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## **ARTICLE 1**

### **GENERAL PROVISIONS**

Sections:

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#### **1.01 TITLE**

This Zoning Regulation shall be known and may be cited as the Zoning Regulations for all of Linn County, outside the jurisdiction limits of any incorporated cities.

#### **1.02 PURPOSE**

The regulations and restrictions contained herein are adopted and enacted for the purpose of promoting the health, safety, morals, convenience, and general welfare of the present and future inhabitants of Linn County, and:

1. To provide for the health and safety of each resident of Linn County.
2. To facilitate adequate provisions for transportation, water, sewerage, schools, parks, and other public facilities and services.
3. To provide each resident the opportunity to more fully develop and use his capabilities and potential.
4. To provide orderly, safe development of transportation facilities that allow for safe, economical and convenient movements of persons and goods from, to and within the County.
5. To promote Linn County as a place to enjoy a variety of quality life styles.
6. Determine a balanced relationship between existing land resources and the degree and type of development which is desirable for Linn County.

#### **1.03 INTENT**

The intent of the regulations set forth herein shall be to further the purpose of the title and promote the objective and characteristics of the respective zones.

#### **1.04 BUILDING AND SEPTIC PERMITS REQUIRED**

No building structure, or septic system shall be constructed, altered, or moved, nor shall the use of land be changed except after the issuance of a permit for the same by the Linn County Planning and Zoning Department. An application containing a site plan and other relevant information shall be submitted before the issuance of any permit.

#### **1.05 PERMITS TO COMPLY WITH THE ZONING REGULATIONS**

Permits shall not be granted for the construction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of the land, building, or structure, if such construction, alteration, moving or change in use would be a violation of any of the provisions of these regulations.

#### **1.06 DETERMINATION OF USES NOT LISTED**

Whenever there is doubt as to the classification of a use not specifically listed or mentioned in these regulations, the determination shall be made by the Board of Zoning Appeals within a reasonable time, but not to exceed 30 days. Such determination shall state the districts in which the proposed use will be permitted in keeping with the intent of these regulations. The determination of the proposed use shall be effective immediately and the Planning and Zoning Department shall use such determination in issuing permits. Application for determination shall be made in writing. No specific form is required.

#### **1.07 HOME OCCUPATIONS**

No home occupations shall hereafter be established, altered or enlarged in any residential district unless such home occupation is permitted.

#### **1.08 SIGNS AND OUTDOOR ADVERTISING**

No signs shall hereafter be built, and no existing signs shall be moved or remodeled unless such sign complies with resolution 91-10, Linn County Sign Regulations.

#### **1.09 ADMINISTRATION**

Except as otherwise provided for herein, these Zoning Regulations shall be administered by the Zoning Administrator.

## **ARTICLE 2**

### **DEFINITIONS**

Sections:

- 2.01 Interpretation
- 2.02 Rules of Interpretation
- 2.03 Definitions
- 2.04 Words Not Defined Herein

#### **2.01 INTERPRETATION**

In the interpretation and application of this Zoning Regulation, the provisions of said regulation shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Where this Zoning Regulation imposes a greater restriction upon the land, building, or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of the Zoning Regulation shall take precedence.

#### **2.02 RULES OF INTERPRETATIONS**

For the purpose of this Zoning Regulation, the following rules shall apply:

1. Words used in the present tense shall include the future.
2. Words in the singular number include the plural number, and words in the plural number include the singular unless the context clearly indicates the contrary.
3. The word “person” includes a corporation, a member or members of a partnership or other business organization, a committee, board, trustee, receiver, agent or other representative and all other legal entities.
4. The word “shall” is mandatory and not advisory.
5. The word “may” is permissive.
6. The word “use”, “used”, or “occupied” as applied to any land, building or structure shall be construed to include the words “intended”, “arranged” or “designed” to be used or occupied.
7. The word “County” means Linn County, Kansas.
8. Unless otherwise specified, all distances shall be measured horizontally.

## 2.03 DEFINITIONS

For the purpose of this Zoning Regulation, certain terms or words herein shall be interpreted or defined as follows, unless the contents clearly indicate otherwise.

1. Accessory Building or Use - A subordinate building located on the same lot or group of lots with the main building or a subordinate use of land (See Article 10).
2. Agricultural Uses - Farming operation including, dairying, pasturage, agriculture, horticulture, viticulture animal and poultry husbandry, including the structures necessary for carrying out farming operations. So long as such land and structures are used for such purposes, these regulations do not apply. The term agriculture as used in this zoning regulation shall not include commercial feed lots as defined by K.S.A. 47-1501.
3. Alley - A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.
4. All Weather Surface - a substance such as gravel, asphalt, or cement that stabilizes the crust of the earth so as to provide access or parking in periods of dry or wet weather.
5. Alteration- Alteration, as applied to a building or structure, is a change or rearrangement of the structural parts of an existing building or structure, or the enlargement of an existing building or structure to cover more of the lot area, by increasing the height or by moving said structure from one location or position to another.
6. Animal Hospital or Clinic - Any building or structure designed for examination, observation, treatment, board or care of domestic animals by a doctor of veterinary medicine.
7. Apartment - (See Dwelling, Multiple Family)
8. Automobile and Trailer Sales Area - An open area, other than a street, alley or other public way or open space, used for the display and/or sales of new or used automobiles or trailers, and where no repair work is done except for minor repair of automobiles or trailers to be displayed and/or sold on the premises.
9. Automobile Wrecking and Salvage Yards - A lot, plot or parcel of land where three or more motor vehicles, not in operating condition, are collected and/or stored for the purpose of processing parts for sale.
10. Board - County Board of Zoning Appeals

11. Boarding House - A building other than a hotel, where, for compensation, and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding twenty persons.
12. Buildings - Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.
13. Building Height - The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story of a flat roof, to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.
14. Building Line - A line established, in general, by plat or elsewhere in this ordinance parallel to the front street line between which no building or portion thereof shall project except as otherwise provided in this ordinance.
15. Building Main - A building or structure in which is conducted the principal use of the lot or group of lots on which it is located.
16. Canopy or Marquee - A roof-like structure, which may project to pedestrians from the weather and in which no retail sales or business operation is performed without special permit from the Governing Body.
17. Channel - Shall mean the geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water.
18. Clinic, Dental or Medical - A building in which a group of physicians, dentists, and allied professional assistants are associated for the purpose of carrying on their profession. The clinic may include a dental or medical laboratory. It shall not include in-patient care or operating rooms for major surgery.
19. Contact Water – Liquid, consisting primarily of precipitation, that has infiltrated through solid waste or has been in contact with solid waste for any period of time. Contact water shall include all runoff from an active area of a solid waste disposal area or processing facility and all liquid derived from a solid waste disposal area or processing facility.
20. Court - An area enclosed or partially enclosed on not more than three sides by exterior walls, building or group of buildings and lot lines on which walls are allowable with one side or end open to a street, driveway, alley or yard.
21. Curb Level - The officially established grade of the curb in front of the mid-point of the lot.

22. Day Care Home - A facility providing care for six or less children in a residential structure as a home occupation and which is licensed and regulated by either the County Health Department or the Kansas Social and Rehabilitation Service.
23. Day Care Center-Commercial - A commercial day care school or commercial nursery school providing care for seven or more children which is licensed and regulated by the Linn County Health Department or the Kansas Social and Rehabilitation Service. This activity is prohibited as a home occupation.
24. District - A section or sections of Linn County, Kansas, for which the regulations governing the use of, the height of or area of buildings and premises are uniform.
25. Dock (loading) - A structure of which its height and primary purpose is to facilitate the loading and unloading of cargo and transportation vehicles.
26. Drainage Course (Water Course) - Any natural depression, draw or ravine which directs and facilitates the flow of water.
27. Drive - A private right-of-way which affords principal means of vehicular access to or through a mobile home park, and which is owned and maintained by the owner or operator of the park.
28. Dwelling - Any building, or portion thereof, including a residential design manufactured home as defined herein, designed or used for residential purposes.
29. Dwelling, Single-Family - A building designed for, or occupied exclusively by one family.
30. Dwelling, Two-Family - A building designed for occupation exclusively by two families.
31. Dwelling, Multiple -Family - A building or portion thereof designed for or occupied by three or more families or more than one family.
32. Exception - An exception shall always mean the allowance of otherwise prohibited use within a given district, such used and conditions by which it may be permitted being clearly and specifically stated within this Zoning Regulation, and the allowance being granted by the Board of Zoning Appeals.
33. Educational Institution - A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education.

34. Fabrication - That part of manufacturing which related to stamping, cutting, or otherwise shaping processed materials into objects and may include the assembly of standard component parts, but does not include extracting, refining or other initial processing of basic raw materials.
35. Family - The word "family" shall be a group of individuals living under one roof who may or may not be related. For the purposes of this title, paying tenants in excess of two (2) shall be considered as boarders or roomers, and the building in which they abide shall be considered as a boarding or rooming house.
36. Feed Lot - The use of land for commercial dry lot, livestock feeding operations where any number of livestock or poultry are confined in a concentrated area for the distinct purpose of meat, milk or egg production, where the livestock or poultry are fed at the place of confinement and crop or foliage is not sustained in the area of confinement. Also included are any feeding endeavors which are operated on a contract basis. Not included in this definition are farm feeding operations which are an agricultural endeavor used for personal need, income supplement, and are a seasonal operation. Also not included are pasturing and grazing operations.
37. Fence - A free-standing structure of metal, masonry, grass, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.
38. Flood - Shall mean an overflow of water onto lands not normally covered by water. Floods have two (2) essential characteristics: The inundation of land is temporary; and the land is adjacent to and inundated by overflow from a watercourse, or lake, or other body of standing water.
39. Floodplain - Shall mean the land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of one percent (1%).
40. Floodway - Shall mean the channel of a watercourse and that portion of the adjoining floodplain required to provide passage of a 100 - year flood with an insignificant increase in flood stage above that of natural conditions.
41. Floodway Fringe Area - Shall mean the area between the limits of the floodway and the floodplain of the 100-year flood.
42. Floor-Area - For computing off-street parking requirements, the floor area shall mean the gross area used or intended to be used by the owner or tenant for service to the public as customers, patrons or clients, including areas occupied by fixtures and equipment used for display. It shall not include areas used principally for maintenance of the building, rest rooms or utility rooms.

43. Frontage - All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street. Where a street is dead ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead end of the street.
44. Garage, Private - An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupant of the building to which it is an accessory.
45. Garage, Public - A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.
46. Garage, Storage - A building or portion thereof designed or used exclusively for housing four or more motor driven vehicles, pursuant to previous arrangement and not to transient, and at which no auto fuels are sold and no motor vehicles are equipped, repaired, hired or sold.
47. Grade - Grades for any building is the grade established by the county zoning administrator and/or county engineer's office.
48. Home Occupation - the term "Home Occupation" shall mean any occupation conducted entirely within the dwelling unit or accessory building and carried on only by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof.
49. Hotel - A building used as an abiding place on a daily or weekly basis for transient persons who, for compensation, are lodged with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist unit otherwise.
50. Institutional Home - A place where the specialized care of babies, children, pensioners or older people, and those under care for drug or alcohol abuse, is provided, except those for correctional or mental cases. An Institutional Home shall in no way be interpreted to mean a Day Care Center.
51. Junk Yard/Salvage Yard – Land used for the storage, keeping for storage, keeping for sale or abandonment of junk, including used metal, appliances, vehicles, machinery or parts thereof or any other ferrous materials.
52. Kennel - A commercial operation that a) provides food, shelter and care for more than four (4) animals of six (6) months of age or older for purposes not related to medical care (may or may not be run by or associated with a Doctor of Veterinary

Medicine), or b) regularly engages in the breeding of animals for sale.

53. Landscaping - The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountain, statuary, and other similar natural and artificial objects designed and arranged to produce an esthetically pleasing effect.
54. Lodging House - A building or place where lodging is provided or which is equipped regularly to provide lodging, by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients.
55. Lot - An area of land with fixed boundaries as described and recorded in the office of the Register of Deeds of Linn County, Kansas, under individual ownership used by one building and its accessory building(s) and not divided by any public highway or alley.
56. Lot, Corner - A lot abutting upon two or more streets at their intersection.
57. Lot, Depth Of - The mean horizontal distance between the front and rear lot lines.
58. Lot, Double Frontage - A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.
59. Lot Line - Any line bounding a lot or separating one lot from another.
60. Lot of Record - A lot which is a part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds of Linn County, Kansas.
61. Manufacture - Any method of processing, developing, fabricating, assembling, either raw materials, semi-finished materials or parts into a semi-finished or finished product.
62. Minimum Building Elevation - Shall mean the elevation to which uses regulated by this resolution are required to be elevated or flood proofed. This elevation would be equal to the elevation that could be reached by the 100-year flood if it occurred under the conditions existing at the time this ordinance was passed, plus one foot to allow for encroachments permitted by the establishment of a floodway.
63. Manufactured Home - A structure which is transportable in one or more sections and which has been constructed in accordance with the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. Section 5403 (HUD Code).

64. Manufactured Home Park - A tract of land containing suitable drives, utilities, and other supporting elements, and devoted to the sole purpose of accommodating, on a lease or rental basis, manufactured homes located therein permanently or semi-permanently.
65. Manufactured Home Space - That area of land within a manufactured home park set aside for use as a site for one manufactured home, including the open spaces around said home, as are required in this Zoning Regulation.
66. Manufactured Home, Double Wide - A manufactured or modular home which when assembled on the site has a width of not less than twenty-four (24) feet.
67. Manufactured Home, Single Wide - Any residential structure, assembled in total or in sections other than at the site of intended locations, and transported to such site.
68. Manufactured Home Subdivisions - A subdivision developed for the purpose of selling individual lots on which manufactured homes or modular homes are allowed.
69. Mobile Home - A factory-built structure or structures which were built prior to June 15, 1976, and which are more than eight (8) feet in width or more than thirty-six (36) feet in length, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units without a permanent foundation.
70. Natural Obstruction - Shall mean natural or artificial obstructions, such as any dam, wall, wharf, embankment, levee, dike, pile, abutment, excavation, channel rectification, bridge, conduit, building, structure, wire, fence, rock, gravel, refuse, fill, or other related structures or matter in, along, across or projecting into any floodway which may impede, retard, change the direction of the flow of water, or increase the flood height, either in itself or by catching or collecting debris carried by such water, or that is place where the natural flow of water would carry the same downstream to the damage or detriment or either life or property.
71. Parking Space - An area surfaced with all weather surfacing, for the purpose of storing one parked automobile. For the purpose of this Zoning Regulation, one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off-street parking, additional space shall be required, off-street, for access drives to each parking space.

72. Pasturage or Pasture - Shall be defined as land or a plot of land used for the grazing, feeding and the confinement of livestock.
73. Person - A person shall be understood in its broadest legal sense, including person, partnership, firm, company, corporation or any other organized or unorganized group of person acting together.
74. Planning Commission - The Linn County Planning Commission.
75. Professional Office - Any building used by one or more persons engaged in the practice of law, architecture, engineering, medicine, real estate, insurance or other similar business.
76. Public Utility - Any publicly owned business the purpose of which is to furnish to the general public:
  - (A) Telephone Service
  - (B) Telegraph Service
  - (C) Electricity
  - (D) Natural Gas
  - (E) Water
  - (F) Transportation of Persons and Property
  - (G) Solid Waste Disposal
  - (H) Wastewater Treatment Plant
  - (I) Any other business so affecting the public interest as to be subject to the supervision or regulation by any agency of the State.
  - (J) Community closed circuit telecast
77. Quarry - An open excavation for the removal of any mineral of commercial value found on or in the Earth.
78. Residential Design Manufactured Home - A manufactured home on a permanent foundation which has a minimum dimension of twenty-two (22) feet in body width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes.
79. Restaurant - A public eating establishment in which the primary function is the preparation and serving of food on the premises.
80. Right-of-Way - A strip of land dedicated to the public or private interest, which is intended for use as and alley, crosswalk, court, place, road, street, thoroughfare, or utility easement.
81. Rooming House - Any dwelling in which more than three persons either individually or as families are housed or lodged for hire, with or without meals.

82. Service Station - Any building or premise used for the purpose of dispensing, sale, or offering for sale at retail of any automobile fuels, or oils, when the dispensing sale or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.
83. Setback - The minimum horizontal distance between the property line and the building line.
84. Sidewalk - A hard surface walk for pedestrians at the side of a street. All sidewalks will be constructed as specified by the Zoning Administrator and/or County Engineer's Office.
85. Sign - A sign shall include any sign, billboard or other device which shall display or include any letter, word, mode, banner, flag, pennant, insignia device or representation used as, or which is in the nature of an advertisement or announcement or which directs attention to an object, project, place, activity, person, institution, organization or business, but shall not include any display of official notice or flag, pennant, emblem or insignia or any nation or group of nations of any state, city or political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Signs will be regulated by resolution 91-10 (Linn County Sign Regulations).
86. Solid waste – garbage, refuse and other discarded materials including, but not limited to: solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include waste of domestic animals.
87. Solid Waste Convenience Center – a public owned operation where solid wastes are taken by the public for collection. Wastes from these centers are then taken to the Linn County Transfer Station and then to a State-approved disposal site.
88. Solid Waste Disposal Area – any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations. Included in this definition are the terms Subtitle D Landfill, C & D landfill, hazardous waste landfill, tire monofill or any other similar activity. Not included in this definition are the terms junkyard or salvage yard.
89. Solid Waste Processing Facility – an incinerator, compost plant, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored whether loaded or unloaded on property other than the site of origin, salvaged or otherwise processed prior to being transported to a final disposal site.

90. Story - That portion of a building, other than a basement, or cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.
91. Story, Half - A space under a sloping roof which has the line intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent living quarters shall be counted as a full story.
92. Street or Road - A right-of-way, dedicated to the public use, which provides principal vehicular and pedestrian access to adjacent properties.
93. Street Classification:
  - (A) Arterial - A street or road which provides for through traffic movement and around areas and across a city with access to abutting property; subject to necessary control of entrances, exits and curb uses.
  - (B) Collector - A street or road which provides for traffic movement between arterial and local streets, with direct access to abutting property.
  - (C) Local - A street or road which provides for direct access to abutting land, and for local traffic movement whether in business, industrial or residential areas.
94. Street or Road Line - A dividing line between a lot, tract or parcel of land and the contiguous street or road.
95. Structure - Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, but not including fences.
96. Structural Alterations - Any change in the supporting members of a building, such as, bearing walls or partitions, column, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this Zoning Regulation, the following shall not be considered structural alterations:
  - (A) Attachment of a new front where structural supports are not changed and does not encroach beyond building line.
  - (B) Addition of fire escapes where structural supports are not materially changed.
  - (C) Minor repair or replacement of non-structural members.

97. Tavern - Any establishment in which is performed the public sale and serving of malt beverages.
98. Townhouse - Means one single-family townhouse residential unit which may be joined together with at least one additional single-family townhouse residence by a common wall or walls, and/or roof, and/or foundation: Provided, however, that in any event, the term "townhouse" shall not mean a condominium as defined in K.S.A. 58-3102.
99. Tract - An area or parcel of land other than a lot of record described and recorded in the office of the Register of Deeds of Linn County as a single parcel of land under individual ownership.
100. Trailer - Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motor power or other means. The term "Trailer" shall include recreational vehicles.
101. Trailer Park - Means a tract of land containing sites for the overnight or short term parking of two or more camping trailers. Camping trailers may be parked in a campground or camper park provided such camp area is in conformance with the codes and resolutions of Linn County.
102. Trailer, Advertising - A trailer, as defined above but carrying, or having attached thereto, a sign, billboard, or other media for advertising purposes, such advertising being the prime purpose and use of trailer.
103. Trailer, Camping - A trailer, as defined above, and equipped with an enclosure for sleeping while on vacation or other trips of short duration. Such camping trailers may also contain cooking, bath, and sanitary equipment. Size and furnishing of such camping trailers may vary widely, but in no case shall they be considered structures for residential use of a permanent nature, for purpose of the Zoning Regulation.
104. Trailer, Hauling - A trailer, as defined above, designed and normally used for over-the-road transporting of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.
105. Trailer Home - See definition of Mobile Home.

106. Vision Clearance Area - A triangular area on a corner lot, which is formed by a line between the points eighty-five (85) feet from the intersection of the centerline of the road easements. The vision of clearance area shall contain no temporary or permanent obstructions in the excess of two (2) feet in height. Street trees may be permitted provided such trees are pruned at least eight (8) feet above the surrounding grade. At the intersections of major or arterial streets, or roads, the vision clearance area is created by points one hundred (100) feet from the intersection of the center lines of the road.
107. Watercourse - Shall mean any stream, arrow, or drainway having a channel that serves to give direction to a flow of water.
108. Waters of the State – all streams and springs, and all bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of Kansas.
109. Yard - A space on the same lot with a main building, open unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this Zoning Regulation.
110. Yard, Front - A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building setback line. For corner lots, this definition applies to both portions of a lot lying adjacent to the intersecting streets.
111. Yard, Rear - A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and rear line of such main building.
112. Yard, Side - A yard between the main building and the side lot line extending from the front yard lot line to the rear lot line. The width of the required side yard shall be measured horizontally, at ninety degrees with the side lot line from the nearest part of the main building.

#### **2.04 WORDS NOT DEFINED HEREIN.**

Words or terms not herein defined shall have the definition as written in Miriam-Webster's Collegiate Dictionary Tenth Edition c.1993



## **ARTICLE 3**

### **ESTABLISHMENT OF DISTRICTS AND BOUNDARIES**

Sections:

- 3.01 Declaration of Purpose
- 3.02 Location of Map
- 3.03 Determining Boundaries

#### **3.01 DECLARATION OF PURPOSE**

In order to accomplish the purposes of this Zoning Regulation, of Linn County is hereby divided into district (zones) in accordance with the Comprehensive Plan as hereinafter set forth. The zoning districts of Linn County shall be known as:

- 1. "A" Agricultural District
- 2. "AR" Agricultural/Residential District
- 3. "R-1" Single-Family Residential District
- 4. "HR" Highway Retail District
- 5. "MHP" Manufactured Home Park District
- 6. "I-2" Heavy Industrial District

#### **3.02 LOCATION ON MAP**

The location and boundaries of the district contained herein are shown on the zoning map entitled the District Zoning Map of Linn County, Kansas." All boundaries, notations, and other data shown thereon, are hereby adopted as part of this Zoning Regulation. Said "District Zoning Map" is properly attested and is on file with the Zoning Administrator of Linn County, Kansas.

#### **3.03 DETERMINING DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of various districts, the following rules shall apply:

- 1. Where the indicated boundaries on the Zoning Map are approximately street, roads, or alley lines, the center line of said street, road or alley shall be construed to be the district boundary.

2. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the district boundary unless otherwise indicated.
3. Where the indicated boundaries are approximately drainage ditches, water courses or other clearly defined natural features, the center line of such shall be construed to be the zone boundaries unless otherwise indicated.
4. In the absence of any street, road, land survey, lot ditch water course or other natural feature or measurement, the district boundary shall be determined by the use of the scale of measurement shown on the map.
5. Where other uncertainty exists, the Board of Zoning Appeals shall interpret the locations of zone boundaries upon said District Zoning Map.

### **3.04 DISTRICT REQUIREMENTS**

The following rules apply to all district contained herein:

1. No building shall be erected, converted, enlarged, constructed, or structurally altered, nor shall any building or land be used except for a purpose permitted in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located, except as provided in Article 17.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the area regulations of the district in which the building is located, except as provided in Article 17.03.
4. The minimum yards and other open spaces, including lot area per family, required by the Zoning Regulation for each and every building existing at the time of passage of this Zoning Regulation or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Regulation.
5. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building, dwelling or living unit on one lot unless an Exception as a hardship is applied for and granted as provided for in Article 17.04 of these regulations.

## **ARTICLE 4**

### **“A” - AGRICULTURAL DISTRICT REGULATIONS**

Sections:

- 4.01 Purpose and Intent
- 4.02 Permitted Uses
- 4.03 Conditional Uses
- 4.04 Lot Requirements
- 4.05 Yard Requirements
- 4.06 Parking Requirements
- 4.07 Supplemental Development Standards
- 4.08 Right to Farm

#### **4.01 PURPOSE AND INTENT**

The “A”, Agricultural District is established for the purpose of providing areas for the furtherance of agricultural pursuits. The intent of this district is to retain areas of land for agricultural uses.

#### **4.02 PERMITTED USES**

The following uses and structures, and no others, are permitted in the “A” District.

1. Agricultural activities such as growing of crops, pasturage of animals, or similar activities.
2. Single family dwelling
3. Customary accessory uses and structures located on the same lot with the principle use and which do not include any activity or use unrelated to the principle use as explained in Article 11.
4. Public parks, playgrounds and recreation areas and related buildings operated by public agency
5. Cemeteries, mausoleums
6. A business, profession, or trade conducted as a home occupation subject to the following use conditions:

**(A) HOME OCCUPATION STANDARDS:** A residence may be used for a home occupation under the following conditions:

- 1) No commodities shall be displayed or sold on the premises except that which is produced on the premises.
- 2) No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes.
- 3) No outdoor storage of materials or equipment used in the home occupation shall be permitted.
- 4) No alteration of the principal residential building shall be made which changes the character thereof as a residence.
- 5) Signs shall be allowed by permit granted by the Zoning Administrator and shall not exceed six (6) square feet.
- 6) Temporary use of recreational vehicles (other than for storage) for habitation for a period not to exceed ninety (90) days provided the recreational unit complies with the Linn County Sanitation Code and other County Regulations. After 90 days has expired, the vehicle must be removed or application made for an Exception as a hardship pursuant to Article 16 of these regulations.
- 7) No manufacturing or processing shall be done, and no stock-in-trade shall be displayed or sold on the premises except for those items identified in paragraph b(11) herein.

**(B) PARTICULAR HOME OCCUPATIONS PERMITTED:** Customary home occupations include, but are not limited to, the following list of occupations; provided that each listed occupation is subject to the requirements of subsection A of this section:

- 1) Dressmakers, seamstresses, and tailors.
- 2) Music teacher, provided that instruction be limited to five (5) pupils at a time.
- 3) Artists, sculptors, and authors or composers.
- 4) Offices for architects, engineers, lawyers, real estate agents, insurance agents, and members of similar professions.

- 5) Ministers, rabbis, and priests.
- 6) Offices for salesmen, sales representatives, manufactures' representatives, when no exchange of tangible goods is made on the premises.
- 7) Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the above home crafts when pursued as a hobby.
- 8) Day-care homes or babysitters caring for less than five (5) unrelated children, provided all state and county licensing requirements are met.
- 9) Barber shops and beauty parlors.
- 10) Services such as small appliance, radio, and T.V. repair
- 11) Sale of seeds and fertilizer, including liquid fertilizer.

**(C) PARTICULAR HOME OCCUPATIONS PROHIBITED:** Permitted home occupations shall not in any event include the following:

- 1) Funeral Homes.
- 2) Restaurants.
- 3) Grocery stores.
- 4) Renting or leasing of trailers or equipment.
- 5) Animal hospitals.
- 6) Auto and other vehicular repair for retail purposes.

#### **4.03 CONDITIONAL USES**

(See Article 10)

#### **4.04 LOT SIZE REQUIREMENTS**

1. Minimum area:

(A) Permitted Uses: Ten (10) acres

#### **4.05 YARD REQUIREMENTS**

1. Front Yard:

(A) Farm related buildings: Exempted by K.S.A. 12-758 (b)

(B) Other permitted uses: 60 feet from center line of road easements.

2. Side Yard:

(A) Farm related buildings: Exempt K.S.A. 12-758 (b)

(B) All other permitted uses: 10 feet.

3. Rear Yard:

(A) Farm related buildings: Exempt K.S.A. 12-758 (b)

(B) All other permitted uses: 30 feet

#### **4.06 PARKING REQUIREMENTS**

1. Farm related buildings: none.

2. All uses shall conform with the requirements of Article 14.

#### **4.07 SUPPLEMENTAL DEVELOPMENT STANDARDS**

(See Article 13)

#### **4.08 RIGHT TO FARM**

1. Purpose: It is the declared policy of the county to conserve and protect agricultural land and to encourage agricultural operations within the county. Where nonagricultural land uses, including but not limited to residential development, extend into or adjoin areas of agricultural land, agricultural operations have become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to curtail or cease operations, and operators are discouraged from making investments in farm improvements to the detriment of the economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this article to reduce the loss to the county of its agricultural resources by limiting circumstances under which agricultural operations may be considered a nuisance. This article is not to be construed as in any way modifying or abridging state law

relative to nuisances, but is to be utilized in the interpretation and enforcement of the provisions of these regulations and other applicable county regulations.

2. Definitions: "Agricultural operations" shall mean activities relating to agricultural use including, but not limited to, the cultivation and tillage of the soil, the burning of agricultural waste products or other agricultural burning, the proper and lawful use of agricultural chemicals, including but not limited to the application of pesticides and fertilizers, or the raising, production, irrigation, pruning, harvesting, or processing of an agricultural commodity, including any type of crop or livestock, and any forestry improvements and timber harvesting and processing.
3. Nuisance: No present or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land shall become or be a nuisance, private or public, due to any changed condition of the use of adjacent land in or about the locality thereof; provided, that the provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation and its appurtenances or if the agricultural activity or appurtenances obstruct the free passage or use in the customary manner of any navigable lake, stream, river, canal or basin or any public park, square, street or highway.
4. Role of Planning Commission: An interested party may submit a written request to the Planning Commission for an opinion as to whether a particular agricultural operation constitutes a nuisance. In the event a dispute arises between an owner of an agricultural operation and a resident (or residents) in or about the locality thereof as to whether a particular agricultural operation constitutes a nuisance, an interested party may submit a written request to issue an advisory opinion or mediate a dispute. The Planning Commission may promulgate such regulations as are necessary for the implementation of this section. The County Extension Agent may serve as technical advisor to the Planning Commission.



## **ARTICLE 5**

### **“AR” AGRICULTURAL/RESIDENTIAL DISTRICT REGULATIONS**

Sections:

- 5.01 Purpose and Intent
- 5.02 Permitted Uses
- 5.03 Conditional Uses
- 5.04 Lot Requirements
- 5.05 Lot Coverage
- 5.06 Yard Requirements
- 5.07 Height Regulations
- 5.08 Projections Into Yards
- 5.09 Parking Requirements
- 5.10 Supplemental Development Standards

#### **5.01 PURPOSE AND INTENT**

The “AR” Agricultural/Residential District is established for the purpose of allowing the furtherance of agricultural pursuits and the accommodation of low density residential uses. It is the intent of this article to provide an environment conducive for family life in a district characterized by open spaces and low impact uses.

#### **5.02 PERMITTED USES**

The following uses and structures are permitted in the “AR” District.

1. Agricultural activities such as growing of crops, pasturage of animals, or similar activities.
2. Single family dwelling
3. Customary accessory uses and structures located on the same lot with the principle use and which do not include any activity or use unrelated to the principle use as explained in Article 11.
4. Public parks, playgrounds and recreation areas and related buildings operated by public agency
5. Cemeteries, mausoleums
6. Any home occupation as listed in section 4.02 (6) of these regulations.

### **5.03 CONDITIONAL USES**

(See Article 10)

### **5.04 LOT SIZE REQUIREMENTS**

Minimum lot size for any permitted activity located in the “AR” District is three (3) acres.

### **5.05 LOT COVERAGE**

The maximum lot coverage by all buildings, principal and accessory, shall not exceed forty (40) percent. No more than one single family dwelling may be placed on a lot.

### **5.06 YARD REQUIREMENTS**

The following minimum yard requirements shall apply in all “AR” Districts.

#### **1. Front Yard:**

- (A) Each lot in the “AR” District shall have a front yard of not less than sixty (60) feet from the center of road easement, unless otherwise provided in Article 10.
- (B) Where lots have a double frontage or located at the intersection of two streets, the required front yard shall be provided on both streets. The vision clearance area as defined herein shall be free of buildings and all other obstructions.

#### **2. Side Yard:**

- (A) Except as otherwise provided in the following paragraph and in Article 15, there shall be a side yard on each side of a building, having a width of not less than fifteen (15) feet.
- (B) Wherever a side yard abuts an alley, the side yard shall not be less than ten (10) feet.

#### **3. Rear Yard:**

- (A) Each lot in the “AR” District shall have a rear yard have a depth of not less than twenty-five (25) feet or twenty (20) percent of the depth of the lot, whichever amount is smaller.

## **5.07 HEIGHT REGULATIONS**

No building shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 13.06. Chimneys, flagpoles, church towers and similar structures not used for human occupancy shall be excluded in determining height.

## **5.08. PROJECTIONS INTO YARD**

1. The following elements may project into or be erected into any required yard:
  - (A) Landscaping elements
  - (B) Fences and walls in conformance with County Resolutions.
  - (C) Necessary elements for the delivery of utility Service.
2. The following structures may project into a minimum front or rear yard not more than four (4) feet.
  - (A) Chimney and fireplace structures
  - (B) Eaves, sills, cornices, and similar architectural features.
  - (C) Stairways, balconies and awnings.
3. All side yard setbacks shall be measured from the building wall.

## **5.09 PARKING REQUIREMENTS**

(See Article 14)

## **5.10 SUPPLEMENTAL DEVELOPMENT STANDARDS**

(See Article 13)



## **ARTICLE 6**

### **“R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

Sections:

- 6.01 Purpose and Intent
- 6.02 Permitted Uses
- 6.03 Conditional Uses
- 6.04 Lot Requirements
- 6.05 Lot Coverage
- 6.06 Yard Requirements
- 6.07 Height Regulations
- 6.08 Projections Into Yards
- 6.09 Parking Requirements
- 6.10 Supplemental Development Standards

#### **6.01 PURPOSE AND INTENT**

The “R-1” Single-Family Dwelling District is established for the purpose of high density single-family dwelling control and unincorporated areas that have been platted before the adoption of these regulations.

#### **6.02 PERMITTED USES**

The following uses and structures are permitted in the “R-1” District:

1. Single family dwelling
2. Customary accessory uses and structures located on the same lot with the principle use and which do not include any activity or use unrelated to the principle use as explained in Article 11.
3. Public parks, playgrounds and recreation areas and related buildings operated by public agency
4. Any home occupation as listed in section 4.02 (6) of these regulations.

#### **6.03 CONDITIONAL USES**

(See Article 10)

#### **6.04 LOT SIZE REQUIREMENTS**

No minimum lot size is established, however, it is expected that sufficient area will be provided for setbacks and still provide adequate building area.

#### **6.05 LOT COVERAGE**

The maximum lot coverage by all buildings, principal and accessory, shall not exceed sixty (60) percent. Not more than one single-family dwelling may be placed on a lot.

#### **6.06 YARD REQUIREMENTS**

The following minimum yard requirements shall apply in all "R-1" Districts.

1. Front Yard:

- (A) Each lot in the "R-1" District shall have a front yard of not less than twenty-five (25) feet from any road Right-of-Way line unless otherwise provided in Article 15.

2. Side Yard:

- (A) Except as otherwise provided in Article 15, there shall be a side yard on each side of a building, having a width of not less than ten (10) feet.

3. Rear Yard:

- (A) Each lot in the "R-1" District shall have a rear yard having a depth of not less than ten (10) feet.

#### **6.07 HEIGHT REGULATIONS**

No building shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 13. Chimneys, flagpoles, church towers and similar structures not used for human occupancy shall be excluded in determining height.

#### **6.08 PROJECTIONS INTO YARD**

The following elements may project into or be erected into any required yard:

- 1. Any projection allowed in the "AR" Agricultural/Residential District.

#### **6.09 PARKING REQUIREMENTS** (See Article 14)

#### **6.10 SUPPLEMENTAL DEVELOPMENT STANDARDS** (See Article 13)

## **ARTICLE 7**

### **“HR” - HIGHWAY RETAIL DISTRICT**

Sections:

- 7.01 Purpose and Intent
- 7.02 Permitted Uses
- 7.03 Conditional Uses
- 7.04 Application and Review
- 7.05 Lot Requirements
- 7.06 Building Height and Setback Requirements
- 7.07 Miscellaneous Provisions

#### **7.01 PURPOSE**

The purpose of the Highway Retail District is to provide a district which allows for adequate retail shopping, professional services and related retail operations near the intersections of principal arterials and minor arterials as designated in the Linn County Comprehensive Plan. The intent of the Highway Retail District is to allow uniform development along highly visible properties which are an asset to the community and are pleasing in appearance.

#### **7.02 PERMITTED USES**

No building, structure, land or premises located in the Highway Retail Business District shall be used and no building or structure shall be hereafter erected or altered, except for the following uses:

1. Accessory Uses
2. Amusement arcade (indoors), including video game arcades, game machines and other similar establishments.
3. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
4. Apartments on a floor other than the ground floor.
5. Appliance stores and repair.
6. Art and art supply stores.
7. Artist studio.
8. Auditorium and similar places of public assembly.
9. Automobile accessory and supply store.
10. Automobile dealership.
11. Bakery and pastry shop.
12. Banks and other savings and lending institutions.
13. Barber shops and beauty shops.

14. Bicycle shops.
15. Billiard and pool halls.
16. Blueprinting, Photostatting and photo finishing facilities.
17. Books and stationery stores.
18. Bowling alleys.
19. Building material sales.
20. Business and technical schools, including schools for photography, dancing and music.
21. Business machine repair, sales and service.
22. Camera and film development shops.
23. Carpenter and cabinet shops.
24. Carpet cleaning.
25. Car washes.
26. Cigar and tobacco store.
27. Churches and other similar places of worship.
28. Clothing and Costume sales and rental.
29. Computer equipment repair and sales.
30. Dance Halls.
31. Day care centers.
32. Delicatessens and catering establishments.
33. Department stores.
34. Dress and dressmaking stores and shops.
35. Drug stores and prescription shops.
36. Dry goods and notion stores.
37. Electronic equipment and appliance manufacturing and repair.
38. Equipment rental.
39. Feed and seed stores.
40. Fix-it shops for small engines and appliances.
41. Florist and gift shops.
42. Funeral homes and mortuaries, not including crematories.
43. Furniture and home furnishing stores.
44. Garden centers.
45. Government administration buildings.
46. Grocery stores.
47. Hardware stores.
48. Hobby, stamps and coin shops.
49. Hotels and motels.
50. Household appliance stores.
51. Janitorial services.
52. Interior decorator shops.
53. Jewelry and metal craft stores and shops.
54. Leather goods and luggage stores.
55. Library and museum.
56. Lock and key shops.
57. Mail order catalog stores.

58. Meat markets.
59. Medical, dental and health clinic.
60. Medical laboratories.
61. Meeting halls and auditoriums.
62. Music instrument sales and repair shops.
63. Music and dance studios.
64. Newspaper offices and newsstands.
65. Newsprint, job printing and printing supply stores.
66. Offices, business and professional.
67. Office supply and equipment stores.
68. Optician and optometrists.
69. Paint and wallpaper stores.
70. Parcel delivery service.
71. Parks and open space.
72. Pawn shops.
73. Pet shops.
74. Photographic equipment sales and supply stores.
75. Photographic studios.
76. Plumbing and electrical shops.
77. Post Office.
78. Printers.
79. Public buildings and offices.
80. Radio and television stations.
81. Restaurants, including drive-ins.
82. Saddle, harness and related equipment sales and repair shops.
83. Schools, private and public.
84. Service stations.
85. Self-service laundries and dry cleaning establishments.
86. Sewing machine shops and stores.
87. Shoe stores.
88. Sporting goods stores.
89. Tailor shops.
90. Taverns.
91. Taxidermist shops.
92. Theaters.
93. Tire repair and sales.
94. Toy stores.
95. Travel Bureaus.
96. Truck stops.
97. Upholstery shops – furniture.
98. Utility company offices.
99. Variety stores.

### **7.03 CONDITIONAL USES**

The following uses may be permitted in the Highway Retail Business District only upon approval of a Conditional Use Permit as provided in Article 10 of these regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the protection of the value of adjacent property and the protection of the public health, safety and welfare.

1. Manufactured home sales and service.
2. Crematories.
3. Public utility and service facilities such as substations and outdoor storage yards.
4. Outdoor amusement establishments, such as permanent carnival and kiddy parks, miniature golf, pitch and putt facilities, driving ranges and similar establishments.
5. Mini-warehouses or storage units, subject to the following conditions:
  - (A) The use must have adequate access and be located in close proximity to an adequate arterial or collector road.
  - (B) All storage shall be within enclosed buildings except for boats, campers or other vehicles which may be outside if adequately screened.
  - (C) Any side of the building, providing doorways to storage areas shall be setback from the property line not less than 35 feet.
  - (D) All driveways, parking, loading and vehicle circulation areas shall be improved with an all-weather surface.
  - (E) All lights shall be shielded to direct light away from adjacent properties.
  - (F) No activities such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawnmowers and other similar equipment shall be conducted on the premises.
    - a. The area shall be maintained free of trash and debris.
    - b. One residential dwelling may be erected in conjunction with the facility so as to allow a watchman to reside on the premises.
  - (G) Outdoor storage of materials used or sold in conjunction with any permitted use as listed in Article 7-2.01.
  - (H) Used vehicle or equipment sales lot.
  - (I) Bait and tackle shops.
  - (J) Ambulance, police and fire stations.

### **7.04 APPLICATION AND REVIEW**

All applications for a change of zoning to the HR – Highway Retail District shall be submitted to the Linn County Planning and Zoning Office on forms provided for such purposes. Applications shall be considered in the manner provided for in Article 16 of these Zoning Regulations. Conceptual Plans which accompany applications to the HR District shall meet the requirements for Conceptual Plans as listed in Article 16.03, and

shall also address issues such as appearance, building lay-out, and any proposed future construction.

## **7.05 LOT SIZE**

1. The minimum lot size for the Highway Retail Business District shall be as follows:
  - (A) Uses served by public water and sewer or those not requiring such services – 10,000 square feet.
  - (B) Uses which require on-site sanitation facilities – 3 acres.
2. Minimum lot width shall be 50 feet.
3. Minimum lot depth shall be 100 feet. In no case shall a lot exceed a 3:1 (depth to width) ratio.

## **7.06 BUILDING HEIGHT AND SETBACK REQUIREMENTS**

1. No building or structure shall exceed the following height restrictions:
  - (A) When a building or structure is within 25 feet of a residential district or within 50 feet of a residential dwelling unit, said building or structure shall not exceed 35 feet in height.
  - (B) When a building or structure is more than 25 feet from a residential district or more than 50 feet from a residential dwelling unit, said building or structure shall not exceed 50 feet in height.
2. Building setbacks shall be as follows:
  - (A) Front Yard
    - a. There shall be a minimum front yard setback of 30 feet as measured from the front property line.
  - (B) Side Yard
    - a. There shall be minimum side yard setback of not less than 10 feet.
    - b. When a building or structure is located on a corner lot, the side yard adjacent to the street shall be the same setback as required for the front yard.

(C) Rear Yard

- a. There shall be a minimum rear yard setback of 15 feet as measured from the rear lot line.
- b. In case of a double fronted lot, the front yard building setback shall apply regardless of which is used as the rear yard.

**7.07 MISCELLANEOUS PROVISIONS**

1. Requirements for signs:

- (A) All signs placed within the Highway Retail Business District shall conform with the requirements of County Resolution #91-10 (Linn County Sign Regulation) as amended.
- (B) All signs placed in areas subject to approval from the Kansas Department of Transportation shall be constructed and maintained in accordance with State requirements.

2. Parking and Loading

- (A) Parking and Loading Spaces shall conform to the requirements of Article 14 of these Regulations.

## **ARTICLE 8**

### **“MHP” MANUFACTURED HOME PARK DISTRICT**

Sections:

- 8.01 Purpose and Intent
- 8.02 Permitted uses in the MHP District
- 8.03 General Requirements
- 8.04 Development Standards for Manufactured Home Parks

#### **8.01 PURPOSE AND INTENT**

The MHP Manufactured Home Park District is established for the purpose of providing residential environments within the County for the accommodation of manufactured homes and modular housing units within a manufactured home park under one ownership. It is the intent of this Zoning Regulation that the Manufactured Home Park Districts be located only in areas that would not adversely affect the established agricultural uses or residential densities in the County.

#### **8.02 PERMITTED USES IN THE MHP DISTRICT**

The following uses and structures are permitted in the Manufactured Home Park District:

1. Manufactured Home Parks (not transient trailer courts)
2. Recreation and service facilities (as in club house, swimming pools, laundromats, etc.) for the occupants of a park
3. Accessory structures such as garages, carports, greenhouses, and similar structures which are customarily used in conjunction with and incidental to a principle use or structure.

#### **8.03 GENERAL REQUIREMENTS**

1. Parking of manufactured homes:
  - (A) Except as provided in paragraphs (B) and (C), it shall be unlawful for any person to park any trailer or manufactured home on or within the right of way of any street, alley, highway, or other public places.
  - (B) Emergency or temporary stopping or parking, not exceeding one (1) hour at any one time, if permitted by traffic regulations.

- (C) No person shall park or occupy any manufactured home outside a duly authorized manufactured home park, park unless the manufactured home complies with all HUD regulations.
- (D) Camping trailers may be parked in a campground or camper park, provided such camp area is in conformance with the zoning and other resolution of the County. No such camping trailer shall be used for permanent or semi-permanent residential purposes. Nothing in this chapter shall prohibit the use of tents, pick-up campers, and other such equipment from also utilizing an approved campground or camper park.
- (E) Advertising trailers may be permitted as hereinafter provided and as authorized by Board of Zoning Appeals.

## 2. License Required.

- (A) It shall be unlawful for any person to establish, operate, or maintain, or permit to be established, or operated or maintained upon any property owned or controlled by him, a manufactured home park without having first secured a license to do so in accordance with the provisions of this chapter.
- (B) License to establish, operate, or maintain a manufactured home park shall terminate two years from date of issuance, but may be renewed for additional period of two (2) years.
- (C) Application for a license or for a license renewal for a manufactured home park shall be filed with the County Zoning Administrator every two years, and said fee shall be paid to the County Treasure amounting to ten dollars (\$10.00) for said period.

## 3. Revocation of License

The Zoning Administrator is hereby authorized to revoke any license issued pursuant to the terms of this chapter, if after due investigation he determines that the holder thereof has violated any of the provisions of this chapter, or that any manufactured home park is being maintained in any unsanitary or unsafe manner or constitutes a public nuisance. Any person aggrieved by any order of the Zoning Administrator revoking, denying or refusing to renew a license for a manufactured home park under this article, any appeal from such order to the Board of Zoning Appeals by filing a written request for a hearing before said Body within ten (10) days after the issuance of the order. The Board of Zoning appeals shall thereupon hold a public hearing at a regular meeting, at the conclusion of which it shall approve or disapprove the action of the Zoning Administrator in revoking, denying or refusing to renew such license.

4. Structure quality and anchorage of manufactured homes shall conform to the provisions of C.A.B.O. One and Two Family Dwelling Code (appendix C).

#### **8.04 DEVELOPMENT STANDARDS**

1. SIZE OF PARK. Shall not be less than one (1) acre.
2. ACCESS. A manufactured home park shall have access to arterial or major collector streets.
3. GROSS DENSITY. Gross density of a manufactured home park shall not exceed six (6) manufactured home spaces per acre including streets, sidewalks, recreation area, boat and trailer storage areas.
4. OFF-STREET PARKING. There shall be provided at least two (2) off-street parking spaces to be located on the manufactured home space or within two hundred (200) feet of the manufactured home space. In addition, there shall be provided 1 ½ visitors' off-street parking spaces for every five (5) manufactured homes. Visitor parking spaces shall be located within convenient walking distances to home spaces.
5. MANUFACTURED HOME SPACES. Each manufactured home park shall clearly define the spaces and such spaces shall not have an area less than 3,600 square feet. Spaces shall have a minimum of 45 foot frontage and 80 foot depth. Each manufactured home park shall provide or assign a number for each space placed in a conspicuous manner in a uniform method.
6. SET BACKS. Manufactured homes shall be so located one each space that there shall be clearance between manufactured homes; provided, however, that with respect of manufactured homes parked end-to-end, the end-to-end clearance shall not be less than twenty (20) feet. No manufactured home shall be located closer than twenty (20) feet to any building or manufactured home within the park. No manufactured home shall be located closer to any center of road easement of an abutting public street or road than sixty (60) feet or such other distance as may be established by resolution or regulation as a front yard or setback requirement with respect to conventional buildings in the area in which the manufactured home park is located.
7. DRIVEWAY AND SIDEWALKS. All driveways and walkways within the park shall be all-weather surfaced and lighted at night. Unencumbered travel ways shall be at least thirty (30) inches in width that lead from manufactured home spaces to service and recreational areas. Pedestrian walkways shall connect with walkways in surrounding residential areas.

8. CIRCULATION. The interior circulation and access to public streets shall be so designed as to promote the public safety.
9. PERIMETER AND INTERIOR LANDSCAPING. Where the boundary of a manufactured home park abuts a public street, a twenty (20) foot wide landscaped buffer is recommended. This buffer shall be planted with a mixture of grass, trees, shrubs or provide a park-like appearance. Where the boundaries of a manufactured home park do not abut a public street, a decorative six (6) foot height wall or fence of suitable material along these boundaries is recommended, except where these boundaries abut a public park or dedicated open space, in which case, suitable screening is recommended to accomplish the appropriate landscaping. Adequate grass, trees and shrubs to provide a dust deterrent, shaded park-like atmosphere is recommended in the interior of the manufactured home park.
10. RECREATION SPACE. One or more recreational areas are recommended.
11. SUPERVISION. The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition. Moreover, manufactured home park operators shall submit to the county appraiser by March 15, a list of all manufactured homes on their land as of January 1, including make, model, year, length and width.
12. BOAT AND TRAILER STORAGE. Screened area for the storage of boats and travel, horse, or utility trailers, with an aggregate size of at least three hundred fifty (350) square feet per trailer space, is recommended for each manufactured home park.
13. ELECTRICAL SUPPLY. An underground electrical service supplying at least 120/240 volts - 100 amperes electrical service from a centrally located power supply shall be provided to each manufactured home space by the manufactured home park operator.
14. Adequate provisions shall be made for public water supply, sanitary sewers, fire protections and other necessary facilities to satisfy and comply with state and local codes, regulations and statutes.
15. REFUSE COLLECTION. The manufactured home park shall provide refuse containers to each manufactured home site, in quantities adequate to permit disposal of all garbage and rubbish. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage shall not overflow.
16. SIGNS. One non-animated or flashing identification sign or structure shall be allowed in conformance with state and local codes, ordinances and specifications.

17. DRAINAGE. The park shall be properly drained to insure rapid run-off and free from stagnant pools of water and comply with other appropriate regulations as the same may be promulgated.
18. NATURAL FEATURES. The design of the park shall preserve natural features such as large trees when feasible.
19. NONCONFORMING MANUFACTURED HOME PARKS. Existing manufactured home parks that do not conform with these regulations and special conditions shall be allowed to continue. However, no nonconforming manufactured home park shall be expanded, enlarged, or extended in any way. If a nonconforming manufactured home park is discontinued or its normal operation stopped for more than one year, the use of the land shall thereafter conform to a use permitted in the zone in which it is located.
20. MANAGEMENT. Each manufactured home park shall be operated in a sanitary, orderly and efficiently manner, and shall maintain a neat appearance at all times. No damaged or deteriorated manufactured homes shall be permitted to remain, and suitable and effective rules for regulating the outside storage of equipment, the removal of wheels and installation of skirting, the collection of trash and garbage, and the attachment of appurtenances to the manufactured homes shall be continually enforced. All drives, playground area and equipment, lawn and trees, and any recreation or accessory buildings shall be similar to other residential neighborhoods in the County. All portions of the manufactured home park shall be open and accessible to fire, sheriff and other emergency and protective vehicles and personnel, including county and state inspectors.



## **ARTICLE 9**

### **“I-2” HEAVY INDUSTRIAL DISTRICT**

Sections:

- 9.01 Purpose and Intent
- 9.02 Permitted Uses
- 9.03 Conditional Uses
- 9.04 Lot Coverage
- 9.05 Yard Requirements
- 9.06 Height Regulations
- 9.07 Area of District
- 9.08 Parking Regulations
- 9.09 Supplemental Design Standards

#### **9.01 PURPOSE AND INTENT**

The Heavy Industrial District is established to provide areas in the County where firms can engage in processing, manufacturing and related activities protected from encroachment from commercial, residential or other non-compatible uses.

#### **9.02 PERMITTED USES**

The following uses are permitted in the Heavy Industrial District.

1. Bottling Works
2. Feed Mills
3. Foundries
4. Petroleum Refining
5. Truck and Rail Terminals
6. Warehouses
7. Manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, smoke or odor.

### **9.03 CONDITIONAL USES**

Conditional Uses shall be addressed as required in Article 10 of these regulations.

### **9.04 LOT COVERAGE**

A building structure or use which is allowed in this district may occupy all of that portion of a lot, except for the area required for off-street parking, off-street loading and unloading and their access roads unless otherwise noted by this Zoning Regulation or any other hereafter established county or state requirement.

### **9.05 YARD REQUIREMENTS**

1. Front Yard: Each lot in the I-2 District shall have a front yard of not less than fifty (50) feet from the front property line. Where said lot fronts on more than one street, the setback shall be required on both streets.
2. Side Yard: Each lot in the I-2 District shall have a side yard not less than fifteen (15) feet.
3. Rear Yard: Each lot in the I-2 District shall have a rear yard not less than Twenty (20) feet.

### **9.06 HEIGHT LIMITS**

Maximum height for buildings in the I-2 District is seventy five (75) feet unless a variance is applied for and granted by the Linn County Board of Zoning Appeals. Towers or other similar uses over seventy five (75) feet in height shall require a Conditional Use Permit as required in Article 10 of these regulations.

### **9.07 AREA OF DISTRICT**

There shall be no requirement except that an orderly development pattern be used.

### **9.08 PARKING REQUIREMENTS**

(See Article 14)

### **9.09 SUPPLEMENTAL DEVELOPMENT STANDARDS**

(See Article 13)

## **ARTICLE 10**

### **CONDITIONAL USES**

Sections:

- 10.01 Purpose and Intent
- 10.02 Application of Conditional Uses
- 10.03 Guidelines for Conditional Uses
- 10.04 Qualification of Existing Conditional Uses
- 10.05 Additions and Changes to Conditional Uses
- 10.06 Continuance of a Conditional Use
- 10.07 Conditional Uses Enumerated

#### **10.01 PURPOSE AND INTENT**

The establishment of virtually all land uses except agricultural and traditional single family residential, in most cases, are not appropriate in the unincorporated portion of Linn County; especially those land uses that are of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity. However, it is recognized that it may be acceptable, on a case-by-case, site-by-site basis, to permit the development of such land uses where conditions warrant and adequate safeguards are taken to mitigate any of the potential problems associated with said development. Therefore, in order to develop any land use other than agricultural or traditional single-family residential in the unincorporated portion of Linn County a Conditional Use Permit is issued in accordance with the Regulations shall be required.

It is the intent of this Article to require a Conditional Use Permit for all proposed land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. As such, it is acknowledged that the types of land uses indicated herein for any property within the unincorporated portion of Linn County. The subsequent approval of such request by the Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use Permit for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use Permits that provided for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use Permit, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations. (For example: a Conditional Use Permit could be approved for a "strip shopping center" along a highway where transportation and adequate water and

sewage disposal services are available. The Conditional Use Permit could indicate a range of “retail and/or service businesses” as being appropriate for this location and included in the Permit.)

## **10.02 APPLICATION OF CONDITIONAL USES**

Before the location or establishment of any land use requiring a Conditional Use Permit, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a Conceptual Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 16 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 16 of these Regulations and shall review such Conceptual Plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission’s recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values.

## **10.03 GUIDELINES FOR CONDITIONS**

The Planning Commission may recommend and the Governing Body impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, any of the following specifications.

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof, i.e., gable, flat, etc.
7. Construction design and type of construction materials to be used.

8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

#### **10.04 QUALIFICATION OF EXISTING CONDITIONAL AND SPECIAL USES**

Properties with land uses operating under an existing Conditional Use approved prior to the adopting of these Regulations, or that were zoned and used as commercial or industrial under the previous Zoning Regulations, shall be permitted to continue, but with an unapproved Conditional Use Permit. Changes in the building(s), operation(s) or use(s) of said properties shall be treated as requiring an amendment to said unapproved Conditional Use Permit and considered as provided in Section 10-02 herein.

#### **Article 10.05 CONTINUANCE, EXPIRATION, REVOCATION OR MODIFICATION OF A CONDITIONAL USE PERMIT**

1. Any conditional use permit shall be considered permanent, except as herein otherwise limited, unless specifically limited in time as a condition of its approval, and provided that all conditions attached to the permit by the County Commission are met.
2. Notwithstanding Section 1, all conditional use permits will automatically expire, be considered abandoned and become invalid by operation of law when:
  - A. A definite time frame has been established as a condition by the County Commission and that time frame has elapsed.
  - B. An approved conditional use permit has not been initiated or utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of authorization, unless the County Commission finds that the use is of such a scale that additional time is needed prior to its initiation. The

authorization date shall be the date that the permit is approved by resolution of the County Commission. If more than one (1) year is needed as found by the County Commission, the amount of time to initiate the use shall be specified in the approving resolution.

C. Conditional use permits in which the authorized activity, service or use has ceased for three hundred and sixty-five (365) continuous days, for any reasons. However, if a particular use has ceased in order to overhaul or provide maintenance to the facility as it directly relates to the use, said overhauling or maintenance shall be considered as being in continual use.

3. Holders of conditional use permits subject to termination due to the provisions of paragraphs B and C above, may file a written petition with the Zoning Administrator at least thirty (30) days prior to the expiration date, requesting an extension of time to begin or to reinstitute the activity, service or use. The application shall state specific reasons for such an extension and shall include all reports from appropriate County agencies and shall be sent to the County Commission for consideration within thirty (30) days of filing of the application. The County Commission may grant an extension if it finds that circumstances beyond the normal control of the holders of the permit resulted in a delay of the initiation of or a cessation of the activity, service or use for three hundred sixty-five (365) continuous days.

4. Any conditional use permit, authorized in accordance with this Article, may be revoked or modified when the County Commission finds, following a public hearing pursuant to Article 16.05 of these Regulations:

A. That there has been a failure to comply with the conditions established for that conditional use permit.

B. That the use of the property has substantially expanded or deviated from the permitted use and intent. Permitted use and intent shall be interpreted as being the use(s) permitted by a conditional use permit that existed on June 22, 1981, uses in place prior to that date, or uses specifically defined in the resolution approving the conditional use permit for permits granted after June 22, 1981. If, upon examination, the Planning Commission finds that there has been no change, expansion or deviation in use, or that any change, expansion or deviation in use is minimal, the original conditional use permit will remain in effect.

C. That the conditional use permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas statute, or said court or administrative agency has otherwise ordered changes in the permit.

5. Action to modify or revoke a conditional use permit may be initiated by the County department responsible for enforcing these Regulations or upon a complaint filed with the County Planning Department and/or other affected County departments. Upon receipt of a complaint, the zoning administrator or a designated representative shall investigate the complaint. If an investigation finds that the complaint is valid and

sufficient grounds exist for modification or revocation of a conditional use permit, the matter shall be referred to the Planning Commission for a hearing.

#### **10.07 CONDITIONAL USES ENUMERATED**

The following listed uses are conditional uses in any District and shall also be subject to additional requirements in Article 13.04.

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.
2. Ambulance services
3. Automobile repair, sales and/or service, service stations, body shops, storage garage
4. Automobile wrecking yards, salvage yard, junk yards and scrap processing yards (See Article 13.04)
5. Bait shops
6. Bakeries
7. Bed and breakfast facility
8. Boat sales and service, including boat storage yard
9. Bowling alleys
10. Building material sales and storage
11. Bus barns or lots
12. Carpentry or cabinet making shops
13. Car wash
14. Ceramic, pottery or concrete ornament product processing, sales and/or yard.
15. Church-related facilities including camps, retreat centers and similar facilities
16. Commercial and/or retail stores and activities not otherwise prohibited by these

Regulations.

17. Commercial office buildings, office parks and parking lots
18. Corporate, commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry (See Article 13.04)
19. Construction equipment sale and rentals
20. Contractor's shop and/or yard, including construction equipment and/or material storage areas
21. Controlled shooting area as defined in K.S.A. 32-943 thru 32-946.
22. Day Care Center - caring for five (5) or more children, provided all State and County licensing requirements are met
23. Drive-in and drive-through establishments
24. Drive-in theaters
25. Dry cleaning establishments, laundry plants
26. Dwellings for resident night watchmen and caretakers employed on the premises of a business
27. Exposition centers and/or buildings
28. Explosives, fireworks, ammunition, black powder, or similar material sales, storage, warehousing, and/or manufacturing (See Article 13.04)
29. Fairgrounds
30. Farm supplies and machinery sales and service, including storage yard.
31. Feed and seed stores
32. Flea markets
33. Frozen food lockers
34. Garden supply stores
35. Golf courses, miniature golf courses and driving tees

36. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc. (See Article 13.04)
37. Greenhouses, nurseries and/or hydroponic farms operated as a retail business
38. Grocery stores, delicatessens, convenience stores
39. Gift and souvenir shops
40. Group boarding homes, managed group day care homes or residential center, except as permitted by K.S.A. 12-736 as amended (See Article 13.04)
41. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing
42. Hospital or clinic for large or small animals
43. Hotels, motels and motor hotels
44. Irrigation supplies and service stores
45. Judicial centers, detention centers, jails, penal or correctional institutions
46. Keeping of exotic animals as defined by Resolution 95-24, on any tract of land, whether in a building or not
47. Kennels, either boarding or breeding
48. Laboratories; research, experimental, and/or testing
49. Lawn and garden supply sales and service, including storage yards
50. Livestock equipment and supplies
51. Lumber yards
52. Machine shop
53. Machinery sales and/or storage lots
54. Manufacturing operations, light
55. Manufactured home, recreational vehicle, and camping trailers sales and service, including display yard.

56. Private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments
57. Moving company, storage and terminal
58. Mortuaries and attendant accessory activities and facilities, including crematoriums
59. Multi-family dwellings, including two-family dwellings, townhouses, garden apartments, condominiums; provided, consistent with single-family residential developments, the provision of adequate public water and sewer service, along with other public infrastructure, is necessary in order for development of said dwellings to be permitted.
60. Nursing homes and homes for the aged, approved and licensed by the State of Kansas
61. Plumbing shops
62. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses
63. Public utility uses: buildings, structures or premises for public utility services or public service corporations; including but not limited to: water treatment plants, water towers, electric and telephone substations, gas regulator stations, police and fire stations, utility maintenance shops and yards
64. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants (See Article 13.04)
65. Radiator repair shops
66. Radio, cellular, or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 75 feet or more in height; whether publicly or privately owned; provided the location of every tower must be such that it is at least an equal distance from all property lines as it is in height.
67. Recreational or sports-related activity or facility, whether publicly or privately owned
68. Recreational vehicle park or camp ground
69. Restaurants, including drive-in and drive-through establishments, serving food or beverages to customers for consumption on the premises or in parked motor vehicles
70. Riding academies, stables and/or show arenas, indoor or outdoor rodeo arenas

and/or facilities for commercial purposes

71. Sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law, and State approved
72. Schools - preschools, primary, intermediate & secondary, either publicly or privately owned and operated
73. Sheet metal shops
74. Stock yard and slaughter houses
75. Storage of bulk oil, gas (See Article 13.04)
76. Storage rental units
77. Taverns
78. Truck stops and/or truck and rail terminals, truck sales and service
79. Upholstery shops
80. Wholesale merchandise sales and storage
81. Zoos, commercial aquariums, or aviaries.



## **ARTICLE 11**

### **ACCESSORY, TEMPORARY AND NON-CONFORMING USES**

Sections:

- 11.01 Accessory Uses - Definition
- 11.02 Accessory Uses Permitted
- 11.03 Accessory Use Restriction
- 11.04 Accessory Uses Prohibited
- 11.05 Temporary Uses - Purpose
- 11.06 Temporary Uses Permitted
- 11.07 Temporary Uses – Qualification and Review
- 11.08 Nonconforming Uses - Definition
- 11.09 Nonconforming Uses Permitted to Continue
- 11.10 Limitations on Nonconforming Uses

#### **11.01 ACCESSORY USES - DEFINITION**

An accessory use is a use or structure which is incidental and subordinate to the principal structure or use on a lot or group of lots. Accessory uses are subordinate in area and purpose and are intended for the convenience or necessity of the occupants, business or industry in the principal building or use. An accessory building shall not cover more than fifteen percent (15%) of the lot area.

#### **11.02 ACCESSORY USES PERMITTED**

Accessory uses and structures may be permitted in an Zoning District provided such uses or structures conform with the definition in Section 2.03 (Definitions). Permitted accessory uses and structures include but not limited to the following:

1. Buildings such as garages, carports, bath houses, gardening sheds, recreation rooms and similar structures which are customarily used in conjunction with and incidental to a principal use or structure. Accessory buildings may be built in a rear yard, but such accessory buildings shall not be nearer than four (4) feet from any side lot line, except that when a garage is entered from any alley it shall not be located closer than twenty (20) feet from the alley line. An accessory building shall not be located closer than ten (10) feet to the main structure.
2. Children’s playhouses, provided they shall be in keeping with the principal structure.
3. Swimming pools.
4. Storage of materials used for construction of a building, including the contractor’s

temporary office, provided that such use is on the building site or immediately adjacent thereto, and provided further that such use shall be permitted only during the construction period and thirty (30) days thereafter.

5. Barbecue stove, flagpoles, fences, walls, arbor trellises, statuary, gazebos and greenhouses.
6. Fallout shelters.
7. Storage of boat trailers, boats, campers, camp trailers and similar recreation equipment provided no part of such storage area is located within the vision clearance area.
8. Off-street parking and loading in conformance with Article 14.
9. Satellite T.V. reception disc.

### **11.03 ACCESSORY USE RESTRICTIONS**

The following is a list of restrictions on accessory uses and structures:

1. No accessory structure shall be constructed within the front yard setback.
2. On corner lots, accessory structures and uses shall conform to the setback requirements on both street frontages.
3. Vision clearance areas shall be free of obstructions.
4. No building permit will be issued by the Zoning Administrator for an accessory building if the proposed building is or has been a wheeled vehicle or a portion of a wheeled vehicle, and also if the proposed building does not conform to the general character of the neighborhood in which it is to be placed.

### **11.04 ACCESSORY USES PROHIBITED**

The following uses shall be prohibited in any district:

1. No mobile home, as defined in these regulations, shall be moved, relocated, or otherwise placed on any property in the unincorporated portion of Linn County, including a Manufactured Home Park District.
2. No manufactured home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home be permitted to be converted to a storage unit, office or any other such use.

3. No recreational vehicle shall be used for dwelling purposes, except while a dwelling is being constructed on the same site and shall be limited to a period of one year.
4. No cellar shall be used as a dwelling.
5. No property shall be used as a junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, or similar use or activity, unless such use has been approved by issuance of a Conditional Use Permit as provided within these Regulations.

#### **11.05 TEMPORARY USES - PURPOSES**

Temporary use regulations are provided to accommodate uses or structures which are temporary in nature. The character of these uses is such that they would not be proper without conditions imposed to protect adjacent properties and general health, safety and welfare of the citizens of Linn County.

#### **11.06 TEMPORARY USES PERMITTED**

The following land uses and structures are permitted by Temporary Use Permit unless otherwise restricted by the district regulations:

Contractors offices, equipment and sheds  
Carnivals and Circuses  
Concerts  
Mud Runs  
Limited Asphalt or Concrete Plants

#### **11.07 TEMPORARY USES – QUALIFICATION AND REVIEW**

Prior to the establishment of any of the above temporary uses or significantly similar uses, an application for a Temporary Use Permit shall be submitted to the Zoning Administrator on forms provided of this purpose. In reviewing said application, the Zoning Administrator shall consider the following:

1. The requested temporary use will not have a significant detrimental impact on nearby properties.
2. The requested temporary use will not create excessive traffic hazards on adjacent streets and traffic control (if necessary) shall be provided at the expense of the applicant. A traffic and parking plan shall be submitted with the application.
3. The applicant shall submit a copy of a Certificate of Liability Insurance in an amount deemed appropriate for the activity which is being applied for.

4. The applicant shall provide for the restoration of the site to its original condition. A plan or statement indicating what action will be necessary to meet this criteria shall be submitted with the application.
5. Limitations on particular temporary uses:
  - a. Contractors temporary buildings or trailers that are used in conjunction with construction work shall be removed within ten (10) days of completion of the construction work.
  - b. Limited asphalt or concrete plants shall be considered as a temporary use only if they meet all of the following criteria:
    - 1) The proposed location has direct access to a State or Federal Highway or Right of Way,
    - 2) The proposed location is not less than 1000 feet to the nearest residence other than the residence of the owner of the land upon which the limited plant is to be located,
    - 3) The application shall include a statement from the Kansas Department of Health and Environment certifying that all wastewater, air and fuel containment issues have been addressed to the satisfaction of the State of Kansas.
    - 4) A surety bond or letter of credit assuring the site will be returned to its original condition shall be submitted to the County prior to issuance of the permit.
    - 5) All equipment and materials utilized in the operation of the limited asphalt or concrete plant shall be removed from the site within 30 days following completion on the construction project for which the plant was established.
    - 6) A plan showing the arrangement of the proposed activity on the site and the designated haul roads shall be submitted with the application.
  - d. All other uses shall not occupy the site for more than 14 days.

#### **11.08 NONCONFORMING USES - DEFINITION**

Any building, lot or use, which was legally established at the time of the effective date of this Zoning Regulation, or amendments hereto, which does not conform to the requirements of the district in which it is located.

#### **11.09 NONCONFORMING USES PERMITTED TO CONTINUE**

1. The lawful use of land:
  - (a) Existing at the time of the adoption of this Zoning Regulation,

- (b) Existing at the time an amendment is made to the Zoning Regulation so as to transfer the land to a more restricted district, may be continued, although such use does not conform to the provisions of this Zoning Regulation as amended.

The lawful use of a building:

- (c) Existing prior to the effective date of this Zoning Regulation or amendments thereto, may be continued although such existing use does not conform to the provisions of the Zoning Regulation. Such use may be continued throughout the building provided no structural enlargements or structural alterations are made to the building other than those required by law.

#### **11.10 LIMITATIONS ON NONCONFORMING USES**

1. Whenever a nonconforming use has been changed to a more conforming use, such use shall not thereafter be changed to a nonconforming use.
2. No such nonconforming use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
3. A lawful nonconforming use which has been discontinued for a period of 400 consecutive days shall not thereafter be resumed.
4. The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use.
5. No building which has been damaged by any casualty, act of God or public enemy to the extent of more than fifty percent (50%) of its structural value shall be restored except in conformity with these regulations.

A nonconforming use shall not permit the existence of a nuisance as established by State Law or by County Resolution.



## **ARTICLE 12**

### **BUILDING PERMITS**

Sections:

- 12.01 Authority
- 12.02 Conformance with Zoning Regulations
- 12.03 Filing Procedure
- 12.04 Staff Administration Procedure
- 12.05 Vested Rights
- 12.06 One Dwelling Per Lot or Tract
- 12.07 Number of Building Permits
- 12.08 Zoning Administrator's Authority
- 12.09 Appeals
- 12.10 Fees
- 12.11 Enforcement
- 12.12 Validity

#### **12.01 AUTHORITY**

No building or structure shall be constructed, erected, altered, or remodeled nor shall any such work be commenced upon any lands zoned under their regulations within the unincorporated territory unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the Zoning Administrator a building permit therefore, as herein provided. For purposes of this article, the terms altered or remodeled shall refer to an increase in the size of a structure and not to the alteration or remodeling limited to the interior.

#### **12.02 CONFORMANCE WITH ZONING REGULATIONS**

No building permit shall be issued for any building or structure unless the same be in conformity in every respect with all the provisions of these regulations and the subdivision regulations of the County unless otherwise set out. No building permit for a structure shall be issued unless a plot plan has been submitted. If an application for rezoning is not required, such plot plan shall contain sufficient information as deemed necessary by the Zoning Administrator to carry out the intent and purpose of this regulation.

#### **12.03 FILING PROCEDURE**

Applications for building permits shall be filed with the Zoning Administrator upon forms prescribed, setting forth the legal description of the lot, together with a general description of the building or structure to be constructed, erected or altered thereon,

including the size and shape, square foot area, principal material of construction, location of the building or structure upon the lot and the intended use. A copy of the deed of the property will also be required. In addition, the applicant shall pay the deposit and fees required under the Sanitation Code of Linn County, Kansas, and the building permit fee as determined according to this article.

#### **12.04 STAFF ADMINISTRATIVE PROCEDURES**

Upon delivery of the completed application and the required payments, the applicant shall proceed to obtain written notification that the site has been preliminarily evaluated by the County Health Officer or County Sanitarian as required in the Sanitation Code of Linn County, Kansas. Such written notice and approval shall be delivered to the Zoning Administrator and a building permit may be issued, provided all other requirements of these regulations are met.

#### **12.05 VESTED RIGHTS**

No building permit lawfully issued prior to the effective date of these regulations, or of any change or amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of their regulations, or any such change or amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and in effect at the time of the issuance of said permit; provided that all such permits shall expire not later than sixty (60) days from the effective date of these regulations, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.

#### **12.06 ONE DWELLING PER LOT**

Unless otherwise provided for in these regulations, the Zoning Administrator shall not issue more than one (1) building permit for a single-family dwelling on each lot, except that a building permit may be issued for a new single family dwelling where a single family dwelling unit currently exists provided the new unit:

1. Is intended solely for the purpose of upgrading housing; **and**
2. The owner/builder has provided a notarized affidavit to the Zoning Administrator agreeing to remove the previous existing dwelling unit within six (6) months of completing the new dwelling unit. The affidavit shall state that the owner/builder understands and agrees that failure to remove the previously existing dwelling unit constitutes a violation of the zoning regulations as set forth elsewhere in this regulation.

## **12.07 NUMBER OF BUILDING PERMITS**

There shall be a separate building permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the building permit for the principal building when construction is simultaneous.

## **12.08 ZONING ADMINISTRATORS' AUTHORITY**

The Zoning Administrator shall be empowered to act within the provisions of these regulations upon all applications for building permits, and the same shall be approved or denied not later than the third business day succeeding the day the complete application is received.

## **12.09 APPEALS**

In the event of refusal to issue a building permit upon application, as herein provided, the applicant shall have the right to a hearing by the Board of Zoning Appeals, as provided by the law. Provided, however, that appeals shall only be permitted after payment of filing fees as outlined in Section 12.10 below.

## **12.10 FILING FEES**

Fees for building permits shall be set by resolution of the Board of County Commissioners.

## **12.11 ENFORCEMENT**

In addition to any other method of enforcement of these regulations, the following enforcement procedures may be invoked:

1. A permit may be revoked and/or a "stop construction" order posted on the building or structure by the Zoning Administrator at any time prior to the completion of a building or structure for which the same was issued, when it shall appear to the Zoning Administrator that the same was procured by false representation, or that any of the provisions of these regulations are being violated. Provided, however, twenty-four (24) hours written notice of such revocation shall be served upon the owner, his agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.

2. Upon the failure, refusal or neglect of any owner, his agent, contractor or duly authorized representative to secure such permit as required by these regulations and pay the prescribed fee therefore, as herein provided, the Zoning Administrator shall post a “stop construction” order on any and all buildings or structures involved. Further, no construction shall proceed until and unless said owner, his agent, contractor or duly authorized representative secures such permit as required by these regulations and pays the prescribed fee therefore.

#### **12.12 BUILDING PERMIT VALIDITY**

For a building permit to remain valid, substantial construction shall be started within six (6) months of issuance of said permit. If within that period of time substantial construction has not been started, then the building permit issued for that construction shall be null and void.

## **ARTICLE 13**

### **SUPPLEMENTAL DEVELOPMENT STANDARDS**

#### **SECTIONS:**

- 13.01 Purpose
- 13.02 Establishment of Uses not Specified
- 13.03 Clarification of Ambiguity
- 13.04 Additional Use Requirements
- 13.05 Additional Height Requirements
- 13.06 Additional Lot Requirements
- 13.07 Prior Recorded Plats
- 13.08 Residential Design Manufactured Homes

#### **13.01 PURPOSE**

The purpose of this Article is to provide for the several miscellaneous development standards which qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Zoning Regulation. The requirements of this Article shall be in addition to the development standards contained within the provisions of the district regulations. The provisions of this Article shall prevail over conflicting provisions of any other Articles.

#### **13.02 ESTABLISHMENT OF USES NOT SPECIFIED**

When there is doubt as to the classification of a use not specifically listed in this regulation, the Board of Zoning Appeals shall make such determination at the next regularly scheduled meeting. Determination shall be made using the following criteria:

1. That the establishment of the use will be in accordance with the purpose of the district in which that use is proposed.
2. That the use will be an appropriate addition to the zone because it has the same basic characteristics as the other uses permitted in the district.
3. That the use will not be detrimental to the public health, safety or welfare of the residents of Linn County.
4. That the use will not create more traffic, odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount normally created by any of the uses listed as permitted in that district.

5. That the use will not create any greater hazard of fire or explosion than the hazard normally created by any of the uses listed as permitted uses in that district.

The Board of Zoning Appeals shall, at the same regular meeting in which they have allowed the establishment of a use in accordance with the above provisions, set a public hearing at which the Planning Commission shall determine whether the use should be recommended to the Board of County Commissioners as an amendment to the Zoning Regulation which is to be added to the list of permitted uses in the respective district said use was allowed.

### **13.03 CLARIFICATION OF AMBIGUITY**

If ambiguity or uncertainty arises concerning the appropriate classification of a particular use within the meaning and intent of this Zoning Regulation, or with respect to matters of height, yard requirements, area requirements, or district boundaries, as set forth herein and as they pertain to unforeseen circumstances, including technological changes and processing of materials, it shall be the duty of the Board of Zoning Appeals to ascertain all pertinent facts and set forth its findings and its interpretations, and thereafter such findings and interpretations shall govern, subject to the approval of the Board of County Commissioners.

### **13.04 ADDITIONAL USE REQUIREMENTS**

1. Automobile wrecking yards, salvage yard, junk yards and scrap processing yards
  - (A) Located on a tract of land at least three hundred (300) feet from a residential district zone.
  - (B) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall. The fence or wall shall be of uniform height (at least six (6) feet high), uniform texture color shall be so maintained, by the proprietor, as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence or wall must provide a visual screen from all adjoining property and shall be installed in such a manner as to retain all scrap, junk or other material within the yard. For the purpose of visual screening, dense evergreen foliage may be substituted if they are maintained in good condition.
  - (C) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently outside the enclosing building, hedge, fence or wall, or within the public right-of-way.
  - (D) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the fire department and Governing Body. Said burning, when permitted, shall be done during daylight hours only.

2. Corporate, commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry, provided:
  - (A) The development plan shall include an area map showing the location of all habitable structures within one (1) mile of all properties proposed to be used in the operation, including lands on which facilities and structures are to be constructed as well as land used for disposal of animal wastes by any means. All facilities and structures, including waste lagoons, shall be located a minimum of 2000' from all habitable structures and places frequented by the public; and all lands used for effluent disposal shall be located a minimum of 100' from all habitable structures and places frequented by the public. The separation requirements for lands used for effluent disposal may be reduced if the occupants of any habitable structures within said area agree in writing to waive the requirement and said agreement is recorded with the Linn County Register of Deeds.
  - (B) Copies of all permit documents, plans, specifications or reports required to be submitted to the KDHE or any State agency shall be submitted with the application.
  - (C) The applicant shall identify the method to be used in the handling and disposal of all dead animals that are generated from all the operations.
  - (D) Where applicable, a maintenance agreement between the applicant and the County shall be required to maintain the roads that provide the ingress/egress to the operation.
  - (E) If the Conditional Use Permit is approved, the applicant and all successors or operators of the facilities shall submit copies of all annual reports and documents required to be submitted to all State regulatory agencies to the Linn County Zoning Administrator who shall keep them on file.
3. Explosives
  - (A) Contractors intending to store any amount of explosives (explosives, blasting agents or detonators) shall obtain a Conditional Use Permit and shall be housed in a magazine designed for that purpose.

(B) Magazines shall be located from residential property lines and areas frequented by the public as follows:

<u>Weight</u>	<u>Distance</u>
0 - 500 lbs	1000'
500 - 1500 lbs	2600'
Over 1500 lbs	4200'

(C) Magazines shall be separated from each other the following minimum distances:

<u>Weight</u>	<u>Distance</u>
0 - 500 lbs	60'
500 - 1500 lbs	90'
Over 1500 lbs	500'

(D) Permits shall not be transferred or issued to anyone under the age of 21. Permits may be denied or revoked for reasons not limited to the following:

- 1) Non-compliance with any order of the issuing authority;
- 2) Proof that the applicant or holder is under indictment for, or has been convicted of, a crime punishable by imprisonment for a term exceeding 1 year;
- 3) The applicant or holder is a fugitive from justice;
- 4) The applicant or holder has been diagnosed as mentally defective;
- 5) The applicant or holder advocates, or knowingly belongs to, any organization or group that advocates violent overthrow or actions against any federal, state or local government.
- 6) The applicant or holder provided false information or misrepresentation in order to obtain said permit.

#### 4. Fireworks

(A) Vendors with a quantity of fireworks greater than 1000 lbs. Shall obtain a Conditional Use Permit. Said Conditional Use Permit shall be valid only for the dates of June 27th through July 5th of any year.

- (B) Fireworks stands with a Conditional Use Permit shall be located no less than 100' from the Permit holder's residence, no less than 500' from any adjoining residential property line and not less than 75' from public roadways.
  - (C) Fireworks shall not be stored, kept, sold or discharges within one-hundred and fifty (150) feet of any gasoline pump, filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold.
- 5) Group boarding homes, managed group day care homes or residential center, except as permitted by K.S.A. 12-736 as amended, provided:
- (A) The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
  - (B) A report from the Linn County Health Office shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
  - (C) Off-street parking at a rate of one space per employee plus two additional spaces for guests.
  - (D) When operated out of an existing or proposed residential structure, the following standards shall be met:
    - 1) That only non-illuminated ground or wall sign not more than four square feet in area is used to advertise.
    - 2) Outside areas shall be fenced.
6. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:
- (a.) Such conditional uses shall be located nearby or adjacent to roads capable of handling the expected highway loads of heavy truck traffic. If the county finds that any road which would be used by the operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant shall be required to improve and maintain the roads such that the roads will accommodate the anticipated traffic. An Improvement and Maintenance Agreement shall be required to assure that the streets used by the operation will be appropriately improved and maintained.

(b.) All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of one hundred feet (100') from any road right of way or property line, measured horizontally, must be maintained free of any quarrying or mining activity, either surface or sub-surface. No building, equipment, or quarry products or other materials shall be erected or stored within the 100' setback although, the setback area may be used for screening or berms as may be required by the Conditional Use Permit.

(c.) Applications for new quarries, expansions of existing quarries or other mining operations shall include an environmental impact assessment. Said assessment shall address areas about which the Planning Commission or Governing Body may require additional information and which may have the greatest potential for harmful effects on the health, safety, and welfare of the community such as:

- (1) Noise and vibration impacts;
- (2) Water impacts;
- (3) Safety and nuisance potential;
- (4) Geological impacts; and
- (5) Wildlife and ecological impacts.

(d.) The initial Conditional Use Permit may be granted for a period not to exceed ten (10) years. Renewals or extensions of said permit shall not exceed periods of ten (10) years. A reclamation plan shall be submitted with the application. The plan shall indicate a timetable for reclamation of the site and a general plan for the proposed future use of the site.

## 7. Storage of bulk oil or gas

(A) Conditional Use Permit shall be required under the following conditions:

- 1) Any state, county or local government installing tanks of 660 gallons or more capacity;
- 2) Any business or industrial company installing tanks of 660 gallons or more capacity;
- 3) Any agricultural farm installation of tanks of 1,100 gallons or more capacity.

(B) Dikes shall be constructed around the tank(s) of a material which shall contain a fuel spill of at least 110% of the capacity of the largest tank.

## 8. Storage of L.P. Gas, Ammonia, Ammonia Nitrate, Chlorine or Anhydrous Ammonia:

A Condition Use Permit is required for bulk storage of these substances. Applicant shall show that all federal and state statutes are met and shall meet any additional

requirements of the Linn County Rural Fire Coordinator.

9. Solid Waste Processing Facility or Solid Waste Disposal Area shall include, but not be limited to the following criteria:
- (A) Operations shall be located nearby or adjacent to principal or minor arterial roads capable of handling the expected highway loads of heavy truck traffic.
  - (B) No solid waste disposal area or solid waste processing area shall be set back less than 150 feet from any property line or nearer than 500 feet from any dwelling, school or hospital that was occupied on the date when application was first made for the Conditional Use Permit to operate a solid waste disposal or processing area. No open stored equipment, disposal materials or cover material shall be located within this setback area. However, this setback area may be used for visual screening purposes or for the construction of buildings to house equipment. Nothing in this section shall prohibit Linn County from increasing this setback distance if there is evidence that a greater setback is necessary to protect the health, safety and welfare of the residents of the county.
  - (C) The initial Conditional Use Permit may be granted for a period not to exceed five (5) years. Renewals or extensions of said permit shall not exceed a period of five (5) years.
  - (D) All waste disposal operations shall be buffered and screened by a method such as berms, dense landscape plantings, privacy fences, and the like, when the use would be visible from any public road, any Residential District or any area planned for residential development as designated by the Linn County Comprehensive Plan.
  - (E) The permit holder shall utilize dust abatement measures for all unpaved interior roads and equipment and processing areas as required by the Conditional Use Permit.
  - (F) If the County finds any roads which would be used by the solid waste processing or disposal operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant may be required to improve and maintain the roads to accommodate the anticipated traffic. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the streets used by the operation will be appropriately improved and maintained.
  - (G) A plan for the reclamation of the site shall be prepared and submitted with the application. The plan shall indicate a timetable for the reclamation to the site and a general plan for the proposed future use(s). The reclamation plan submitted

shall be binding to the extent required to assure that the phase of the site changes underway during the Conditional Use Permit term shall remain consistent with the reclamation plan which shows the overall intentions of the applicant for the reclamation of the site. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however the reclamation plan must be approved by the Linn County Planning Commission and the Board of County Commissioners before reclamation work may begin. Said approval shall require a public hearing under the same procedures as required for the Conditional Use Permit.

- (H) The applicant's operation shall be available for inspection by County staff at any reasonable time following approval of the permit. Said inspection shall evaluate compliance with the above listed requirements and the conditions on the particular permit. If the operation is found to be in violation, the permit may be canceled after a hearing as been granted by the Linn County Planning Commission and the Board of County Commissioners as provided in Article 16 of these regulations if the noncompliance is not corrected immediately for the items involving potential safety hazards, or for items not involving potential safety hazards, within sixty (60) days of written notice from the County. Said written notice shall itemize the violations and corrective measures necessary for compliance.
- (I) An environmental impact assessment shall be provided with the application for a Conditional Use Permit for a solid waste disposal area or a solid waste processing facility. Said assessment shall be conducted by a qualified engineer and shall include assessment of items as deemed by the Linn County Planning Commission as being necessary to protect the health, safety and welfare of the community. The environmental impact assessment shall also include a recommendation regarding the necessity and/or type of liner to be installed and criteria for installation in order to protect the waters of the state.
- (J) All solid waste disposal areas or processing facilities shall meet all requirements established by the Kansas Department of Health and Environment. A copy of the current state permit and copies of all state inspections shall be filed with the Linn County Planning and Zoning Office and shall be kept on file for inspection by any interested party.
- (K) Any application for a proposed solid waste disposal area or processing facility shall include a statement from the Linn County Solid Waste Coordinator, the Lake Region Authority or from the local solid waste management committee that the proposed use is in compliance with the Solid Waste Management Plan.
- (L) Any application for a proposed solid waste disposal area or processing facility shall include a plan for contact water control and management. Said plan shall

be designed by a professional engineer and shall provide for the retention of the contact water on the site. Said plan shall also provide for either the disposal of or the beneficial re-use of contact water in a manner to protect the waters of the state.

### **13.05 ADDITIONAL HEIGHT REQUIREMENTS**

1. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, or in accordance within existing or hereafter adopted regulations by the Governing Body.
2. Chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, church steeples, wireless towers, or necessary mechanical appurtenances, may be erected to a height in accordance with existing or hereafter adopted regulations by the Governing Body.

### **13.06 ADDITIONAL LOT REQUIREMENTS**

The width of the required side yard shall be measured horizontally, at ninety degrees with the side lot from the nearest point of the side lot line toward the nearest part of the main building. Under no circumstances shall the side yard distance be less than required by the district.

### **13.07 PRIOR RECORDED PLATS**

Platted lots of record in the Register of Deeds Office in Linn County, Kansas, prior to the adoption of these regulations may be used for any purpose permitted in the district in which it is located, provided however, that no residential building permits shall be issued for construction on a lot or a group of lots that does not provide minimum area requirements unless the proposed location of the building is approved by the Board of Zoning Appeals.

### **13.08 MANUFACTURED HOME STANDARDS**

All manufactured homes, as defined in Article 2 of this Zoning Regulation, shall comply with the following standards when placed in any Zoning District other than the MHP - Manufactured Home Park District.

1. The manufactured home shall be installed in accordance with Appendix C of the CABO One and Two Family Dwelling Code. (1992 Edition)

2. A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.
3. All manufactured home running gear, tongues, axles and wheels shall be removed from the site at the time of installation of the home.
4. Any addition to a manufactured home shall comply with all construction requirements of the CABO One and Two Family Dwelling Code and all applicable standards specified in the Federal Manufactured Homes Construction and Safety Standards, otherwise known as the HUD Code.

All the above mentioned requirements for the placement of a manufactured home shall be completed within a term of one (1) year from the issue date of the building permit for the placement of the home.

## **ARTICLE 14**

### **OFF STREET PARKING AND LOADING**

#### **SECTIONS:**

- 14.01 Off-Street Parking
- 14.02 Permanent Parking to Be Provided
- 14.03 Nonconforming Facilities
- 14.04 Parking Spaces Provided
- 14.05 Parking Requirements for Uses Not Specified

#### **14.01 OFF-STREET PARKING**

The number of off-street parking spaces required in connection with any particular land use shall not be less than that set forth in this Article. All Zoning districts comply with the parking requirements established in this Article.

#### **14.02 PERMANENT PARKING TO BE PROVIDED**

Whenever a dwelling is erected, converted or structurally altered there shall be provided on the same lot, adjacent lot or group of lots, accessible off-street parking spaces, including drives. Said spaces may be provided in a garage or surfaced area. The parking area and its access to the street shall be surfaced with an all weather surface.

#### **14.03 NONCONFORMING FACILITIES**

Any use of property which on the effective date of this Article, or of any subsequent amendment thereto, is nonconforming only as to the regulation relating to off-street parking facilities may continue in the same manner as if the parking facilities were conforming. Such existing parking facilities shall not be further reduced, however.

#### **14.04 PARKING SPACES PROVIDED**

Except as otherwise provided in this Zoning Regulation, the number of off-street parking spaces for various uses shall meet the following minimums:

##### **REQUIRED PARKING SPACES**

##### **1. Auditorium:**

- (A) One (1) parking space for each four (4) seats up to eight hundred (800) seats,

plus one (1) parking space for each eight (8) seats over eight hundred (800).

2. Automobile Sales & Service Garages:

(A) One (1) space for each 400 sq. Ft. of retail floor space

3. Banks, Business & Professional Offices:

(A) One (1) space for each 200 sq. ft. up to 1,000 sq ft., and one (1) space for each 400 sq. ft. of additional space thereof.

4. Bowling Alleys:

(A) Five (5) spaces for each lane or alley.

5. Churches:

(A) One (1) space for each five (5) seats in the auditorium or one (1) space for each seventeen (17) classroom seats, whichever is the larger with attached auditorium.

6. Dance Halls, Assembly Halls, and Exhibition Halls, without fixed seats:

(A) One (1) space for each 100 sq. ft. used for assembly

7. Dwellings, Single Family and Two Family:

(A) One (1) space shall be provided for each dwelling unit. All parking shall be located behind the front building line and may be in the side or rear yard

8. Dwelling, Three, Four Family and Multiple Family:

(A) One and one-half (1 ½ ) spaces shall be provided for each dwelling unit, containing one bedroom and two (2) spaces shall be provided for each dwelling unit containing two or more bedrooms. All parking shall be located behind the front building line of each structure.

9. Funeral Homes and Mortuaries:

(A) Four (4) spaces for each parlor or one (1) space for each 100 sq. Ft. of floor area

10. Furniture & Appliance Stores:

(A) One (1) space for each 800 sq. Ft of floor area

11. Home Occupations:
  - (A) Two (2) spaces in addition to those required for dwelling purposes to be located behind the front building line in the side or rear yard.
12. Clinics with Beds, Nursing Homes, Rest Homes and Institutional Homes:
  - (A) One (1) space for each three (3) beds shall be located behind the front building line in the side or rear yard
13. Hotel or Motel:
  - (A) One space for each living or sleeping unit. For a facility with a restaurant, see restaurant requirements.
14. Industrial Uses:
  - (A) One (1) space per two (2) employees on maximum shift, one (1) space for each company vehicle.
15. Manufacturing uses, Research and Testing Laboratories, Creameries, Bottling Establishments, Bakeries, Canneries, Printing and Engraving Shops, etc.:
  - (A) One (1) space per two (2) employees on maximum shift, one (1) space for each company vehicle
16. Medical Clinics or Offices:
  - (A) Three (3) spaces for each examination room plus one (1) for each doctor and employee
17. Dental Clinics or Offices:
  - (A) Two (2) spaces for each examination room plus one (1) for each dentist and employee
18. Motor Vehicle and Machinery Repair, Sales or Wholesaling:
  - (A) One (1) parking space for each eight hundred (800) sq. Ft. of floor area
19. Offices not providing customer services or sales on premises:
  - (A) One (1) parking space for each eight hundred (800) sq. ft. of floor area

20. Personal Services Establishments in Commercial:
  - (A) Barber Shops
  - (B) Beauty Shops
  - (C) Shoe shine & Shoe Repair Shops
  - (D) Custom Dressmaking, Furrier, Milliner and Tailor Shop
21. Professional Offices for Attorneys, C.P.A.'s Architects, Engineers, etc.:
  - (A) Four (4) spaces per one thousand (1000) sq. ft. of gross floor area for offices less than one thousand (1000) sq ft. The minimum requirement shall be four (4) spaces.
22. Public Buildings:
  - (A) One (1) space for each three (3) employees, plus one (1) space for each one hundred (100) sq. Ft. used for public assembly.
23. Restaurants, Taverns and Night Clubs:
  - (A) One (1) space for each three (3) seats.
24. Retail Stores, except as otherwise specified herein:
  - (A) One (1) parking space for each two hundred (200) sq. ft. of retail floor area.
25. Rooming and Boarding Houses, Lodging Houses, Clubs and Fraternity Housing having sleeping rooms:
  - (A) One-half ( $\frac{1}{2}$ ) parking space for each tenant or one (1) space for each vehicle kept by a roomer, boarder, or tenant which is being parked on the premises, whichever is greater.
26. Schools, Private, Vocational, etc.:
  - (A) One (1) parking space for each employee and one (1) space for each three (3) students of driving age.

27. Theaters:

- (A) One (1) parking space for each four (4) seats up to eight hundred (800) seats, plus one (1) parking space for each eight (8) seats over eight hundred (800) seats.

28. Warehouse & Wholesale Storage Building (dead storage of high volume distribution):

- (A) Two (2) parking spaces for each employee on the maximum shift

**14.05 PARKING REQUIREMENTS FOR USES NOT SPECIFIED**

The parking requirements for land uses which are not specified in this Article shall be determined by the County Engineer. Said determination shall be based upon the requirements for the most comparable use specified herein.



# **ARTICLE 15**

## **BUILDING SET BACK LINES ON ARTERIAL, COLLECTOR AND LOCAL STREETS**

Sections:

- 15.01 Purpose
- 15.02 Arterial Street Setback
- 15.03 Local Street Setback
- 15.04 Exceptions

### **15.01 PURPOSE**

Building setback lines are hereby established for all arterial and collector streets or roads within the zoning jurisdiction, and on all local streets not divided into lots and blocks as provided in the subdivisions regulations. The setback lines as established in this section shall be held to be the minimum for the purpose of promoting the public health, safety, morals, order, convenience and economy in the process of development in the County and shall conform with the requirements set forth herein.

### **15.02 ARTERIAL STREET SETBACK**

No building or structure, which fronts or sides on an arterial street, having a right-of-way or easement of sixty (60) feet shall be altered, constructed, enlarged or erected closer than sixty (60) feet from the center line of an arterial street or road right-of-way or easement. Where the right-of-way or easement width is greater than sixty (60) feet, buildings or structures shall set back a minimum of thirty (30) feet from the street or road right-of-way or easement line.

### **15.03 LOCAL STREET SETBACK**

No building or structure, which fronts or sides on a local street and which is not platted in accordance with the subdivision regulations, shall be altered, constructed, enlarged or erected closer than sixty (60) feet from the centerline of a local street.

### **15.04 EXCEPTIONS**

The following exceptions may per permitted, providing: forty (40) percent or more of the principal structures along a frontage between adjacent paralleled streets or an adjacent parallel street and alley varies from the prescribed setback line otherwise established in this article, a new setback line shall be calculated for new structures by taking the average setback from the street of all the existing principal structures along such frontage; provided that if neither of the existing principal structures in the lots adjacent to the proposed new structures are on the building line thus resulting, the average of these adjacent structures may be used except that a variation of more than ten (10) feet from the established building line as above determined shall not be required. Under no circumstances shall any structure be constructed, reconstructed, enlarged, or structurally altered so as to reduce the front yard to a distance of less than ten (10) feet. All variances shall conform to Article 17 of this Zoning Regulation.



## **ARTICLE 16**

### **AMENDMENTS**

Sections:

- 16.01 General Authority and Procedures
- 16.02 Fees for Rezoning
- 16.03 Conceptual Plans
- 16.04 Receipt of Rezoning Application
- 16.05 Public Hearing Before Planning Commission
- 16.06 Action by Planning Commission and Board of County Commissioners
- 16.07 Conditional Use Permits
- 16.08 Limitations on Reapplication for Amendments

#### **16.01 GENERAL AUTHORITY AND PROCEDURES**

1. The Board of County Commissioners may, from time to time, amend, supplement, or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official county paper.
2. A proposal for an amendment or change in zoning may be initiated by the Board of County Commissioners, the Planning Commission, and if the proposed amendment is not a general revision of the existing regulations and affects specific property, upon application of the owner of the property affected or his duly authorized agent.
3. An application for an amendment or change in zoning initiated by a property owner shall be made to the Planning Commission upon appropriate forms available from the Zoning Administrator. Such application shall be made at least thirty (30) days prior to a regularly scheduled Planning Commission meeting.
4. All proposed amendments to the zoning regulations or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without public hearing before the Planning Commission.
5. Rezoning applicants are encouraged to review their rezoning proposals with any affected Township Planning Advisory Committees prior to a public hearing before the Planning Commission. The Planning Commission may, at its discretion, continue a public hearing on a rezoning application to allow applicants the time to meet with any affected Township Planning Advisory Committees.

## **16.01 FEES FOR REZONING**

A fee, in the amount adopted by resolution of the Board of County Commissioners, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice.

No fee shall be required if the zoning change is requested by the Planning Commission or the Board of County Commissioners. No fee shall be required if the Planning Commission or Board of County Commissioners instigates an amendment to the zoning regulations that will not affect specific property.

## **16.03 CONCEPTUAL PLANS**

A conceptual plan must be submitted with any application for rezoning which is filed by any property owner, with the exception of a rezoning to the "A" Agricultural District. The scale of the conceptual plan is optional but shall not be smaller than 200 feet to one inch. The application must include twenty (20) copies of a conceptual plan which includes:

1. A composite site development plan showing the major details of the proposed development consisting of the following: conceptual drainage plans; approximate location of buildings; structures, and off-street parking areas; off-street loading areas; means of ingress and egress; conceptual landscaping or screening proposals; location and the conceptual design of signs; open space areas and pedestrian areas.
2. The proposed name of the development and the names of abutting developments and landowners.
3. The names and addresses of the owner and/or registered engineer, architect, surveyor, or landscape architect responsible for the engineering, survey, and design.
4. The location of boundary lines and their relation to established section lines or fractional section lines, township, and range lines.
5. The approximate location and width of existing and proposed streets, roads, lots (approximate dimensions), building lines, utility easements, drainage easements, parks and other open spaces, other similar features, and proposed improvement of perimeter streets.
6. The Planning Commission, in its discretion, may require a survey showing the physical features of the property, including contours at vertical intervals of not more than five (5) feet where the slope is greater than ten (10) percent and not more than two (2) feet where the slope is less than ten (10) percent (ten-foot intervals for non-

residential uses). Elevations shall be marked on such contours based on the existing datum plan established by the U.S. Coast and Geodetic Survey. Benchmark elevations used shall be described on the plans.

7. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, if any.
8. Date, north point, and scale.
9. Designation of proposed uses of land within the development, whether for residential, commercial industrial, or public use, such as parks, churches, etc., including the density of proposed residential use and the character of proposed commercial, industrial, and other use.
10. An attached statement from the County Sanitarian and/or the Kansas Department of Health and Environment that the proposed development is to be served by an adequate water supply and an adequate water distribution system.
11. An attached statement from any affected water districts and/or the Kansas Department of Health and Environment that the proposed development is to be served by an adequate water supply and an adequate water distribution system.
12. This plan, when approved by the Planning Commission and the Board of County Commissioners as part of a rezoning, shall be binding upon the land. Prior to issuing a building permit for each phase or all of the development, the Zoning Administrator shall review the approved conceptual plan. If the property is not to be developed as indicated by the plan, or any; approved amendments thereto, the Zoning Administrator shall refuse to issue any building permits. The applicant, in case of denial of a building permit, may appeal the Zoning Administrator's action to the Board of Zoning Appeals as provided by the law.

#### **16.04 RECEIPT OF REZONING APPLICATIONS**

Immediately upon receipt of such rezoning application, the Zoning Administrator shall note thereon the date of filing, and make a permanent record thereof.

The Zoning Administrator shall have the authority to certify a rezoning application as complete or incomplete. If a rezoning application is certified as complete, then the Zoning Administrator shall place said application on the Planning Commission's agenda for consideration. If a rezoning application is certified as incomplete, then the Zoning Administrator shall return the application to the applicant with a written explanation of his determination. The applicant may reapply, or he may appeal the Zoning Administrator's determination to the Board of Zoning Appeals as provided for in Article 16 of these zoning regulations.

## **16.05 PUBLIC HEARING BEFORE PLANNING COMMISSION**

1. All proposed changes shall first be submitted to the Planning Commission for consideration and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.
2. Public notice of such hearing shall be published by the County Zoning Department not less than twenty (20) days prior to the date of said hearing in the official county newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place for the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning resolution and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.
3. If the proposed Amendment is not a general revision to the Zoning Regulations and would affect surrounding properties, written notice shall be sent at least twenty (20) days prior to the scheduled Planning Commission Meeting to all property owners within one thousand (1000) feet of the boundaries of the land being considered for a Conditional Use permit or Rezoning, where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Said written notice shall include the requirements and provisions set forth in Section 16.05(2) of these regulations.
4. All such rezoning applications shall be set down for hearing not later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Planning Commission, be continued. At such hearing, the Planning Commission shall consider the appropriate issues contained in a staff report, including but not limited to the following factors:
  - (A) Character of the neighborhood;
  - (B) The zoning and uses of properties nearby;
  - (C) The suitability of the subject property to its present use;
  - (D) The extent to which removal of the present zoning will detrimentally affect nearby property;
  - (E) The length of time the subject property has remained vacant;

(F) The relative gain to the public health, safety, and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individuals landowner;

(G) The recommendations of the County's permanent or professional staff; and

(H) The conformance of the requested zoning change to the adopted Linn County Comprehensive Plan.

5. At the public hearing, an opportunity shall be granted to interested parties to be heard.

#### **16.06 ACTION BY PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS**

1. Planning Commission Actions: For action on zoning amendments, a quorum of the Planning Commission shall be more than one-half of all voting members. A vote for an amendment by a majority of the Planning Board members present and voting at the hearing shall constitute a "recommendation of approval", and a vote against an amendment by a majority of the Planning Commission members present and voting shall constitute a "recommendation of disapproval". If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a "recommendation of disapproval".
2. Governing Body Actions: Before acting upon any recommendation of the Planning Commission concerning a revision, modification, or amendment of these zoning regulations, the Board of County Commissioners shall set a time and place for a hearing thereon and notify the applicant, the Planning Commission and such other parties as the Board of County Commissioners shall deem appropriate.
3. Recommendation of Approval or Disapproval: When the Planning Commission submits a "recommendation of disapproval" or a "recommendation of disapproval" of such amendment and the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioner's failure to approve or disapprove.
4. If the Board of County Commissioners returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt or may revise or amend and adopt such recommendation by resolution, or it may take

no further action thereon.

5. If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioner's report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
6. Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending resolution of the Board of County Commissioners shall define the change or boundary as amended, shall order the Zoning District Map to be changed to reflect the amendment and shall amend the section of the resolution incorporating said map and shall reincorporate the map as amended.
7. Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission's hearing, a petition signed by the owners of twenty (20) percent or more of any property proposed to be rezoned, or by owners of (20) percent or more of the total area required to be notified by this Section of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the Office of the County Clerk, the amendment shall not be passed except by unanimous vote of the Board of County Commissioners.
8. Conditions Attached to Rezoning: The Planning Commission may recommend and the Board of County Commissioners may adopt a zoning amendment with conditions attached. These conditions may include, among others, the following:
  - (A) That a building permit shall be issued within one (1) year from the date of rezoning approval. If a building permit has not been issued within that time, the Planning Commission or Board of County Commissioners may instigate procedures to nullify that rezoning. Said action shall not be taken without notification of the applicant by the County and a public hearing.

## **16.07 CONDITIONAL USE PERMITS**

The application, conceptual plan, notice, public hearing, and action procedures set forth in this article shall be applicable to applications for Conditional Use Permits unless otherwise specified in Article 10 of these zoning regulations.

## **16.08 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS**

Whenever an application has been made under this article and the application has been denied by the Board of County Commissioners, such application, or one substantially similar shall not be reconsidered sooner than one (1) year after the previous denial.



## **ARTICLE 17**

### **THE BOARD OF ZONING APPEALS**

Sections:

- 17.01 Organization and Procedure
- 17.02 Powers
- 17.03 Variances
- 17.04 Exceptions
- 17.05 Application
- 17.06 Stay of Proceedings
- 17.07 Public Hearing
- 17.08 Finding and Records of Proceedings
- 17.09 Lapse of Exception
- 17.10 Decisions of the Board

#### **17.01 ORGANIZATION AND PROCEDURE**

The full membership of the Linn County Planning Commission, as established by the Governing Body, is hereby declared to be the Linn County Board of Zoning Appeals and, as such, shall function with its full membership as the Board of Zoning Appeals as referred to herein. In all instances within this Article and/or these Regulations where reference is made to the Board of Zoning Appeals, said board shall be the Linn County Planning Commission acting as the Board of Zoning Appeals.

The Board of Zoning Appeals shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these regulations.

#### **17.02 POWERS**

The Board shall have the following powers:

1. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.
2. To hear and decide those special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.

3. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.
4. To make determination of uses not specified by this regulation as to district in which said use is allowed and whether it is a permitted use or a conditional use or any other clarifications the proposed use would require.

### **17.03 VARIANCES**

The board shall have the power to grant the following variances:

1. A variation in the bulk requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.
2. A request for a variance may be granted in such case, upon a finding by the board that ALL of the following conditions have been met:
  - (A) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
  - (B) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  - (C) The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
  - (D) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and;

(E) That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

#### **17.04 EXCEPTIONS**

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation; special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the board finds that in its opinion, as a matter of fact, such exceptions will not adversely affect the uses of adjacent and neighboring property permitted by these Regulations:

1. A manufactured home on an individual lot on an emergency basis on any lot where permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable, and where the placement of the manufactured home for a period not greater than six (6) months is allowed under these conditions by the issuance of a building permit by the Zoning Administrator under Article 12 of these Regulations.
2. Placing a manufactured home as a second home on a lot under instances of extreme hardship or necessity as determined by the Board, provided:
  - (A) The applicant shall clearly state the hardship or reason of necessity for requesting the Exception.
  - (B) The Exception may be permitted for a period of up to three (3) years and may be renewed for successive three (3) year periods; provided, however, that at such time as the hardship or reason of necessity shall cease to exist, the Exception shall become null and void and said manufactured home shall be forthwith removed.
  - (C) The manufactured home shall be maintained in a safe and sanitary condition and shall comply with the Linn County Sanitation Code and all other applicable adopted codes and procedures of Linn County.
3. In the "R-1" Single-Family Residential a private garage(s) and/or storage building(s) for more than four motor vehicles and/or covering more than 900 square feet.
4. The temporary placement of a manufactured home which does not conform with Article 13.10 (Manufactured Home Standard) on a tract or lot. Such Exception shall be limited to a term not to exceed two years. Upon expiration of the two year term, said manufactured home shall either be removed from the tract or lot, or shall be made to conform with Section 13.10.

#### **17.05 WRITTEN APPLICATION REQUIRED**

Written application for a variance, an exception, or an appeal referred to in this Article shall be filed with the Board, or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted at least 30 days of the action requiring said variance, exception or appeal.

#### **17.06 STAY OF PROCEEDINGS**

Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said application shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

#### **17.07 PUBLIC HEARING REQUIRED**

The Board shall hold a public hearing on each application for a variance or exception. Applications for a variance or exception must be accompanied with a certified list of property owners, and their addresses, within 1,000 feet of the property for which the variance or special exception is being sought. On all applications, notice of the time and place of the public hearing shall be published once in the official County paper not less than 20 days prior to the date of such public hearing. In addition, for all applications for a variance or special exception all property owners within 1,000 feet shall be notified by registered mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or exception.

#### **17.08 FINDINGS AND RECORDS OF PROCEEDINGS**

The Board shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

#### **17.09 LAPSE OF EXCEPTIONS OR VARIANCES**

After the Board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one (1) year if no

substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

#### **17.10 DECISIONS OF THE BOARD**

In exercising the foregoing powers, the Board, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board may bring an action in the District Court of Linn County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by said Board.



# **ARTICLE 18**

## **INTERPRETATION, CONFLICT, REMEDIES AND PENALTY**

Sections:

- 18.01 Interpretation and Conflict
- 18.02 Remedies Available
- 18.03 Penalty

### **18.01 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by these Regulations to interfere with, or abrogate or annul any easements, covenants or other agreement between parties. Where the conditions or requirements imposed by the provisions of these Regulations are either more restrictive or less restrictive than comparable conditions or restrictions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall apply.

If any property is not given a zoning classification on the Zoning District Boundary Maps because of error or omission, such property shall be classified by its area until changed by amendment, unless authorized by these Regulations.

### **18.02 REMEDIES AVAILABLE**

In case any building or structure is, or is proposed, to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is, or is proposed, to be used in violation of these Regulations, the Zoning Administrator, County Attorney, or other appropriate authority of Linn County, Kansas, may, in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

### **18.03 PENALTY**

Any person or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirement thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than six (6) months for each offense and each day such violation shall be permitted to exist shall constitute a separate offense.

The owner of any building or premises or part thereof, where anything in violation of these Regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be subject to the same fine as herein before provided.



## **ARTICLE 19**

### **MISCELLANEOUS**

Sections:

- 19.01 Validity
- 19.02 Accrued Rights and Liabilities Saved
- 19.03 Severability
- 19.04 Effective Date
- 19.05 Repealing Clause

#### **19.01 VALIDITY**

If any section, paragraph, subdivision, clause, phrase, or provision of these Regulations shall be adjudged invalid or held unconstitutional, the same shall not effect the validity of these Regulations as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

#### **19.02 ACCRUED RIGHTS AND LIABILITIES SAVED**

The repeal of the existing Zoning Regulations provided herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said Regulations or parts thereof. Said Regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of these Regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities or actions thereof.

#### **19.03 SEVERABILITY**

Each article, section and subdivision or a section of these Regulations are hereby declared to be independent of every other article, section or subdivision or section, so far as inducement for the passage of these Regulations is concerned.

#### **19.04 EFFECTIVE DATE**

These Regulations, being designated as the "Zoning Regulations of Linn County, Kansas," shall be in full force and effect from and after its passage and publication in accordance with K.S.A. 12-3301 through 12-3305.

#### **19.05 REPEALING CLAUSE**

These Regulations repeal the existing Zoning Regulations of Linn County, Kansas, in its entirety.



**ARTICLE 20**

**APPROVAL**

20.01 APPROVAL

The undersigned do hereby certify that the Zoning Regulations herein contained have been duly approved by the Board of County Commissioners of Linn County, Kansas, and that the same have been enacted according to law.

DATE: July 21, 1997

BOARD OF COUNTY COMMISSIONERS  
Linn County, Kansas

\_\_\_\_\_  
Harold Mooney, Jr., Chairman

\_\_\_\_\_  
Marty Read, Vice Chairman

\_\_\_\_\_  
Charles Trask, Member

ATTEST:

\_\_\_\_\_  
Donald L. Proffitt, County Clerk

Published in the Linn County News on July 24, 1997



RESOLUTION # 97-10

A RESOLUTION REVISING THE OFFICIAL LINN COUNTY ZONING DISTRICT MAP AND ZONING REGULATION OF LINN COUNTY, KANSAS.

WHEREAS, the Board of Commissioners is empowered to zone and regulate land use in Linn County outside the jurisdictional limits of any incorporated city;

AND WHEREAS, the Board of Commissioners is charged with promoting the public health, safety, morals, comfort, general welfare, and conserving property values in the areas so zoned;

AND WHEREAS, the Planning Commission has held a public hearing and has recommended changes in the Zoning Regulation of Linn County, Kansas to the Linn County Governing Body.

BE IT RESOLVED, that the boundaries of the areas zoned shall be determined by the official map of zoning districts filed in the office of the Zoning Administrator and incorporated by references as part of this resolution. These districts shall encompass the entire county of Linn outside the jurisdictional limits of any incorporated city.

BE IT FURTHER RESOLVED that the official copy of the zoning regulation and the official copy of the zoning district map shall be available during reasonable business hours for public inspection in the office of the County Zoning Administrator.

BE IT FURTHER RESOLVED that this resolution be effective upon publication in the Official County Newspaper.

BOARD OF COUNTY COMMISSIONERS  
Linn County, Kansas

\_\_\_\_\_  
Harold Mooney, Jr., Chairman

\_\_\_\_\_  
Marty Read, Vice Chairman

\_\_\_\_\_  
Charles Trask, Member

ATTEST:

\_\_\_\_\_  
Donald L. Proffitt, County Clerk

Published in the Linn County News on



RESOLUTION # 02-\_\_\_\_\_

**A RESOLUTION REVISING THE OFFICIAL  
LINN COUNTY ZONING DISTRICT MAP AND  
ZONING REGULATION OF LINN COUNTY, KANSAS.**

*WHEREAS*, the Board of Commissioners is empowered to zone and regulate land use in Linn County outside the jurisdictional limits of any incorporated city;

*AND WHEREAS*, the Board of Commissioners is charged with promoting the public health, safety, morals, comfort, general welfare, and conserving property values in the areas so zoned;

*AND WHEREAS*, the Planning Commission has held a public hearing and has recommended changes in the Zoning Regulation of Linn County, Kansas to the Linn County Governing Body.

*BE IT RESOLVED*, that the Zoning District known as “HR” Highway Retail is hereby incorporated into the Linn County Zoning Regulations as Article 7.

*BE IT FURTHER RESOLVED*, that the official copy of the zoning regulation and the official copy of the zoning district map shall be available during reasonable business hours for public inspection in the office of the County Zoning Administrator.

*BE IT FURTHER RESOLVED*, that this resolution be effective upon publication in the Official County Newspaper.

BOARD OF COUNTY COMMISSIONERS  
Linn County, Kansas

\_\_\_\_\_  
Tom Foerschler, Chairman

\_\_\_\_\_  
Herbert Pemberton, Vice Chairman

\_\_\_\_\_  
Delbert Cannon, Member

ATTEST:

\_\_\_\_\_  
Donald L. Proffitt, County Clerk