required of the licensee.

- (g) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.
- (h) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under the Cereal Malt Beverage Act.

Section 8. RESTRICTION UPON LOCATION.

- (a) No license shall be issued for the sale at retail of any cereal malt beverage or beer containing not more than 6% alcohol by volume on premises which are located in areas not zoned for such purpose.
- (b) It shall be unlawful to sell or dispense at retail any cereal malt beverage or beer containing not more than 6% alcohol by volume at any place within the city limits that is within a 500-foot radius of any church, school or library.
- (c) The provisions at (a) and (b) shall not apply to any establishment holding a club or drinking establishment license issued by the State of Kansas.
- (d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

Section 9. LICENSE FEE.

The rules and regulations regarding license fees shall be as follows:

- (a) General Retailer -- for each place of business selling cereal malt beverages or beer containing not more than 6% alcohol by volume at retail, \$100.00 per calendar year.
- (b) Limited Retailer -- for each place of business selling only at retail cereal malt beverages or beer containing not more than 6% alcohol by volume in original and unopened containers and not for consumption on the premises, \$100.00 per calendar year.

The full amount of the license fee shall be required regardless of when the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

Section 10. SUSPENSION OF LICENSE

The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this ordinance or other laws pertaining to cereal malt beverages or to beer containing not more than 6% alcohol by volume, which violation does not in his judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

Section 11. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY

(a) The governing body of the city, upon five days' written notice, to a person holding a license shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

(1) The licensee has violated any provisions of K.S.A. 41-2701, et seq., and amendments thereto, or any rules or regulations of the city.

(2) Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business.

(3) The sale of cereal malt beverages to any person under 21 years of age.

(4) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose.

(5) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor, except beer containing not more than 6% alcohol by volume, within or upon any premise licensed under this article.

(6) The licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The city, upon five days' notice to the persons holding a license, shall revoke or suspend

the license for any one of the following reasons:

- (1) The licensee has fraudulently obtained the license by giving false information in the application therefor.
- (2) The licensee has become ineligible to obtain a license under this chapter.
- (3) The nonpayment of any license fees.
- (4) Permitting any gambling in or upon the licensee's place of business.
- (5) The employment of persons under 18 years of age in dispensing or selling cereal malt beverage or beer containing not more than 6% alcohol by volume.
- (6) The employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, another state or the United States; or
- (7) There has been a violation of K.S.A. 21-4106 or K.S.A. 21-4107, prior to their repeal or K.S.A. Supp. 21-6204, and amendments thereto, (public nuisance) in or upon the licensee's place of business.

Section 12. SAME; APPEAL

Pursuant to K.S.A. 41-2708(d), the licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Linn County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter.

Section 13. CHANGE OF LOCATION

If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$100.00. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the calendar year for which a current license is held by the licensee.

Section 14. WHOLESALERS AND/OR DISTRIBUTORS

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages or beer containing not more than 6% alcohol by volume within the city, to persons authorized to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.

Section 15. BUSINESS REGULATIONS

It shall be the duty of every licensee to observe the following regulations.

- (a) The place of business licensed, and operating shall always have a front and rear exit unlocked when open for business.
- (b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall always be open to the inspection of the police and health officers of the city, county and state.
- (c) Except as provided by subsection (d), no cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m., and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises; closing hours for clubs and drinking establishments shall conform to K.S.A. 41-2614 and amendments thereto.

Except as provided by subsection (d), no cereal malt beverage or beer containing not more than 6% by volume may be sold or dispensed; (1) Between the hours of 12:00 midnight and 6:00 a.m.; (2) in the original package before (time set in ordinance, not earlier than 9:00 am) or after (time set in ordinance, not later than 8:00 pm). on Sunday; (3) on Easter Sunday; or (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage or beer not more than 6% by volume for consumption on the premises.]

- (d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601 et seq. and licensed as a club by the State Director of Alcoholic Beverage Control.
- (e) The place of business shall always be open to the public and to the police during business

hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

- (f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.
- (g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.
- (h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under 21 years of age.
- (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
- (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.
- (k) No licensee or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages or beer containing not more than 6% alcohol by volume. No licensee shall employ any person who has been judged guilty of a felony.

Section 16. SANITARY CONDITIONS REQUIRED

All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have always at least one restroom easily accessible to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lit, and be always furnished with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper always shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall always be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

Section 18. This ordinance shall be published one time in the official city newspaper.

Section 19. This ordinance shall take effect and be in force from and after _____ ,
2024.

PASSED AND APPROVED this_ day of ____ 2024.

Mayor Lewis Donelson

ATTEST:

City Clerk, Mendi Cyr

[SEAL]