

**City of Baldwin City
PO Box 68
Baldwin City, Kansas 66006
Council Meeting Agenda**

**Baldwin City Public Utility Building
1015 Orange Street
Baldwin City, KS 66006**

**TUESDAY
March 5, 2019
7:00 PM**

A. Call to Order- Mayor Casey Simoneau

B. Approval of Agenda

C. Consent Agenda

1. Minutes of the February 19, 2019 Regular Meeting

D. Public Comment:

Members of the public are welcome to comment on items relating to City business not listed on this Agenda. Please stand and wait to be recognized by the Mayor. As a general practice, the comments may or may not be acted upon by the Council during the meeting, or Council may refer the items to staff for follow up.

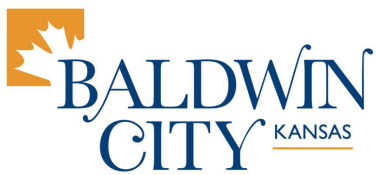
*If you wish to comment on an item listed on the Agenda, a **sign-up sheet** is provided for you to sign in and provide your address. You will be called on when the Agenda item of interest is under discussion by the Council.*

E. Special Reports or Presentations

1. Quilt Capital of Kansas

F. Old Business

1. Ordinance - Alley vacate
2. Charter Ordinance 20 - Transient Guest Tax
3. Resolution- Transient Guest Tax



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**TUESDAY
March 5, 2019
7:00 PM**

G. New Business

1. Ordinance - Harding rezone
2. Ordinance - Cereal Malt Beverage

H. Council Committee Reports

1. Budget and Finance - Susan Pitts/A.J. Stevens
2. Community Development - Brian Cramer/David Simmons
3. Public Health and Safety - Tony Brown/Brian Cramer
4. Public Works and Utilities - David Simmons/Tony Brown
5. Sidewalks and Trails - A.J. Stevens/Susan Pitts

I. City Administrator and Staff comments

J. Council & Mayor Comments

1. Lotatorium update

K. Executive Session

L. Adjourn

City Council meets every first and third Tuesday of each month at 7:00 p.m. in the Library community meeting room. Council work sessions are held the last Tuesday of each month at 7:00 p.m. in the American Legion Hall.

City of Baldwin City
Minutes from the February 19, 2019
Regular Council Meeting

The Baldwin City Council met in Regular Session at 7:00 p.m. at the Baldwin City Public Library, 800 7th Street, with Mayor Casey Simoneau presiding.

Present were Council Members: Tony Brown, David Simmons, Brian Cramer, A.J. Stevens and Susan Pitts. Also, attending: Glenn Rodden-City Administrator; Laura Hartman, City Clerk; Ed Courton, Community Development Director; Brad Smith, Finance Director and City Attorney, Blake Glover.

David Simmons was absent.

- A. Call to Order: Mayor Casey Simoneau called the regular council meeting to order at 7:00 p.m.

- B. Approval of Agenda: Brian Cramer moved and Susan Pitts seconded to approve the February 19, 2019 agenda. Motion carried with a vote of 4 yes and 0 no.

- C. Consent Agenda: Council considered Minutes of the February 2, 2019 meeting. Susan Pitts moved and A.J. Stevens seconded to approve the consent agenda. Motion carried with a vote of 4 yes and 0 no.

- D. Public Comment:

- E. Special Reports or Presentations:

- F. Old Business:
 - 1. Lotatorium - A.J. Stevens moved and Brian Cramer seconded to approve the contract with BG Consultants for design services for the lotatorium. Motion carried with a vote of 3 yes and 1 no.
 - 2. Sidewalk - Tony and A.J. asked if this went out for bid and if this is something we normally send out for bid. Glenn said we didn't send it out for bid, and yes typically this type of project goes out for bid. However, doing so will move the project much later for completion. Council ensued discussion. Tony said he would like it to be bid out and follow our process. Council would like an RFP sent out.

David Simmons arrived 7:14 p.m.

3. CIP discussion- Brad Smith explained the draft plan. David said he would like to know what money we actually have projected to spend. Brad responded the issue of the water fund and waste water losing funds. Mayor Simoneau suggested the finance committee look at the CIP and bring back to the Council.
4. Charter Ordinance 20 - A.J. shared two documents related to transient guest tax statutes. David said the Community Development Committee have been discussing how to use these funds. Brian felt like the plan the CDC has been discussing has been making head-way. Council continued discussing. This was a first reading of the charter ordinance, no action taken. Wendy Conover, 337 Elm Street, stating she is on the tourism committee. Wendy shared what this committee actual does and how the funds are used. Wendy stated she felt she was intentional on drawing people to our city.

G. New Business:

1. Ordinance for an alley vacation request- Ed Courton explained what the process was in reviewing these types of requests. This was a first reading of the ordinance, no action taken.
2. Communication personnel- Brian clarified this was not discussed in the Community Development Committee. Brian shared he has always felt this was a need and supports this idea. David added more details to what this person could do for the City. David suggested the City Administrator to put together a job description for council review.
3. Grant Request-Community Foundation Grant - Glenn explained this project and the work Susan Davis has done to improving the Pioneer Cemetery. David Simmons moved and A.J. Stevens seconded to approve to apply for Douglas County Community Foundation in the amount of \$38,270.00. Motion carried with a vote of 5 yes and 0 no.

H. Committee Reports:

1. Budget and Finance - Susan Pitts/A.J. Stevens - Discussed the water fund.
2. Community Development- Brian Cramer/David Simmons - Discussed lotatorium, meet with BG Consultants, next week will meet with lumberyard board and stage advisory group. Discussed the transient guest tax.
3. Public Health and Safety - Tony Brown/Brian Cramer - Discussed mobile home park plan.
4. Public Works and Utilities - David Simmons/Tony Brown - Will meet Thursday, 7:30 a.m. at the public utility building.
5. Sidewalks and Trails - A.J. Stevens/Susan Pitts - No report, next meeting is March 7, 2019 - 7:00 p.m. at City Hall.

I. City Administrator and Staff Comments :

Glenn thanked all that participated in the Home Show.

J. Council & Mayor Comments:

A.J. Stevens stated Midland Railway has acquired a for profit status. The intent is to hire 22 full time students.

Blake learned about a bill that would require municipalities to record all public meetings and provide a recording within 24 hours.

K. Executive Session –

L. Adjourn – A.J. Stevens moved and Brian Cramer seconded to adjourn the regular meeting. Motion carried with a vote of 5 yes and 0 no. Time 8:26 p.m.

Respectfully submitted,

Laura E. Hartman, CMC
City Clerk

Approved by the governing board on _____, 2018.

Attest:

Laura E. Hartman, CMC
City Clerk

Published in *Lawrence Journal World* on the _____ day of _____, 2019

ORDINANCE NO 1399

AN ORDINANCE TO VACATE THE ENTIRE WIDTH OF AN ALLEY LYING BETWEEN LOTS 120, 122, 124, 126 OF DEARBORN STREET SUBDIVISION AND LOTS 83, 85, 87, 89 OF ELM STREET SUBDIVISION, CITY OF BALDWIN CITY, DOUGLAS COUNTY, KANSAS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALDWIN CITY, KANSAS, THAT:

SECTION 1 That the entire width of an existing alley lying between Lots 120, 122, 124, 126 of the Dearborn Street Subdivision and Lots 83, 85, 87, 89 of the Elm Street Subdivision be vacated.

SECTION 2 That the Planning Commission held a public hearing on the alley vacation petition and recommended approval after due and proper legal notice was given by publication in the Lawrence Journal World, as required by law on January 22, 2019, which was at least 20-days prior to the public hearing.

SECTION 3 That no private property rights will be inquired by the alley vacation, as described herein, and the public will not suffer loss or inconvenience thereby.

SECTION 4 That no written objection to said alley vacation has been filed with the City Clerk by any adjoining owner of said alley vacation.

SECTION 5 That the City Council finds that no land adjoining said alley to be vacated will be left without an established public road connection, and said alley to be vacated is no longer necessary for public use and convenience.

SECTION 6 That the title to the real estate included in said alley shall revert to the property owner of the real estate immediately abutting thereon.

SECTION 7 EFFECTIVE DATE OF ORDINANCE. This Ordinance shall take effect on its passage and upon its publication as required by law.

Passed by the City Council this ____ day of _____, 2019.

Casey Simoneau, Mayor

ATTEST: _____
Laura E. Hartman, CMC
City Clerk

(Approved as to Form):

Blake Glover, City Attorney

Published in _____ on the ____ day of _____, 201__

CHARTER ORDINANCE NO. _____

A CHARTER ORDINANCE OF THE CITY OF BALDWIN CITY, KANSAS RELATING TO A TRANSIENT GUEST TAX LEVY FOR THE CITY OF BALDWIN CITY, KANSAS; PROVIDING FOR THE EXEMPTION OF SAID CITY FROM THE PROVISIONS OF SECTION 12-1697(a) and 12-1697(d), OF KANSAS STATUTES ANNOTATED; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND REPEALING CHARTER ORDINANCE 20.

WHEREAS, the Governing Body, with the support of the lodging industry in the City of Baldwin City, sees value in collecting a Transient Guest Tax in Baldwin City; and

WHEREAS, proceeds from such Transient Guest Tax are intended to be used for the promotion of tourism and conventions in Baldwin City, as determined appropriate by the Governing Body; and

WHEREAS, Baker University is not considered a lodging vendor for purposes of this Charter Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Baldwin City, Kansas, that:

Section 1. The City of Baldwin City, Kansas, a City of the third class, duly organized, created and existing under and by virtue of the laws of the State of Kansas, pursuant to the authority of Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to and does exempt itself from, the provisions of Section 12-1697(a) and Section 12-1697(d) of the Kansas Statutes Annotated and amendments thereto.

Section 2. In substitution of the provisions of Section 12-1697(a) and Section 12-1697(d) of the Kansas Statutes Annotated and amendments thereto, the Governing Body of the City of Baldwin City, Kansas, hereby adopts the following provision:

A transient guest tax shall be levied in the City of Baldwin City, Kansas, of FIVE and SEVEN TENTHS percent (5.7%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel, or tourist court.

Section 3. Proceeds from such Transient Guest Tax shall be used for the promotion of tourism and conventions in Baldwin City, as determined appropriate by the Governing Body.

Deleted: ,
Deleted: , commerce and economic development

Section 4. Severability. Any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 5. _____ Charter Ordinance No. 20 shall be and is hereby repealed upon this Charter Ordinance taking effect. Any other ordinances or part of ordinances in conflict with the provisions of the Charter Ordinance are hereby repealed.

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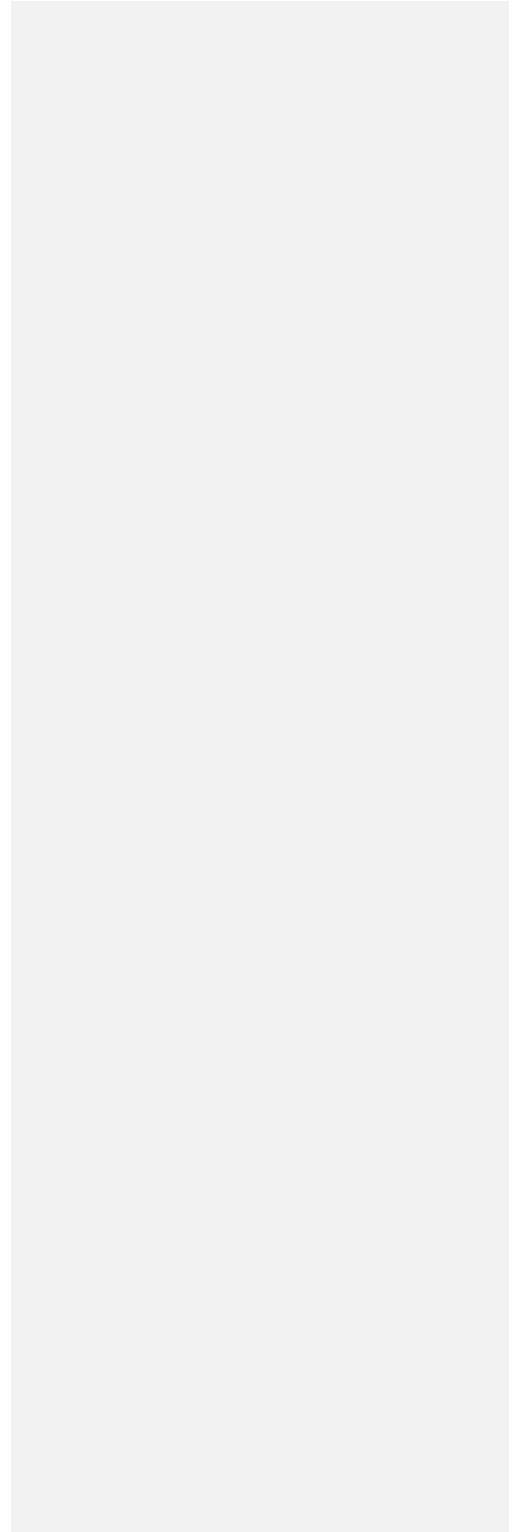
Passed by the City Council this ____ day of _____, 2019.

Casey Simoneau, Mayor

ATTEST: _____
Laura E. Hartman, City Clerk

(Approved as to Form):

Blake Glover, City Attorney



RESOLUTION NO. ~~19~~

Deleted: 02-08-02

A RESOLUTION DIRECTING THE ADMINISTRATION AND USE OF THE TRANSIENT GUEST TAX LEVIED BY CHARTER ORDINANCE NO. 20

WHEREAS, vendors of lodging and sleeping accommodations in Baldwin City suggested that the City levy a Transient Guest Tax and expressed an interest in determining how the proceeds are to be spent; and

WHEREAS, the City of Baldwin City has passed Charter Ordinance No. 20 levying a 5.7% Transient Guest Tax on gross proceeds resulting from the sale of sleeping accommodations within the City of Baldwin City; and

WHEREAS, the Governing Body recognizes that, per the Charter Ordinance, the proceeds from such Transient Guest Tax shall be used for the promotion of tourism, convention, commerce and economic development in Baldwin City; and

WHEREAS, the Governing Body deems it appropriate to set forth certain guidelines directing the administration and use of the proceeds of the Transient Guest Tax for the purposes previously set forth.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Baldwin City, Kansas, that:

Section 1.

Deleted: There is hereby established a Guest Tax Advisory Board consisting of one representative from each sleeping accommodations vendor located within the City of Baldwin City, plus one member appointed by the Executive Board of the Baldwin City Chamber of Commerce.

Section 2.

Section 3. The Community Development Committee shall review the proposed expenditures and forward a recommended budget to the City Administrator and the Governing Body's Finance Committee for consideration and inclusion in the City's proposed annual budget for the next fiscal year.

Deleted: Said Guest Tax Advisory Board shall recommend an annual budget of projected promotion, tourism, commerce or economic development expenditures from the estimated proceeds of the Transient Guest Tax levied by Charter Ordinance No. 20 to the City Administrator by May 1 of each year for distribution to the Governing Body's Community Development Committee.

Section 4.

Deleted: It is the spirit and the intent of this Resolution to allow input on the expenditure of proceeds from the Transient Guest Tax to the businesses responsible for collecting said tax. These businesses have an interest in using said proceeds in promoting all of what Baldwin City has to offer in addition to promoting their own businesses. That said, the City Council retains full discretionary authority over what is included in the City's annual budget.

ADOPTED AND APPROVED by the Governing Body of the City of Baldwin City, Kansas this ~~19~~th day of February, ~~2019~~.

APPROVED:

Deleted: 18

Casey Simoneau, Mayor

Deleted: 08

Deleted: Gary L. Walbridge

ATTEST:

| Laura Hartman, CMC
City Clerk

Deleted: Darcy Higgins



To: Planning Commission
From: Ed Courton, Community Development Director
Date: February 8, 2019
Re: Harding Rezone

Petition Request:

The applicant, Russell Harding, is seeking to rezone Lots 68 - 71, West Baldwin subdivision from the existing R-1B zoning district to R-2 pursuant to Article 31 "Amendments." The applicant is proposing to construct two-family (duplex) dwellings on the subject property.



Analysis:

The property is located at the northeast corner of the intersection of South/Summit Streets. Industrial zoning "IP-2" is situated to the northwest, two-family residential "R-2" is located opposite of Summit Street to the west, while single-family residential "R-1B" is situated to the east, north and south of the property.

Section 31-104 describes the approval criteria for rezones. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:

- a. **Whether the change in classification would be consistent with the intent and purpose of these Regulations:** Yes. The request is consistent and compatible with the mixed-use neighborhood and existing land uses consisting of industrial, commercial and residential. Further to the west, Midland Railway owns industrial property. New housing is needed at this current time, either single-family or two-family residential.

Staff has reviewed the proposed request with respect to existing development standards and documents. A duplex is considered a dwelling unit much the same as a single-family residence and is evaluated as a housing type. The City's Zoning Regulations do not set minimum housing standards relating to size nor require off-street parking structures, such as garages or carports for residential housing. Furthermore, the Comprehensive Plan residential goals and policies, limit staff in their review to potential housing types for the requested zoning district and its impact on the existing neighborhood. Consequently, the inclusion of additional duplexes is considered the same impact as single-family residential, though the density may be greater, but this was factored in the Comprehensive Plan designation of Single Family when the Plan was developed and subsequently adopted in 2008. The designation of Single Family is somewhat misleading by the name, as this designation can allow both single-family and two-family residential. A duplex is generally considered to have the same impacts as a single-family dwelling. The negative impacts of both housing types are generally associated with other factors such as noise and activity of occupants; number of vehicles; housing size and construction; and general property appearance. These factors are not evaluated as part of a rezone petition for they are unknown at this time.



- b. **The character and condition of the surrounding neighborhood and its effect on the proposed change:** Adding new duplexes or more single-family residences would enhance the neighborhood's appearance and provide needed housing for Baldwin City. The surrounding housing is primarily single-family residential with the exemption of a new duplex currently under construction to the west. Mixed uses are situated northerly ranging from single-family residential to commercial/industrial. Existing single-family residential is situated to the east, south and west.
- c. **Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions:** The neighborhood was originally intended to be residential and the proposed uses (single-family and two-family) under the requested zoning district are consistent with the intent of the original and existing neighborhood.
- d. **The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification:** Staff doesn't anticipate negative impacts resulting from the change of the zoning district and the permitted land uses for the R-2 district.
- e. **Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity:** Yes. Staff doesn't anticipate negative impacts resulting from the change in zoning district and the allowable land uses for the proposed district.
- f. **The suitability of the applicant's property for the uses to which it has been restricted:** Yes. The underlying zoning district is residential as well as the proposed zoning district.
- g. **The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped:** The underlying zoning district is residential as well as the proposed zoning district.
- h. **Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified:** The proposed land use will not adversely impact existing or future infrastructure. Existing infrastructure is readily available.
- i. **The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development:** There is a need for more land for the R-2 zoning district. This district is one step up in intensity from the single-family district and it allows two-family (duplex) dwellings. Not all residents of Baldwin City can afford a single-family home or rent one. A duplex can provide the public with another housing option. The subject property is also vacant and undeveloped. Single-family or two-family housing are permitted uses under the Comprehensive Plan designation of Single Family Residential. The Comprehensive Plan does not separate the two housing types since both are considered compatible.
- j. **The recommendations of permanent or professional staff:** None.
- k. **Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan:** Yes. The property is designed as Single-Family Residential under the Comprehensive Plan Land Use Map and duplexes are allowed under this designation.
- l. **Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and:** The proposed zoning district is consistent with the Comprehensive Plan. The public benefits by having

more housing stock available and options for its populace. The site is a mixed-use neighborhood with industrial, commercial and residential uses situated in the general vicinity of the property.

m. **Such other factors as may be relevant from the facts and evidence presented in the application:** None.

Staff Recommendation:

City staff is recommending approval of the Rezone from R-1B to R-2.

Decision: The Planning Commission shall review the rezoning request and make a recommendation to be forwarded to the City Council for final decision.

**APPLICATION FOR CHANGE OF ZONING CLASSIFICATION (REZONING) OR A
CONDITIONAL USE PERMIT**

This is an application for change of zoning classification (rezoning) or for a Conditional Use Permit. The form must be completed and filed at the office of the Zoning Administrator in accordance with directions on the accompanying instruction sheet.

AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

1. Name of applicant or applicants (owner(s) and/or their agent(s)). All owners of all property requested to be rezoned must be listed in this form.

A. Applicant/Owner Russell Harding
Address PO Box 975
Address Baldwin City, KS 66006
Phone 785-393-7655

B. Agent _____
Address _____
Address _____
Phone _____

(Use separate sheet if necessary for names of additional owners/applicants.)

2. The applicant hereby requests:

A change of zoning from R-1B to R-2.
 A Conditional Use for the following: _____

3. The property is legally described as (Lot and Block or Metes and Bounds):

West Baldwin Lots 68, 69, 70, & 71

4. This property address is: Not yet assigned

The general location is (use appropriate section):

A. At the SW (NW, NE, SW or SE) corner of Summit South ~~(street)~~ (road) and ~~(street)~~ (road) or,

B. On the E (N, S, E, W) side of Summit South ~~(Street)~~ (Road) between College ~~(Street)~~ (Road) and ~~(Street)~~ (Road).

5. I request this change in zoning for the following reasons (Do not include reference to proposed uses for a rezoning.)

To develop the area and add tax revenue for the
city.

6. I (We), the applicant(s), acknowledge receipt of the instruction sheet explaining the method of submitting this application. I (We) realize that this application cannot be processed unless it is completely filled in; is accompanied by an ownership list as required in the instruction sheet; and is accompanied by the appropriate fee.

(Owner)

(Owner)

By 
Authorized Agent (if any)

By _____
Authorized Agent (if any)

VI. OFFICE USE ONLY:

This application was received at the office of the Zoning Administrator at _____ (A.M.) (P.M.) on _____ day of _____, 20____. This application has been checked and found to be complete and accompanied by the required documents and the appropriate fee of \$_____.

Name

Title

DOUGLAS COUNTY KANSAS

Property Search Results: Real Property

Please Note: This information is assumed current as of: **1/13/2019**. For more current information, please call the Appraiser's Office: (785) 832-5133.

Property Information

[Map this Property](#)

Year: 2019

Pin Number: 023-202-04-0-30-14-003.00-0

Plate/Record Id: B02547

Owner 1: HARDING RUSSELL D

Owner 2: HARDING NICOLE L

In-Care-Of: (no record)

Property Address: 1600 SOUTH ST BLK 2, BALDWIN CITY, KANSAS

Mailing Address: PO BOX 975 BALDWIN CITY, KS, 66006

Delinquent Tax: No

Tax Unit: 001

School: USD 348

Sec-Twp-Rng: (no record)

Book: 1163

Page: 4124

Value Information

Values for 2019 have not been calculated at this time. To view values for this property, please select a previous year from the dropdown menu.

***Market or Ag use**

Tax Information

Tax data for 2019 has not been calculated at this time. To view taxes for this property, please select a previous year from the dropdown menu.

Property Description

CB 3/6/18 SEE ALSO B02548A; MEDIA LTS 68-71 122 X 169 .47AC (C)

Legal Description

WEST BALDWIN LTS 68, 69, 70 & 71 (B02547 & 48A COMBINED 2018)

**ENHANCED CEREAL MALT BEVERAGES and/or BEER CONTAINING NOT MORE
THAN 6% ALCOHOL BY VOLUME**

ORDINANCE NO. _____

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

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BALDWIN CITY:

Section 1. DEFINITION. Enhanced Cereal Malt Beverage means cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto, and such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

Section 2. LICENSE ISSUED BY CITY. The “Cereal Malt Beverage License” issued by the city of Baldwin City pursuant to this ordinance, authorizes the sale of enhanced cereal malt beverage as defined in section 1, by those retailers in compliance with this ordinance and other laws and regulations that may apply.

Section 3. LICENSE REQUIRED OF RETAILER.

(a) It shall be unlawful for any person to sell any enhanced cereal malt beverage at retail without a license for each place of business where enhanced cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell enhanced cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any enhanced cereal malt beverage in any other manner.

Section 4. 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 particular 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 particular 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, or been adjudged guilty of drunkenness, or 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 chapter. The chief shall report to the Mayor not later than five working days subsequent to 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 5. LICENSE APPLICATION PROCEDURES.

(a) All applications for a new and renewed enhanced cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.

(b) The city clerk's office shall notify the applicant 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 they are received. The police department will run a record check on all applicants and the fire department and health department will inspect the premises. The departments will then recommend approval, or disapproval, of applications within five 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 and been reviewed by the above city departments.

(e) An applicant who has not had an enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

Section 6. 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 year for which 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 application.

Section 7. 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 8. LICENSE, DISQUALIFICATION. No license shall be issued to:

(a) A person who has not been a resident in good faith of the state of Kansas for at least one year immediately preceding application and a resident of Douglas County for at least six months prior to filing of such application.

(b) A person who is not a citizen of the United States.

(c) A person who is not of good character and reputation in the community in which he or she resides.

(d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or 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.

(e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.

(f) 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 non-residence within the city or county.

(g) 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.

(h) 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.

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason

other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.

Section 9. RESTRICTION UPON LOCATION. [Note, subsections (b), (c) and (d) are optional and not required by state law.]

(a) No license shall be issued for the sale at retail of any enhanced cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any enhanced cereal malt beverage at any place within the city limits that is within a 500-foot radius of any church, school or library.

(c) Provisions shall not apply to any establishment holding a private club license issued by the State of Kansas.

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding an enhanced 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 10. LICENSE FEE. The rules and regulations regarding license fees shall be as follows:

(a) General Retailer -- for each place of business selling enhanced cereal malt beverages at retail, \$100 per calendar year.

(b) Limited Retailer -- for each place of business selling only at retail enhanced cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50 per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which 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 11. 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 enhanced cereal malt beverages, which violation does not in his or her 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 12. LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY. The governing body of the city, upon five days' written notice, to a person holding a license to sell enhanced cereal malt beverages 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:

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this section or has become ineligible to obtain a license under this section;

(c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling enhanced cereal malt beverages;

(d) The sale of enhanced cereal malt beverages to any person under 21 years of age;

(e) For permitting any gambling in or upon any premises licensed;

(f) For permitting any person to mix drinks with materials purchased in any premises licensed or brought into the premises for this purpose;

(g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;

(h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;

- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license;
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

Section 13. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Douglas 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 14. 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 \$5. 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 year for which a current license is held by the licensee.

Section 15. 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 enhanced cereal malt beverages 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 16. BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed, and operating shall at all times 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 at all times 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 enhanced cereal malt beverages 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, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises; closing hours for clubs shall conform to K.S.A. 41-2614 and amendments thereto.

[Optional subsection (c) for cities where Sunday sales have been authorized by ordinance.

(c) Except as provided by subsection (d), no enhanced cereal malt beverages may be sold or dispensed; (1) Between the hours of 12:00 midnight and 6:00 a.m.; (2) in the original package before 12:00 noon or after 8:00 p.m. 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 enhanced cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises.]

(d) Enhanced 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 amendments thereto, and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times 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 enhanced 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 18 years of age in dispensing enhanced cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

Section 17. PROHIBITED CONDUCT ON PREMISES. The following conduct by an enhanced cereal malt beverage licensee, manager or employee of any licensed enhanced cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males/female's pubic hair, anus, buttocks or genitals;

(b) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;

(c) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;

(d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or

(2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.

(e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d).

(f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

(2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;

(3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) The term premises mean the premises licensed by the city as an enhanced cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

Section 18. 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 at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times 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 at all times 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 at all times 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 19. This ordinance shall be published one time in the official city newspaper.

Section 20. This ordinance shall take effect and be in force from and after April 1, 2019.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF
BALDWIN CITY, KANSAS this _____ day of _____, 20____.

Casey Simoneau, Mayor

Laura E. Hartman, CMC
City Clerk

APPROVED AS TO FORM

Blake Glove, City Attorney