

LINN COUNTY

SUBDIVISION REGULATIONS

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SUMMARY OF THE PROPOSED 2023 LINN COUNTY ZONING REGULATIONS AND SUBDIVISION REGULATIONS

PREPARED FOR THE APRIL 27, 2023 PUBLIC HEARING

The following pages provide a summary of key provisions of the proposed 2023 Linn County zoning and subdivision regulations. This summary is intended to assist the public in its review of the draft regulations.

This summary is not intended to be a complete alternative to reading the proposed regulations, but it hopefully will allow members of the public to focus on topics of interest to them.

I. BACKGROUND

In late 2022 the Linn County Board of County Commissioners authorized the revising and updating of the zoning and subdivision regulations and zoning map for the use and development of land.

Set out in the following pages are a statement of the general objectives the draft regulations are intended to further, and brief summaries of the more significant proposals for changes to the current regulations. Again, this is not intended to be a comprehensive or detailed explanation of all proposed changes.

GENERAL OBJECTIVES

These are the general objectives identified during the course of revising the current land use regulations. The objectives are organized by major land use category (residential, commercial...). Other objectives relating to procedural aspects of the regulations are identified under “format” and “miscellaneous.”

RESIDENTIAL:

1. Update regulations affecting group homes to reflect changes in state and federal law.
2. Remove any existing regulations that unnecessarily drive up the cost of constructing housing.
3. Adopt proper design standards and aesthetic standards for manufactured housing.
4. Create a zoning classification designed for the four existing lake communities.
5. Allow ADUs – Accessory Dwelling Units – as permitted uses.
6. Allow duplexes as conditional uses.

7. Allow domestic solar energy conversion systems and domestic wind energy conversion systems as accessory uses.
8. Create a mixed-use district for use primarily on property within the existing unincorporated communities.

INDUSTRIAL:

1. Identify the appropriate amount of property which should be classified as industrial, and see it is located at the most appropriate areas.
2. Create light (I-1) and heavy (I-2) zoning classifications.
3. Permit utility-level solar energy conversion systems as a conditional use.

COMMERCIAL:

1. Replace the current HR Highway-Retail zoning classification with a more traditional classification of C-Commercial.
2. Create a mixed-use zoning classification where appropriate commercial development can occur alongside residential in the proximity of incorporated areas and in the unincorporated communities.
3. Allow domestic solar energy conversion systems and domestic wind energy conversion systems as accessory uses.

AGRICULTURAL:

1. Adopt regulations that carefully set out what land uses can be conducted within the Agricultural zoning district.
2. Avoid conflict between agricultural and nonagricultural uses in order to protect ag lands and the County's rural character.
3. Allow ADUs as permitted uses.
4. Allow duplexes as conditional uses.
5. Allow domestic solar energy conversion systems and domestic wind energy conversion systems as accessory uses.

FORMAT:

1. The existing administrative procedures and district regulations have been revised to make them more user-friendly, and to give the public, developers and landowners as clear as possible of an understanding how the land use regulatory program operates.
2. Conditional use permits should be processed by the Planning Commission and County Board in the same manner as rezoning applications are processed. The present system of almost unlimited ability to apply for conditional use permits is not desirable.
3. Supplemental regulation provisions have been incorporated within each zoning district regulation, to the extent possible. For example, within each zoning district, following the list of permitted uses, provisions relating to conditional uses are set forth. This helps make the regulations more readable and organized and in a more logical fashion for the public and landowners.

MISCELLANEOUS:

1. Regulations for domestic commercial and utility solar, and domestic wind energy conversion systems have been carefully drafted for the public's consideration, with appropriate regulations to protect public health and safety and to address potential environmental consequences.
2. The current nonconforming use provisions are revised to better reflect Kansas law on this subject.

II. PROPOSED ZONING REGULATIONS

Zoning separates incompatible land uses by delineating zoning districts on a map and describing uses that are or may be permitted in each district. Zoning allows the County to plan where it wishes to encourage certain land uses so that the appropriate public infrastructure may be provided in a cost-effective manner, and to help preserve the character of the County.

GENERAL OBSERVATIONS

1. With regard to the commercial district, the current HR District is similar to the proposed C. As for residential districts, the two current residential districts (R-1 and AR) and the current MHP mobile home district are proposed to be renamed as R-Residential, CS-Countryside, MP – Manufactured Home Park and R-LC – Residential-Lake Community. The objective of this change, in short, is to create a few more residential development opportunities for property owners while still maintaining rural character.
2. The proposed regulations call for the addition of **four new zoning districts: Mixed Use District, Light Industrial District, Residential-Lake Community District and Public District.**

3. Each article containing district regulations has been formatted to make it “user friendly”. The approach followed has basically been to try to include as much information as possible about each district within the confines of the particular article for that district – to help reduce the need to flip through the regulations to find answers to questions about the district that the reader is interested in. A new page-numbering system should also aid the public in using these regulations.

ARTICLE 1

The “purpose” for these zoning regulations is set out, not just to establish their legal justification, *i.e.*, the “public purpose,” but also to set out for landowners, developers and the general public the reasons why zoning regulations are being adopted, and the public ends that are hoped to be achieved by them.

This article incorporates wording from the current Article 1 General Provisions.

At Section 1-5 there is an explanation of how current zoning classifications have been converted to the proposed new classifications.

ARTICLE 2

This replaces current Article 2. The definition section contains a number of new terms. Some deletions have been made from the current list of definitions, usually to remove archaic and unnecessary terms.

The following new or revised definitions are among the most significant:

Accessory Dwelling Units	Family	Safe House
Day Care Facilities	Prime Agricultural Land	Sexually Oriented
Dwelling	Rehabilitation Home	Businesses

The following 30 currently defined terms have not been carried over in this draft:

All Weather Surface	Institutional Home	Right-of-Way
Building Main	Manufactured Home,	Rooming House
Clinic, Dental or Medical	Double-Wide	Sidewalk
Court	Manufactured Home,	Story, Half
Dock (loading)	Single-Wide	Street or Road Line
Drainage Course (water	Natural Obstruction	Trailer, Advertising
course)	Pasturage	Trailer, Hauling
Drive	Person	Trailer, Home
Educational Institution	Professional Office	Vision Clearance Area
Fabrication	Public Utility	Watercourse
Flood	Quarry	Waters of the State

ARTICLE 3

This Article shows at a glance how the proposed changes would take the regulations from its current 6 districts to 10 districts. It also sets out the rules for resolving uncertainties in the application of the zoning regulations. A section has been added to note property exempt from regulation. It replaces current Article 3.

ARTICLE 4

Statements explaining the purpose or intent have been developed for each of the proposed zoning districts. This Article provides the public, and property owners, with an overview to the regulatory approach the County is taking.

ARTICLE 5

A revised Agricultural (A) District is proposed. Strong language has been added to Sec. 5-1 Intent. Permitted and conditional uses are fairly restricted, with only a few non-agricultural uses allowed. The only permitted residential use is single-family residential development, including ADUs, with minimum tract size of 10 acres. Duplexes are a conditional use. The current regulations (Article 4) also allow a residence on parcels of 10 acres. Domestic solar energy systems are accessory uses, as will be domestic wind energy systems.

ARTICLE 6

This Article sets out most of the regulations pertaining to the proposed R-Residential District. This replaces current Article 6, R-1. The permitted residential use in R is single-family housing, including ADUs, and duplexes are a conditional use. Domestic solar energy conversion systems are an accessory use in the R district.

The proposed changes make the regulation of group living arrangements consistent with the Federal Fair Housing Act and prohibitions in that law against discrimination on the basis of mental or physical disabilities.

Bed and Breakfast – Conditional Use in R.

Group Homes – This term is intended to cover those group homes which are declared to be single family uses by state law (i.e., group homes having no more than ten residents, including up to eight persons with disabilities and up to two staff). Group homes are permitted uses in R, as required by state law.

Large Group Homes – Conditional Use in R.

Day Care Facilities – Permitted in R as a permitted or conditional use, depending on size.

Safe House – Allowed as a permitted use in R.

Group Boarding Home for Minors – Conditional Use in R.

Rehabilitation House – Conditional Use in R.

Schools – Either permitted (elementary) or conditional (secondary and post-secondary) uses in R.

Churches – Permitted use in R.

ARTICLE 7

The proposed **Countryside (CS) District** takes the place of the current Article 5, AR Agricultural/Residential District. It is primarily intended for use in areas that would support so-called “cluster development” – a variation of the standard residential subdivision designed to accommodate preservation of environmentally significant or sensitive lands and setting aside of open space. ADUs are a permitted use. Domestic solar and wind energy systems are allowed as an accessory use. Duplexes are a conditional use. Section 7-102 sets out what land is intended for CS zoning, which are areas where there are multiple tracts of smaller acreage.

ARTICLE 8

The proposed R-LC Residential Lake Community District is a new zoning district which will recognize the private lake developments at four locations in the County. Among the provisions:

- While it is possible that land adjoining a lake community could receive rezoning to R-LC, the general idea is to restrict R-LC to what already is in place.
- New subdivisions will not allow dimensional features (*e.g.*, setbacks and yards) similar to what is now seen at the lake communities, so R-LC recognizes what already exists, but does not propose expansion, or new subdivisions, at a similar density. Likewise, the density of the lake communities, and having access off private roads and varying provisions for private water and wastewater, are the justification for a new R-LC district designation.
- Residential use of mobile homes and recreational vehicles is regulated.

ARTICLE 9

The current HR Highway Retail, Article 7, which allows broad categories of retail sales uses is replaced by the C **Commercial District**. Domestic solar energy systems are an accessory use, as are domestic wind energy systems.

ARTICLE 10

This proposed new district, **Mixed Use (MU)**, will allow for a number of potential residential-commercial mixes. This district is most suitable for areas which have had both residential and low-intensity commercial uses co-existing successfully side-by-side. In a nutshell, property zoned MU can be used for any land use permitted in the proposed R or C districts. Conditional

uses in those same two districts would also be conditional uses allowed in the MU district. It is proposed that the property within unincorporated communities will be in the MU District.

ARTICLE 11

The current regulations do not provide a zoning classification for public use land and buildings. This **Public (P) District** would be applied to uses such as county buildings, schools and fairgrounds. This classification becomes an alternative to public uses being listed either permitted or conditional uses in residential, commercial and industrial districts. Domestic solar energy systems, and domestic wind energy systems, will be accessory uses.

ARTICLE 12

The draft industrial zoning regulations provide for **Light (I-1) and Heavy (I-2) Industrial Districts**. The regulations use broader terminology regarding allowed uses than in the current Article 9, I-2 Heavy Industrial. Utility solar energy systems are a conditional use in the I-1 and I-2 Districts.

ARTICLE 13

This **Manufactured Home Park District (MP)** takes the place of current Article 8, MHP, Manufactured Home Park District. It allows only manufactured housing, not mobile homes. There are proposed new requirements some of which would apply to both existing and new parks. Section 13-6 places some restrictions on RVs within the MP district.

ARTICLE 14

This Article regulates utility, commercial and domestic solar energy conversion systems (SECS).

The basic approach is simple: commercial SECSs are allowed as conditional uses in the Agricultural (A) zoning district. SECS with a CUP-permitted area from 0-160 acres are commercial. Utility SECS are larger than 160 acres and require I-1 or I-2 zoning plus a conditional use permit. Domestic SECS are allowed as accessory uses in the A district, the R district, the P district, and the CS district when at a size of up to 10 acres.

A commercial or utility SECS is defined as a system that converts sunlight into usable electricity for the primary purpose of wholesale sales or off-site use. A domestic SECS is a system that converts sunlight into usable electricity for the primary (*i.e.*, 51% or greater) purpose of providing electricity for its use on-site and not for commercial power production.

To develop a commercial SECS an applicant must have A-zoned property and apply for and receive a Conditional Use Permit (CUP). The procedure for obtaining a CUP is basically the same as obtaining a rezoning: (1) application, (2) public notice, area notification and hearing before the Planning Commission, (3) recommendation by the PC to the BOCC, and (4) final action to grant or deny the CUP by the BOCC.

The requirements for a utility SECS are the same as for commercial SECS, plus the area must first be zoned I-1 or I-2 Industrial.

An application for a SECS CUP requires submission of a comprehensive set of plans containing information about materials used for the solar panels, construction requirements ,operational information, decommissioning, financial assurances, etc.

Among the permit application requirements are:

- a) Any power purchase agreement executed with a third party.
- b) Development plan.
- c) Site plan, including buffers and landscaping.
- d) Construction schedule plan.
- e) Operational and maintenance requirements.
- f) Mitigation plans for effects on flora and fauna.
- g) Road and bridge impact study and road maintenance agreement.
- h) Plans for control of stormwater runoff, soil erosion and sediment control.
- i) Measures to prevent groundwater, surface water or soil contamination from leaching from damaged solar panels.
- j) Decommissioning plans; explaining measures to clean up any soil or water contamination, restoring land to its pre-project condition, and financial assurance (bonds, insurance) for clean-up and for the removal of the SECS components.
- k) Requirements to ensure that any party to whom the applicant transfers the CUP is held to the same requirements that the applicant was.
- l) Requirements for indemnification of the County, *e.g.*, liability insurance with the County as an additional insured.

The regulations also set limits on the acreage of a CUP for a commercial and utility SECS as well as distances from houses and between commercial and utility SECS, and distances from public roads and property lines. There is a 4,000 acre “cap” on the total area in the County that can be under commercial and utility SECS.

Other regulations prohibit, subject to a possible exemption granted by the BZA, solar panels that are constructed with toxic materials such as lead or cadmium; locating a SECS within a floodway, floodway fringe or special flood hazard area; prohibiting removal of trees and other vegetation unless necessary; and SECS that utilize concentrating solar thermal devices (CST).

Finally, this Article has provisions for the protection of prime agricultural land, provisions for wildlife corridors, and assurance that decommissioning funds are not used for any other purpose than decommissioning.

ARTICLE 15

Wind energy conversion systems (WECS), other than domestic systems, are prohibited in unincorporated Linn County.

Domestic WECS are allowed as accessory uses in the A district, the CS district, and the C and P districts.

Domestic WECS are systems of rated capacity of not more than 100 kW and tower height less than 100 feet. The domestic system must be primarily (*i.e.*, 51% or greater) for on-site consumption of the energy produced.

The regulatory approach for the domestic WECS is simple: such systems are accessory uses allowed on any A, CS, C or P zoned property that is 20 acres or larger in size. No more than one domestic WECS per 20 acres, and no WECS may be within 300 feet of another. Blade height must be 50 feet above ground level and tower height maximum is 100 feet. Setbacks from nearest property line must be twice the height of the WECS, and from the nearest public road right-of-way a distance of twice that height plus an additional 50 feet.

As accessory uses, only a permit from the Zoning Administrator is required to construct and operate a domestic WECS.

ARTICLE 16

A number of **special and supplemental rules** applicable to some or all zoning districts are set out in this Article. Certain height exceptions and front, side and rear yard requirements are found here. There is also a set of rules for buffering residential areas from commercial and industrial uses. Accessory uses are identifiable, and special rules relating to fences and residential-design manufactured homes are set out. Restrictions upon sexually oriented businesses are found at Sec. 16-410. The requirements for accessory dwelling units (ADUs) are at Sec. 16-14. ADUs are permitted uses in the A, R and CS districts. Home occupation regulations are found at Section 16-12. This Article replaces current Article 13 and sections of Article 11.

ARTICLE 17

The rules pertaining to **non-conforming uses, lots and structures** have been revised to make them more precise. This Article is essential to an understanding as to when and how new regulations can be made applicable to existing uses and existing lots. One section (17-5) deals specifically with nonconforming manufactured houses. This Article replaces current Article 25.

ARTICLE 18

Parking regulations essentially carry over current Article 14.

ARTICLE 19

This Article sets out the powers and duties of the **Board of Zoning Appeals**. The provisions limit the BZA's powers to those set out specifically under Kansas law – specifically, the authority to hear and decide appeals, and to grant or deny variances and exceptions. It replaces current Article 17.

ARTICLE 20

This Article sets out the procedures for **amending the zoning regulations and zoning map**. It provides new detail as to the procedures to be followed by the Planning Commission and BOCC when handling rezoning applications and applications for conditional use permits. It replaces current Articles 10 and 16.

This Article also provides a detailed explanation of the factors to be considered by the Planning Commission and BOCC during a rezoning, and also consideration of a similar set of factors for conditional use permits.

ARTICLE 21

The provisions in current Article 12 Building Permits have been placed here.

ARTICLE 22

This article on **enforcement of the zoning regulations** replaces current Article 18.

ARTICLE 22

This is a new article establishing a site plan review procedure. Site plan review adds a step between a favorable zoning action and issuance of building permits, to help ensure that certain proposed development/redevelopment will be built out in accordance with County regulations.

III. PROPOSED SUBDIVISION REGULATIONS

Subdivision regulations complement zoning regulations, but differ from them in that they focus more on the specific details of land development rather than on the types of uses being proposed. The subdivision regulatory process generally is implemented through a requirement that subdivision plats be filed and approved before land may be subdivided and sold, or building permits issued.

Subdivision regulations apply to the division of land into parcels. They govern the division of a tract of land into two or more parcels, including blocks, lots, streets and other rights-of-way. They set standards for the construction of public improvements, for the manner and methods by which those improvements are installed and paid for, and for the dedication and acceptance of rights-of-way, easements and public improvements.

The division and development of land has a significant and lasting impact upon the physical environment. Development places demands upon public facilities and services. Creating new streets and utility systems require significant public and private capital investment. Failure to properly size and construct sewers and streets, ensure adequate water supplies, manage

stormwater runoff and erosion, and plan for public services results in physical and environmental problems which are wasteful of natural resources and public funds.

ARTICLE 1

There are a number of “purposes” identified as the basis for adopting subdivision regulations. Several of those relate specifically to land preservation and dedication, others to the efficient development of land.

ARTICLE 2

This Article has language for appealing zoning administrator decisions regarding subdivision regulations.

ARTICLE 3

A number of new definitions are proposed, including: frontage, performance bonds, right-of-way, impact fee, stormwater management and drainage.

ARTICLE 4

This Article expressly allows the Planning Commission or County Board to disapprove a subdivision because it is not compatible with the adopted Comprehensive Plan. Similar language appears at several other places in the proposed subdivision regulations. Other language requires public street access for all lots.

Language is added that the County Board takes final action on subdivision plats, not just on proposed dedications of public property within platted subdivisions.

ARTICLE 5

This Article takes a modest approach for dedication and exaction requirements of developers. It provides for, but does not mandate, parkland dedications of up to 6% of the area of the subdivided land.

ARTICLE 6

This Article provides requirements for, and procedures for consideration and action upon: (1) minor plats up to 5 lots (section 6-2); (2) preliminary plats (section 6-3), and (3) final plats (section 6-4). A section sets out an alternative to the minor plat approval procedure, to be handed administratively (section 6-5).

ARTICLE 7

This Article provides regulations on required improvements, specifically relating to streets, sidewalks, storm drainage, monuments, and streetlights, and general language relating to the

provision of utilities. It also provides a mechanism for action of the County Board whereby the requirements for public improvements can be waived.

ARTICLE 8

This Article has provisions regarding procedures for the approval and construction of public improvements.

ARTICLE 9

This Article provides some detail as to the acceptable alternatives for a developer guaranteeing the installation of public improvements.

ARTICLE 10

This Article provides for exceptions and variances from the subdivision regulations.

ARTICLE 11

Language is submitted relating to lot splits in this Article.

ARTICLE 12

Language is proposed relating to unrecorded plats, corrections of platting errors and vacation of streets and easements. Also, current text for boundary line adjustments and lot mergers is carried on as Sec. 12-5.

ARTICLE 1

GENERAL REGULATIONS

Sections:

1-1	Title
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1-11	Accrued Rights and Liabilities Saved
1-12	Severability
1-13	Effective Date

SECTION 1-1 TITLE

1-101. These regulations shall hereinafter be known and may be cited as the Subdivision Regulations for Linn County, Kansas and shall hereinafter be referred to as "Subdivision Regulations" or "these regulations."

SECTION 1-2 PURPOSE

1-201.

- a. Subdivision Regulations are the process through which raw land is converted into buildable lots for residential, commercial and industrial uses. The physical arrangement of these lots along with provisions for roads, streets, alleys, utilities, schools, parks and other public facilities will in a large part determine the quality of life in the unincorporated area of the County and, therefore, is of public interest. These regulations establish standards that insure that growth will reflect sound planning and will not be detrimental to the community.
- b. These regulations are designed, intended and adopted for the following purposes:
 1. To protect and provide for the public health, safety and general welfare of the citizens of Linn County.
 2. To implement the Linn County Comprehensive Plan.

3. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land.
4. To protect and conserve the value and desirability of land and neighborhoods throughout the unincorporated area of the County.
5. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities necessary to protect and promote public health, safety and general welfare.
6. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions.
7. To insure proper legal descriptions, monumenting of land, and adequate and accurate platting and records of land subdivision.
8. To harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
9. To ensure that public facilities are available and will have a sufficient capacity to serve the proposed development.
10. To provide for and secure to the proper governmental agencies the actual construction of all such necessary on-site and off-site public improvements including the reservation or dedication of land for park and recreational purposes.
11. To reserve or dedicate land for open space to preserve natural areas for watercourses, drainage ways, woodland, rugged topography, wildlife habitat, and for water quality and quantity, and to protect land from soil erosion.
12. To coordinate the subdividing of land with applicable zoning regulations, and other County regulations which affect the development of the land.

SECTION 1-3 AUTHORITY

1-301. These Subdivision Regulations and minimum standards for land development are adopted by the Planning Commission and approved by the Board of County Commissioners under powers conferred by K.S.A. 12-749 and K.S.A. 19-101a.

SECTION 1-4 POLICY

1-401.

- a. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace nor unnecessarily subjecting existing development to such danger or peril. It is further intended that land shall not be subdivided until proper provision has been made for drainage, water and sewage and other necessary infrastructure.
- b. The existing and proposed public improvements shall conform to and be properly related to the features of the adopted Linn County Comprehensive Plan, and all other adopted plans for specific aspects of the County, and adopted capital programs and budgets.

SECTION 1-5 JURISDICTION

1-501. All portions of the unincorporated area of Linn County.

SECTION 1-6 APPLICABILITY

1-601.

- a. The regulations contained herein shall apply to the subdivision of a tract or parcel of land into two or more lots, tracts or other divisions of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Division of land for agricultural purposes, in parcels or tracts of land of forty (40) acres or more, and not involving right-of-way for streets or easements and not involving the construction of other than agriculture buildings, shall be exempt from the requirements of these regulations, provided, however that an appropriate setback and easements be provided to protect long-term development of roadways. See also Section 1-7.
- b. The owner(s) of any land subject to these regulations subdividing that land shall prepare a subdivision plat in accordance with the provisions of these regulations. No building or zoning permit shall hereafter be issued for construction on any land that has not been subdivided in compliance with these regulations and all other applicable state laws and local laws in effect at the time of the subdivision of that land.

SECTION 1-7 EXEMPTIONS

1-701. The following transactions shall be exempt from these regulations.

- a. Boundary adjustments between one or more contiguous lots, tracts, or parcels of land, which will not create any additional lots, tracts or parcels, shall not be subject to the subdivision platting, or replatting requirements of these regulations. See Article 12.
- b. A conveyance of land, or interest therein, for use as right-of-way by railroad or other public utilities subject to state or federal regulations where no new road, street or easement of access is created.
- c. A conveyance made to correct a bearing or distance description in a previously recorded conveyance.
- d. Any transfer by operation of law.
- e. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations which has been legally subdivided, resubdivided, platted or replatted prior to the effective date of these regulations. For purposes of these regulations, “legally subdivided, resubdivided, platted or replatted” shall include any certificate of survey submitted and recorded, as provided by these requirements, prior to the effective date of these regulations.
- f. The division or further division of land into tracts each of which contain forty (40) acres or more for agricultural purposes and when such division does not involve or result in the creation of new roads, streets, easements of access, or other dedication.
- g. The division of a lot, tract or parcel of land that existed prior to the effective date of these regulations and was not previously exempted under any previous subdivision regulations, where no more than one (1) additional lot, tract or parcel is created, provided, however, that the creation of that additional lot, tract or parcel shall comply with the provisions for lot splits set forth in Article 11 of these regulations. Any further division of the lot, tract or parcel, including any remainder parcel or tract, shall be platted in conformance with the requirements of these regulations.
- h. The division of a platted lot zoned and used for industrial purposes only, as required by state law, provided each resulting lot has frontage on a public street.

SECTION 1-8 INTERPRETATIONS-CONFLICT

1-801.

- a. Where a requirement of these regulations imposes restrictions that differ from those requirements imposed by any other provision of these regulations or any other statute, regulation, or other provision of law; the provision which imposes the higher or more restrictive standard shall apply.
- b. The provisions of these regulations are not intended to abrogate any easement, covenant, or other private agreement.
- c. A subdivision of land which was not lawfully existing at the time of the adoption of these regulations shall not become or be made lawful solely by reason of the adoption of these regulations.
- d. The provision of these regulations are additional limitations upon all other laws heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

SECTION 1-9 VESTING OF DEVELOPMENT RIGHTS

1-901. In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments thereto, the following rules regarding the vesting of development rights shall apply:

- a. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of 10 years from the date upon which the plat for such property was first recorded with the Linn County Register of Deeds. Provided, the division of land was legally done in conformance with the subdivision regulations in effect at the time of such recording. If construction is not commenced on such land within 10 years of recording a plat the development rights in such shall expire.
- b. For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the County and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within 10 years of the issuance of such permits, the development rights shall expire.

SECTION 1-10 APPROVALS NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS

1-1001. All subdivision plats or re-plats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or for the use of purchasers or owners of lots fronting thereon, shall be submitted to the Linn County Planning Commission for its consideration and approval. The approved plat shall be submitted to the Board of County Commissioners for final plat approval and acceptance of dedications of streets, alleys, easements, and other public ways or sites.

SECTION 1-11 ACCRUED RIGHTS AND LIABILITIES SAVED

1-1101. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the County except as shall be expressly provided for in these regulations.

SECTION 1-12 SEVERABILITY

1-1201. If any section, subsection or provision of these regulations shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

SECTION 1-13 EFFECTIVE DATE

1-1301. These regulations shall be in force and effect from and after passage and publication in accordance with State law.

ARTICLE 2

ADMINISTRATION

Sections:

- 2-1 Appeals**
- 2-2 Penalties for Violations; Actions for Enforcement**
- 2-3 Building Permits**
- 2-4 Duties of the Secretary of the Planning Commission**
- 2-5 Duties of the Planning Commission**
- 2-6 Utility Advisory Committee**
- 2-7 Duties of the Utility Advisory Committee**
- 2-8 Adoption, Amendment of Subdivision Regulations**

SECTION 2-1 APPEALS

2-101. Any decision of the Zoning Administrator on matters contained herein may be appealed to the Board of Zoning Appeals.

SECTION 2-2 PENALTIES FOR VIOLATIONS, ACTIONS FOR ENFORCEMENT

2-201. The owners or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, building contractor, or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which violation has been committed or shall exist, shall be guilty of a violation and upon conviction shall be punished by fine not to exceed five hundred dollars (\$500.00). Each and every day that such violation continues shall constitute a separate offense.

2-202. The Board of County Commissioners (County Board) or any person, the value or use of whose property is or may be affected by a violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these Subdivision Regulations, and to abate nuisances maintained in violation thereof.

SECTION 2-3 BUILDING PERMITS

2-301. No building permit shall be issued by the County for construction on any land subject to these regulations until:

- a. An endorsed copy of the subdivision plat has been recorded in the office of the Register of Deeds of Linn County.

- b. A recorded plat of the subdivision or an approved lot split, if applicable, is available for the Zoning Administrator's examination.
- c. Required public improvements have been installed or guaranteed in accordance with the provisions of these regulations.
- d. There has been compliance with all of the provisions of these regulations, the conditions of plat approval, and all other applicable state and local laws in effect at the time of the subdivision of said land.

2-302. Lot Splits: No building permit shall be issued for any site which contains a division of a platted lot or an unplatted lot of record, unless such division has been approved in the manner provided by Article 11 (Lot Splits) of these Subdivision Regulations.

2-303. Structures Per Lot: Unless otherwise allowed by the Linn County Zoning Regulations, no more than one building permit shall be issued for a principal structure on each unplatted lot of record, each platted lot created as part of a subdivision, or each lot or tract created by a lot split.

2-304. Administration: Upon receipt of the building permit application and certification by the building official that the application is complete, the Zoning Administrator shall affix the date of acceptance on the application. The Zoning Administrator shall authorize the issuance of the building permit within 30 calendar days following examination of the recorded plat or lot split approval. If disapproved, the applicant shall have the right to appeal to the County Board within 30 calendar days.

SECTION 2-4 DUTIES OF THE SECRETARY OF THE PLANNING COMMISSION

2-401.

- a. Maintain permanent and current records with respect to these regulations including amendments thereto.
- b. Provide adequate information and assistance in the preliminary conference, if one is held, as needed by the developer to prepare a proper preliminary plat and final plat.
- c. Receive and file, on behalf of the Planning Commission, all applications for preliminary plats and final plats together with other necessary information.
- d. Review all lot splits, preliminary plats, final plats and other supporting data for compliance with these regulations. After determining that all required information is complete as submitted, distribute copies of the plats to other

appropriate governmental departments, public utilities, and other agencies for their review, comment and recommendations.

- e. Review final plats for compliance with these regulations of the approved preliminary plat and final plat.
- f. Publish notice of the time, date and subject of public hearings.
- g. Forward preliminary and final plats to the Planning Commission with staff recommendations.
- h. Make such other determinations and decisions as may be required by these regulations, by the Planning Commission, or by the County Board.

SECTION 2-5 DUTIES OF THE PLANNING COMMISSION

2-501.

- a. Hold public hearings, review and decide on all preliminary and final plats as presented to it in accordance with the provisions in these regulations.
- b. Transmit all final plats to the County Board for its approval of the plat, and acceptance of dedications of roads, streets, alleys and other public ways and sites.
- c. Make such decisions and actions as shall be necessary to ensure the integrity of and adherence to these regulations.
- d. Compile a list with the reason(s) for disapproval of any plat reviewed by it and provide the developer with such list.
- e. Hold public hearings, review and decide on any proposed amendments to these regulations.
- f. Make other determinations and decisions as may be required of the Planning Commission from time to time by these regulations, and by applicable state law.
- g. Review and prepare recommendations concerning proposed annexations, vacations and dedications.

SECTION 2- 6 UTILITY ADVISORY COMMITTEE

2-601. A Utility Advisory Committee is hereby created which shall consist of representatives of those public and private agencies having a direct interest in public works, public utilities, health and safety, the enforcement of these regulations and such

other persons as the County may from time to time deem necessary. The Committee should include, but is not limited to, the following representatives:

Zoning Administrator, telephone companies, cable television, gas and power companies. The Zoning Administrator shall serve as Chair of the Utility Advisory Committee and shall be responsible for the preparation of recommendations and reports by the Committee.

SECTION 2-7 DUTIES OF THE UTILITY ADVISORY COMMITTEE

2-701. The Utility Advisory Committee shall meet when called by the Committee Chair. The Committee will review and make appropriate written recommendations to the Planning Commission on all matters referred to the Committee. Such matters shall include, but not be limited to preliminary plats, final plats, vacations, and dedications.

SECTION 2-8 ADOPTION, AMENDMENT OF SUBDIVISION REGULATIONS

2-801. Consideration of Subdivision Regulations Amendments. Before adopting or amending any subdivision regulations, the Planning Commission shall call and hold a hearing on such regulations or amendments. Notice of such hearing shall be published at least once in the official newspaper. Notice shall be published at least twenty (20) days prior to the hearing. Notice shall fix the time and place for the hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the Planning Commission, adopt the same in the form of proposed subdivision regulations and shall submit the same, together with the written summary of the hearing, to the Board of County Commissioners.

2-802. Action by the Board of County Commissioners. The County Board may either: (1) approve such recommendations by resolution; (2) override the Planning Commission's recommendation; or (3) return the Planning Commission's recommendations, specifying the basis for the County Board's failure to approve or disapprove. If the County Board returns the Planning Commission's recommendations, the Planning Commission, after considering the same, may resubmit its original recommendations giving the reasons therefore, or submit new and amended recommendations. Upon the receipt of such recommendations, the County Board, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective resolution, or take no further action. If the Planning Commission fails to deliver its recommendations to the County Board following the Planning Commission's next regular meeting after receipt of the County Board's report, the County Board shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly. The proposed subdivision regulations and any amendments thereto shall become effective upon publication of the adopting resolution in the official County newspaper as required by law.

ARTICLE 3

DEFINITIONS

Sections:

- 3-1 Rules of Construction
- 3-2 Definitions

SECTION 3-1 RULES OF CONSTRUCTION

3-101.

- a. The language set forth in these regulations shall be interpreted in accordance with the following rules of construction:
 - 1. The singular number includes the plural and the plural the singular.
 - 2. The present tense includes the past and the future tenses and the future the present.
 - 3. The word "shall" is mandatory while the word "may" is permissive.
 - 4. The words "Building Official" means the officially appointed building official for Linn County, Kansas.
 - 5. The words "Comprehensive Plan" mean the adopted Comprehensive Plan for Linn County, Kansas.
 - 6. The words "subdivision jurisdiction" mean the area as described in Section 1-501 of these regulations.
- b. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- c. Terms used in these regulations and not defined in this Article or elsewhere in these regulations but defined in the Linn County Zoning Regulations shall have the definition set forth in such zoning regulations for such terms.
- d. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or by statute.

SECTION 3-2 DEFINITIONS

3-201. The following definitions shall be used in the interpretation and construction of these regulations:

Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

Agriculture. The use of a tract of land 10 contiguous acres or more in area under one ownership for growing crops, pasturage, horticulture, nurseries, truck farms, dairying or the raising of poultry or cattle and other livestock, and including the structures necessary for carrying out farming operations and the dwelling(s) of those owning and/or operating the premises. Riding academies, boarding stables, dog kennels, or commercial or hydroponic greenhouses shall not be deemed agricultural uses; however, forested and non-producing open space land are considered as agricultural.

Alley. A public thoroughfare which provides only a secondary means of access to abutting property, the right-of-way of which is not less than twenty feet (20') in width.

Approved public sanitary sewer system. A sewage disposal plant, main sanitary sewer lines and other lines approved by Linn County, and by the Kansas Department of Health and Environment.

Approved public water system. A water treatment plant and service lines approved by Linn County, and by the Kansas Department of Health and Environment.

Benchmark. Surveying mark made in some object which is permanently fixed in the ground showing the height of that point in relation to sea level or approved assumed elevation. See *Monument*.

Block. A piece of or parcel of land bound by streets.

Bond. See *Performance Bond or Guaranty*.

Comprehensive Plan. The adopted comprehensive plan for Linn County, Kansas.

County Board or Board of County Commissioners. The Board of County Commissioners of Linn County, Kansas.

Cul-de-sac. A vehicular turnaround which is located at the closed end of a dead end street or alley.

Curb cut. The opening along a curb line at which point vehicles may enter or leave a roadway.

Dedication. A gift or donation of property by the owner to the County. The transfer is conveyed by a plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the County Board.

Drainage. The process and course by which surface water moves across the land surface or is conveyed through channels, waterways, pipes, culverts, ducts, or other means. See *Stormwater Management*.

Easement. An interest in land that is held by someone other than the owner that entitles the holder to a specific limited use or right.

Engineering design. The location (horizontally and vertically) of roads and streets, alignment of all roads, streets, storm sewers and public utilities, existing or proposed, in public rights-of-way and easements. Minimum elements of design included shall be: alignment, grades and widths of streets; alignment, sizes, grades and depths of all underground storm drainage systems and utilities, including associated fixtures (valves, curb inlets, junction boxes, manholes, hydrants, etc.); alignment, grades and widths of all existing and proposed easements; and the minimum lot area, width and length.

Exactions. Requirement of development to dedicate or pay for all or a portion of land for, or costs of, public facilities as a condition of development approval.

Final plat. A formal document by drawing and writing representing a subdivision which is prepared in accordance with these regulations to be placed on record with the Linn County Register of Deeds.

Frontage.

- a. **Street frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- b. **Subdivision Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way is coincident.

Impact fee. A fee imposed by the County on new development pursuant to these regulations in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements.

Improvements. Streets, roads, utilities and other facilities that are to be installed, or agreed to be installed, to current County specifications, by the subdivider on the land to be used for public or private use of the lot owners in the subdivision and local

neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of a final plat or lot-split.

Land surveyor. A licensed land surveyor registered in the State of Kansas or licensed to practice in the State of Kansas in responsible charge for the survey and preparation of the final plat.

Local street. A street intended primarily for access to abutting properties and of limited continuity within a neighborhood.

Lot. A parcel or tract of land (legally described or platted) which is on record in the office of the Linn County Register of Deeds.

Lot, corner. A lot abutting on two (2) or more streets at their intersection.

Lot coverage. That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, including projecting roof eaves.

Lot depth. The mean horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot having a frontage on two (2) non-intersecting streets.

Lot, interior. A lot other than a corner lot which has frontage on one street only.

Lot line. The boundary line of a lot.

Lot of record. A lot which is part of a recorded subdivision or a parcel of land which has been recorded in the office of the Linn County Register of Deeds.

Lot split. The dividing of a lot in a recorded plat or replat of a subdivision into not more than two parcels which creates an additional lot and meets the criteria established within these regulations. See Article 11.

Lot width. Generally the distance between the side lot lines at right angles at the building setback line. For lots that are not rectangular in shape, lot width is determined by measuring the distance across the width of the lot at the following points, with those measurements averaged together: (1) distance of lot width at front of lot at location where the building setback line intersects lot lines on both sides of the lot; and (2) distance of lot width at the back of lot at location where side lot lines intersect the innermost easement or right-of-way line.

Major thoroughfare. A street, highway or roadway designated as a major street in the Linn County Comprehensive Plan.

Marginal access streets or frontage roads. A minor street which is parallel and adjacent to a major street, highway, or railroad right-of-way and provides access to abutting properties.

Minor plat. A subdivision of land into no more than five (5) lots fronting on an existing street and not involving any new street or extension of public facilities.

Monument. A device used to mark and identify the corners in the boundaries of subdivisions, blocks and lots and the points of curves in the street rights-of-way, and bearing the identification cap of the surveyor, and conforming to the standards for placement of boundary surveys as established by the Kansas Board of Technical Professions.

Open space. An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for roads, streets, alleys, driveways or private roads, off-street parking or loading areas, or required front, rear or side yards.

Pedestrian way. A right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent roads and streets and properties.

Performance bond or guaranty. Any form of guaranty acceptable by the County Board, most frequently a surety bond, cash deposit or letter of credit, made out to the County Board in an amount equal to the full cost of the improvements which are required by these regulations, and the surety bond or cash deposit being legally sufficient to secure to the County Board that the required improvements will be constructed in accordance with these regulations.

Planning Commission. The Linn County, Kansas Planning Commission.

Preliminary plat. A tentative map or plan of a proposed subdivision of land showing the character and general details of the proposed development.

Replat. A new plat or a revision to a subdivision or portion thereof for which a final plat has previously been recorded. The approval of a replat is processed in the same manner as a final plat.

Right-of-way. A strip of land occupied or intended to be occupied by a road, street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for roads, streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Roadway. That portion of a road, street, alley or highway right-of-way which has been graded, surfaced or otherwise improved for use by vehicular traffic, exclusive of sidewalks, driveways and related uses. See Street.

Secretary. Secretary of the Linn County, Kansas Planning Commission.

Setback line or building line. A line on a plat generally parallel to the road or street right-of-way, indicating the limit beyond which buildings or structures may not be erected or altered, except as otherwise provided in these regulations.

Stormwater management. The management of drainage to ensure that water moves in a manner that protects people and property from damage or flooding. Stormwater management includes man-made and natural channels, drainage structures, storage areas, sedimentation control and erosion control. See *Drainage*.

Street. A right-of-way, other than an alley, dedicated to public use, or a private right-of-way serving more than one ownership, which provides principal vehicular and pedestrian access to adjacent properties.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures do not include fences but do include, but are not limited to: buildings, walls, sheds and towers.

Subdivider. A person, firm, corporation, partnership, or association who causes land to be divided into a subdivision for himself/herself or for others.

Subdivider's agreement. A contractual agreement signed and notarized by the subdivider and the County Board which is conditioned upon acceptance of the final plat for the dedications thereon with primary concern for the design, installation, inspection and financing or guarantees for public improvements.

Subdivision. The division of a tract of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new road or street is involved, any division of a parcel of land. The term "subdivision" includes "re-subdivision", and the term "re-subdivision" shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which varies from the latest, approved plat of the same.

Subdivision Regulations. The adopted Linn County Subdivision Regulations.

Zero lot line. A one or two family dwelling subdivision which allows one (1) exterior wall of a structure on or within one (1) foot of a side property line and the other side yard is double the normal side yard required by the zoning district regulations.

Zoning Administrator. The person authorized and empowered by the County Board to administer these regulations.

Zoning regulations. The adopted Linn County Zoning Regulations.

ARTICLE 4

SUBDIVISION DESIGN STANDARDS

Sections:

- 4-1 Applicability
- 4-2 Block Standards
- 4-3 Street Standards
- 4-4 Lot Standards
- 4-5 Easements
- 4-6 Design Techniques
- 4-7 Access Control
- 4-8 Land Subject to Flooding

SECTION 4-1 APPLICABILITY

4-101. All subdivisions of land subject to these regulations shall conform to the following minimum design standards and to the intent of the Comprehensive Plan. Such design standards shall govern the approval of subdivision plats by the Planning Commission and by the County Board.

4-102. Comprehensive Plan Coordination. All subdivisions shall be consistent with the Comprehensive Plan. The County Board may disapprove residential subdivision proposals where it is determined that the location of said subdivision is not compatible with the adopted Comprehensive Plan or development policies of the County Board. Compatibility of subdivision design with the Comprehensive Plan is also governed by Section 4-6.

4-103. Access. All lots located in any subdivision shall take access directly from a road or street dedicated and accepted for public use.

4-104. Land Subject to Erosion. On land subject to excessive soil movement that may result in erosion or deposition of soil, the Planning Commission may require, in addition to those standards set forth in these regulations, necessary preventive measures as part of the final plat approval and/or during construction and development of the subdivision.

4-105. Conformance to Applicable Laws and Regulations. In addition to the requirements established herein, all subdivision plats shall comply with all applicable laws and regulations, including the following:

- a. County zoning regulations;
- b. Regulations of the Kansas Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting road or street;

- c. County-adopted building and housing codes;
- d. County-adopted fire and life safety codes; and
- e. Any other applicable state or local laws or regulations.

SECTION 4-2 BLOCK STANDARDS

4-201.

- a. Length. Intersecting streets, which determine block length, shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the neighborhood. In residential districts where no existing plats are recorded, the blocks shall not exceed one thousand two hundred (1,200) feet in length, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than one thousand (1,000) feet, pedestrian ways and/or easements through the block may be required by the Planning Commission near the center of the block. Such pedestrian ways or easements shall have a minimum width of ten (10) feet. Pedestrian ways shall have a minimum width of ten (10) feet and shall be constructed in a manner approved by the County. Blocks for business use should normally not exceed six hundred (600) feet in length.
- b. Width. In residential development, the block width shall normally be sufficient to allow two (2) tiers of lots of appropriate depth and shall not be less than three hundred (300) feet. In certain instances, however, a different arrangement may be required in order to provide better circulation or to protect a major circulation route. Blocks intended for business or industrial use shall be of such width and depth as may be considered most suitable for the prospective use. Block width and depth shall be determined with regard to needs for convenient access, safety and circulation and with consideration of topography.

SECTION 4-3 STREET STANDARDS

4-301.

- a. Relationship to Adjoining Street Systems.
 - 1. The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements.

2. The width of such streets in new subdivisions shall not be less than the minimum street widths established in the adopted Comprehensive Plan.
 3. Alleys, when required, and street arrangement shall permit owners of adjoining property to extend street rights-of-ways into such property.
 4. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way, or vacated upon the County's determination that the right-of-way is not necessary.
 5. Where topographical conditions make street continuance or conformity impracticable, the Planning Commission may approve an alternative layout.
 6. Where the plat submitted covers only a portion of the contiguous land owned by the subdivider, a sketch of the prospective future street system of the entire ownership shall be submitted.
 7. Where a tract is subdivided into lots of an acre or more, the Planning Commission may require an arrangement of lots and streets such as to permit a later subdivision in conformity with the street requirements.
- b. Street Names. Streets that are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. Otherwise names shall be sufficiently different in sound and in spelling from other street names in the County so as not to cause confusion.
 - c. Major or Arterial Streets. Major or arterial streets through subdivisions shall conform to the Comprehensive Plan as adopted by the Planning Commission and the County Board.
 - d. Minor or Local Streets. Minor or local streets shall be so designed to discourage through or non-local traffic.
 - e. Cul-de-sacs. Vehicular turnaround at the closed end of a street having a minimum radius of sixty feet (60') and a roadway having a minimum radius of fifty-five feet (55') to the interior curb line. Such local street segment should not exceed six hundred feet (600') in length from the intersection of a cross street to the juncture with the cul-de-sac.
 - f. Right Angle Intersections. Under normal conditions, streets shall be laid out to intersect, as nearly as possible, at right angles. Where topography or other conditions justify a variation from the right angle intersection, the minimum angle shall be sixty (60) degrees.

g. Streets Adjacent to a Railroad Right-of-Way, Limited Access Freeway, Principal Highway or Arterial Streets. Where lots front or side, but do not back on railroad rights-of-way, limited access freeways, principal highways, or arterial streets a marginal access street or frontage road may be required parallel and adjacent to the boundary of such rights-of-way. The distance from said rights-of-way shall be determined with due consideration to minimum distance required for approach connections to future grade-separated intersections.

h. Half-Streets. Half-streets shall be avoided, except:

1. Where they are essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; or,
2. When the Planning Commission finds that it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided. Where a half-street, or portion thereof, is existing and adjacent to a tract to be subdivided, the other half of the street shall be based on minimum requirements as set forth in 4-301.j and shall be platted within such tract.

i. Alleys. Alleys may be required in commercial, industrial and residential areas. Dead end alleys shall be avoided, wherever possible; but if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead-end.

j. Minimum Requirements. All right-of-way for streets, alleys and public ways, included in the subdivision, hereafter dedicated and accepted, shall not be less than the minimum width for each classification as follows:

Arterial streets	80 feet
Collector streets	80 feet
Local streets, residential	70 feet
Local streets, industrial and commercial	70 feet
Cul-de-sacs	60 feet and the turnaround shall have a radius of 50 feet
Marginal access or frontage/parallel access roads, one-way	50 feet
Marginal access or frontage/parallel access roads, two-way	60 feet
Alleys	20 feet
Pedestrian ways	15 feet
Bicycle paths	10 feet

All widths for streets included in the subdivision, hereafter dedicated and accepted, shall not be less than the minimum width for each classification as follows:

Arterial	42 feet
Collector.....	35 feet
Local	28 feet

- k. Additional Requirements. When existing or anticipated traffic on arterial and collector streets warrants greater widths of rights-of-way, or where needed for cuts, fills or utilities, additional right-of-way may be required to be dedicated for any streets.

- l. Street Alignment. Minimum horizontal alignment on all streets, except in unusual cases, shall be as follows:
 - 1. Horizontal alignment: Radii at the centerline.

Major streets	500
Local streets	150

 - 2. A tangent shall be provided between all reversed curves to provide for a smooth traffic flow.

- m. Street Layout. Proposed streets shall conform to topography as nearly as possible to reduce drainage problems and grades.

- n. Paving Material. Subject to an exception, all streets shall be hard surfaced with asphalt or, concrete subject to the specifications of the County, and all paving must be provided with a stabilized sub-base and concrete curb and gutter. The Board of Zoning Appeals may grant, upon proper application, an exception to the requirements set out above, and allow streets to have a chip-and-seal surface without curbs and gutters.

SECTION 4-4 LOT STANDARDS

4-401.

- a. Minimum lot width shall be measured at the building setback line and shall not be less than required by the zoning regulations of the district in which the subdivision is located. No residential lots shall be less than seventy-five (75) feet in width at the building line. Corner lots shall have a width at least twenty (20) feet greater than the minimum width.

- b. Minimum lot depth shall be one hundred and twenty (120) feet, measured through the center of the lot and perpendicular to the property line, or radial to the property line or curved streets.
- c. Maximum depth of residential lots shall not exceed two and one-half (2 1/2) times the width of the lot.
- d. If the proposed subdivision is to be served with public water and public sewer or a community-type sewage treatment plant, approval of the plat shall be subject to the minimum requirements set forth in these regulations and the zoning regulations of the district in which the subdivision is located.
- e. If the proposed subdivision is to be served with a public water supply, but not with a public sanitary sewer system, the preliminary plat will be submitted on the basis of the minimum of three (3) acre lots and will be subject to the approval of the County Health Department, which shall make or cause to be made soil analysis and percolation tests for each lot and make recommendations to the Planning Commission. The plat lots will be so proportioned as to permit future re-platting consistent with good subdivision design.
- f. If the proposed subdivision is served with a public sanitary sewer system and not with a public water supply, and the developer will use a private water supply, the preliminary plat will be submitted on the basis of a minimum of one (1) acre lots, subject to the approval of the County Health Department, and be so proportioned that future platting will be consistent with good subdivision design.
- g. If the proposed subdivision is not served with either an approved public water supply or an approved public sanitary sewer system and the developer will be using a private water supply with an approved private sewage disposal system, the subdivider shall submit his or her preliminary plat on the basis of ten (10) acre lots, subject to the approval of the County Health Department, which shall secure soil analysis and percolation tests and submit a recommendation to the Planning Commission. The lots will be so proportioned as to permit future re-platting consistent with good subdivision design.
- h. Lot dimensions shall comply with the minimum area requirements of the zoning regulations. Non-residential lots shall provide adequate depth and width to provide for the type of use contemplated.
- i. Minimum lot area shall be subject to the zoning district regulations in which the subdivision is located; however, if a zoning lot contained two or more principal residential structures on January 1, 2023, separate substandard lots may be created, according to these regulations, to accommodate these existing residences, provided that side yard requirements are met.
- j. Every lot shall have frontage on a public street other than an alley.

- k. Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be re-subdivided into smaller lots, consideration must be given to the highway, street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots. Easements providing for the future opening and extension of such streets may, at the discretion of the Planning Commission, be made a requirement of the plat.

SECTION 4-5 EASEMENTS

4-501.

- a. Where alleys are not provided, permanent easements of not less than twenty (20) feet in width shall be provided on each side of all rear lot lines, and on side lot lines, where necessary, for utility poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and other public utilities. Where a utility company or other service provider can demonstrate the need for a wider easement than required above for a specific location, such may be required by the County Board and provided by the developer. These easements shall provide for a continuous right-of-way at least twenty (20) feet in width. An additional twelve (12) foot wide temporary construction easement abutting each side of a utility easement shall be provided for initial construction of water, sewer and other utility lines. Such temporary easement shall be terminated by the County upon its determination that development of lots adjoining the easement is completed with all utilities fully installed.
- b. All easements shall be shown on the plat. Permanent easements shall not be obstructed by structures or vegetation. No fences may be placed in storm drain easements located along side lot lines. A property owner may otherwise erect fences and landscape the easement at his or her own risk of loss.
- c. Drainage Easements. If a subdivision is traversed by a water course, drainage way or channel, then a stormwater easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of the natural water course and shall be of such width or construction, or both, as may be necessary to provide adequate stormwater drainage and for access for maintenance thereof. Parallel streets or parkways may be required in connection therewith. Maintenance of stormwater easements and drainage right-of-way shall be the responsibility of the owners of property adjoining such easements or right-of-way.
- d. Where a lot or group of lots side or back on an existing high pressure oil line or existing high pressure gas line, a seventy-five foot (75') easement shall be provided on each side of said oil line or gas line. The seventy-five foot (75') easement shall be provided on that part of the lot which abuts the oil line or gas

line, and no building or structure shall be located or constructed within said seventy-five foot (75') easement.

SECTION 4-6 DESIGN TECHNIQUES

4-601. Subdivision Design: The design of the subdivision shall provide for efficient traffic flow, proper mixing of land uses, and a logical link between surrounding, existing development, and the proposed layout. The Comprehensive Plan should be used as a guide in determining if the design of the proposed subdivision is proper. The Planning Commission shall have the authority to deny a plat or request redesign, if, in its opinion, the layout is not suitable for the site, or if the development of the subdivision would be premature.

SECTION 4-7 ACCESS CONTROL

4-701. In the interest of public safety and for the preservation of the traffic carrying capacity of the street system, the Planning Commission shall have the right to regulate points of access to all property from the public streets system. Such proscriptions shall be indicated on the final plat.

SECTION 4-8 LAND SUBJECT TO FLOODING

- a. Land subject to intermediate regional flood shall not be subdivided for any use incompatible with such flooding. An intermediate regional flood is a flood having an average frequency of occurrence in the order of once in 100 years, although the flood may occur in any year or even in successive years. It is based on statistical analyses of stream flow records available for the watershed and analyses of rainfall and runoff characteristics in the general region of the watershed. Data on the flood characteristics for the planning area may be obtained from the Kansas Water Resources Board or the Corps of Engineers, U.S. Army, and FEMA.
- b. Subdivision proposals shall include regulatory flood elevation data in areas zoned Floodway or Floodplain on the Linn County Zoning Map.
- c. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- d. All public utilities and facilities shall be located so as to minimize or eliminate flood damage.
- e. All proposed development shall be consistent with the need to minimize flood damage.

ARTICLE 5

DEDICATION OR RESERVATION OF PUBLIC SITES AND OPEN SPACE

Sections:

- 5-1 Dedication or Reservation of Public Sites and Open Spaces**
- 5-2 Dedication and Reservation of Public Parkland**
- 5-3 Action by Board of County Commissioners**
- 5-4 Use of Land and Fees**

SECTION 5-1 DEDICATION OR RESERVATION OF PUBLIC SITES AND OPEN SPACES

5-101. In subdividing land or re-subdividing an existing plat, due consideration should be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, or other public recreational areas or open spaces. In its consideration of any such subdividing or resubdividing the Planning Commission shall make recommendations as to dedications and reservations. Any area so dedicated or reserved shall conform as nearly as possible to the recommendations of the Planning Commission and the Board of Education. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired.

SECTION 5-2 DEDICATION AND RESERVATION OF PUBLIC PARKLAND

5-201. General Requirement. In subdividing or resubdividing land zoned and intended for residential use, the developer shall, at the request of the County, dedicate or reserve land for public park purposes, or pay a fee in lieu of dedication, or select a combination of dedication or reservation and a fee. The method chosen to meet this requirement shall be determined by the developer with consideration given to the standards set out in these regulations and the recommendation of the Planning Commission.

5-202. Amount of Dedication. The number of acres of land which may be required to be dedicated or reserved shall be determined as follows, based on the density of development as permitted by the zoning of the property being subdivided. The area required to be dedicated or reserved shall be exclusive of all street rights-of-way and stormwater easements.

Percent of Total Land Area Being Subdivided to be Dedicated or Reserved for Park Purposes: CS Countryside – 2%; R Residential – 5%.

5-203. Location and Design Standards. Any land dedicated or reserved shall conform with the comprehensive plan of the County. The location, size and configuration of the

land to be dedicated or reserved shall be determined by the design of the streets, lots, and blocks of the subdivision with consideration given to the preservation of natural physical features.

5-204. Payment in Lieu of Dedication or Reservation. In the event the land to be dedicated or reserved is less than the amount of acreage required or the land does not meet the location and design standards, the payment of a fee in lieu of dedication or reservation may be required. The fee shall be based on the total number of dwelling units permitted within the subdivision times a fee schedule for each dwelling unit type. Said fee schedule shall be as established by resolution adopted by the County Board.

Any fees collected shall be placed in a neighborhood park account and used for improvement of neighborhood parks including acquisition of land. A record of fees paid into and expended from the fund shall be kept by the County. In the event funds have not been expended on such purposes within fifteen (15) years from the date received the fees shall be refunded in the following manner:

- a. If paid in full at the time of platting, to the developer.
- b. If paid at the time of the building permit, to the record property owner at the time of the refund.

5-205. Credit for Private Open Space. Private open space for park and recreational purposes within a proposed development may be credited for up to 100 percent (100%) of the requirement for dedication or reservation of public park land or payment of a fee in lieu thereof provided that the following standards are met:

- a. That yards, setbacks and other open areas required by zoning and building regulations shall not be included in computing the area set aside as private open space.
- b. That the private open space shall be reasonably useable for park and recreation purposes.
- c. That the private open space shall be perpetually restricted for park and recreation purposes by recorded plat or restrictive covenant.
- d. That the private open space shall be permanently owned and maintained by the owner of the development or by a legally established homeowners' association.

5-206. Indication on Preliminary Plat. At the time of the preliminary plat submittal, the developer shall indicate whether a dedication or reservation of land or a fee in lieu of dedication is being proposed. Any land proposed to be dedicated or reserved shall be shown on the preliminary plat.

5-207. Prerequisite for Final Plat Approval. When land is being dedicated it shall be shown on the final plat and marked “Dedicated for Public Park Purposes.” Such dedications shall not be effective until the dedication has been specifically accepted by the County Board.

When a fee in lieu of dedication is required, total payment shall be made prior to final plat approval by the County Board or, at the option of the developer, payment may be made at the time of issuance of a building permit on each individual lot. In the latter case, the fee shall be in accordance with the fee schedule referenced in section 5-204.

5-208. Reservation of Park Land. The County Board may determine that the reservation of park land for future dedication is more appropriate than immediate dedication of such land. In such cases, the land to be reserved shall be shown on the final plat and marked “Reserved for Public Park Purposes” and a covenant shall be written on the recorded plat indicating the latest date, time and manner in which dedication shall occur. Such future dedications shall be at no cost to the County except for the reimbursement of any costs paid by the owner for street, utility, drainage, and other public improvements benefiting the reserved land.

SECTION 5-3 ACTION BY BOARD OF COUNTY COMMISSIONERS

5-301. Upon receiving the recommendations of the Planning Commission, the County Board may:

- a. Accept dedication or reservation of land.
- b. Accept, in lieu of the dedication of land, a fee in accordance with a fee resolution adopted by the County Board.
- c. Waive the requirement if the County Board finds that there are sufficient schools, parks, playgrounds or other publicly-owned or operated recreational areas or open spaces in the area of the subdivision.

SECTION 5-4 USE OF LAND AND FEES

5-401. Land or fees obtained pursuant to this Article shall only be used to obtain public open space, public recreational land or facilities for public use. The County Board shall make appropriate findings as to the relationship between the subdivision from which the fees were obtained and such open space, recreational land or facilities for public use.

ARTICLE 6

SUBMISSION AND APPROVAL OF PLATS

Sections:

- 6-1 Pre-Application**
- 6-2 Minor Plats**
- 6-3 Preliminary Plats**
- 6-4 Final Plats**
- 6-5 Administrative Plat Approval**

SECTION 6-1 PRE-APPLICATION

6-101. Prior to the filing of the preliminary plat, the subdivider shall contact the Zoning Administrator and other administrative personnel to determine:

- a. Procedure for filing plats.
- b. Availability of an approved public sewer system and public water system.
- c. Zoning requirements for the property in question and adjacent properties.

SECTION 6-2 MINOR PLATS

6-201.

- a. A minor plat is defined as a subdivision of land (1) into no more than five (5) lots fronting on an existing road or street; (2) not involving any new road or street or extension of public facilities; (3) not including more than ten (10) acres if a residential plat, nor more than five (5) acres for any other type of plat, unless the Planning Commission approves a larger acreage; and (4) not in conflict with the Comprehensive Plan, or any provision in the zoning regulations or any provision in these regulations.
- b. Minor plats may be submitted in final plat form as described in Section 6-4 without first filing a preliminary plat or having such a preliminary plat approved by the Planning Commission, with the exception that the preliminary plat filing fee shall be submitted with the filing of the plat with the Zoning Administrator. Minor plats shall also contain all the information required for the filing of preliminary plats pursuant to Section 6-3.

SECTION 6-3 PRELIMINARY PLATS

6-301. After reaching the preliminary conclusions regarding the requirements for the proposed subdivision, the subdivider may submit a preliminary plat together with any supplemental information necessary to the Zoning Administrator who shall schedule a public hearing with the Planning Commission.

a. Submission of a Preliminary Plat.

1. Filing Fee and Proof of Ownership. A filing fee as adopted by the County Board shall accompany the filing of each preliminary plat. The preliminary plat shall not be accepted for filing until the filing fee therefore has been paid by the subdivider. The subdivider shall submit satisfactory proof of ownership, or a copy of a contract for purchase, of the entire tract to be platted.
2. Number of Copies. The subdivider shall submit ten (10) copies of the preliminary plat and vicinity map (if not on the preliminary plat) showing the location of the proposed subdivision. These plans shall be filed with the Secretary of the Planning Commission at least twenty-seven (27) days prior to the regular Planning Commission meeting at which the preliminary plat is to be considered.
3. The subdivider shall submit, with the preliminary plat, a complete list of the names and mailing addresses of all owners of record of all unplatted land within one thousand (1,000) feet.
4. All plats shall be prepared by a Kansas licensed and registered professional engineer or a land surveyor, as required by state statute or regulation of the Kansas Board of Technical Professions. The boundary and topographic survey prepared for the plat shall be completed by a Kansas licensed land surveyor, whose seal and certification shall be shown on the survey.
5. Preliminary plats shall contain:
 - (a) The proposed name of the subdivision. (The name shall not duplicate or closely resemble the name or names of any existing subdivision.)
 - (b) The location of the boundary lines of the subdivision and references to the section or quarter section lines.
 - (c) The names and addresses of the subdivider, developer, owner, and the engineer, architect, landscape architect or land surveyor who prepared the plat.

- (d) Scale of the plat, 1" = 100' or larger.
- (e) Date of preparation and north arrow.
- (f) Existing conditions:
 - (1) Location, width and name of platted streets, pavement width or other public ways, designation of railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
 - (2) All existing sewers, water mains, gas mains, culverts, electricity transmission lines or other underground installations, or above ground structures, within or adjacent to the proposed subdivision, with pipe size and manholes, grades, elevations, heights and location.
 - (3) Names of adjacent subdivisions together with arrangement of streets and lots, and owners of adjacent parcels of unsubdivided land.
 - (4) Topography (unless specifically waived by the Zoning Administrator) with contour intervals of not more than five (5) feet, referred to USGS datum or assumed local datum approved by the Zoning Administrator. Where the ground is too flat for contours, spot elevations may be required.
 - (5) Location of water courses, bridges, wooded areas, lakes, ravines, above-ground and underground utilities, and such other features as may be pertinent to the subdivision.
 - (6) Current zoning classification and proposed zoning classification if property is proposed to be rezoned.
 - (7) General street layout of adjacent property within two hundred (200) feet to show how streets and other public facilities in the proposed subdivision relate to the adjacent property.
- (g) The general arrangements of lots and their approximate size.
- (h) Location and width of proposed streets, alleys, pedestrian ways and easements and approximate gradient of streets.

- (i) In areas where approved public sewer and/or water systems are proposed to serve the subdivision, a plan of sewage disposal and water supply shall be shown. Proposed manholes, proposed sanitary sewer pipe size and slope, water line pipe size, end water line valve and fire hydrant location shall be shown on the preliminary plat. If the connection to existing facilities is off-site, then the location, size and elevation of the existing facilities where the connection is to be made shall be shown on the preliminary plat.

If the proposed development will not use an approved public sewer and/or water system, the size, type and location of sewage disposal and depth or size, type and location of the water supply shall be shown on the preliminary plat. Septic tanks and lateral fields shall show location, size, soil type, soil depth and soil percolation rates, if required by the Zoning Administrator, in the preliminary plat.

- (j) Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use.
- (k) Location and size of proposed electrical distribution systems.
- (l) General layout of adjacent unsubdivided property to show how streets and other public facilities in the proposed subdivision relate to the unsubdivided property.
- (m) Vicinity map showing streets within five hundred (500) feet of the boundaries of the proposed subdivision.
- (n) The subdivider shall submit a preliminary grading and drainage plan, including location and size of all storm sewers, existing and proposed land elevations and contours, necessary widths of all open drainageways and meeting all other requirements for stormwater management as set forth by the County. This plan shall be forwarded to the County Engineer who will prepare a written analysis of the plan for consideration by the Planning Commission.

- b. Review by Utility Advisory Committee. Upon the receipt of the copies of the preliminary plat, the Secretary of the Planning Commission shall send a copy of the plat to each member of the Utility Advisory Committee. The Utility Advisory Committee shall review said plat and submit its recommendations to the Planning Commission.
- c. Approval or Disapproval of Preliminary Plat. Action by the Planning Commission shall be conveyed to the subdivider in writing within fifteen (15)

business days after the Planning Commission meeting at which time the plat was considered and action was taken thereon. Approval of the preliminary plat by the Planning Commission does not constitute an acceptance of the subdivision, but is rather merely an authorization for the subdivider to proceed with the preparation of the final plat. In cases where the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission. If the Planning Commission fails to approve or disapprove a preliminary plat within sixty (60) days after the plat has been submitted for consideration, then such preliminary plat shall be deemed to have been approved, unless the subdivider shall have consented to extend or waive such time limitation.

- d. Area to be Platted. In order to ensure that the provisions of these regulations are carried out and that the overall subdivision design is prepared in an orderly manner, the Planning Commission may require that a preliminary plat be submitted on all contiguous land under common ownership rather than a parcel or segment. The area may, however, be final platted in smaller parcels or segments as directed by the Planning Commission.
- e. Effective Date. The approval of the preliminary plat shall be effective for a period of twelve (12) consecutive months, unless an extension of time is granted by the Planning Commission. If the final plat has not been submitted for approval within this period, or extended period, a preliminary plat must be submitted again to the Planning Commission for approval.

SECTION 6-4 FINAL PLATS

6-401.

- a. Submission of a Final Plat.
 - 1. After approval of the preliminary plat, the subdivider shall submit engineering designs/construction plans and documents for approval prior to submission of a final plat along with the plat recording fee established by resolution adopted by the County Board.
 - 2. A digital copy of the final plat, in state plane coordinates or tied to two section corners and formatted to standards established by the Zoning Administrator, plus the original on Mylar and ten (10) prints thereof shall be submitted to the Secretary of the Planning Commission at least twenty (20) days prior to the Planning Commission public meeting. The names and signatures of the owner(s) of the property duly acknowledged and notarized shall appear on the original and all copies submitted.
 - 3. The Planning Commission shall be required to hold a public hearing on a final plat only when the Planning Commission finds there is a question

whether the final plat as submitted is in substantial conformity with the approved preliminary plat.

4. The final plat, prepared for recording purposes, shall be drawn at a scale of at least 1" = 100' or larger. The size of the sheet on which such final plat is prepared shall be twenty-two (22) inches by thirty-six (36) inches. Each sheet shall have a one and one-half inch (1 1/2") binding edge along the left hand side. Where the proposed plat is of unusual size, the final plat shall be submitted on two (2) or more sheets of the same dimensions. If two (2) or more sheets are required, an index map of the same dimensions shall be attached showing the entire development at a smaller scale. The dimensions indicated are standard for all final plats and must be complied with. Title, description and other written data shall be located either right or left.
 5. No building permit will be issued nor shall any lot, tract or parcel of land as described on the final plat be sold or offered for sale until the final plat has been properly filed and recorded with the Register of Deeds. The final plat shall be registered within one year from date of approval by the County Planning Commission and the County Board. Failure to file a final plat within the time period specified will render said plat null and void.
- b. Information. The final plat shall show and contain the following information in addition to the current Kansas minimum standards adopted by the State Board of Technical Professions.
1. Name of subdivision (not to duplicate or too closely resemble the name of any existing subdivision).
 2. Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving bearings and linear dimensions which must be mathematically correct. The allowable error of closing on any portion of the plat shall be one (1) foot in ten thousand (10,000) feet. Total acreage of the subdivision shall be provided.
 3. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground.
 4. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block. All lots, however designated, shall be numbered in progressive numbers or by blocks in which they are situated, and their precise length and width shall be stated on the map or plat.

5. The exact locations, widths, and names of all streets, easements, alleys and other rights-of-way to be dedicated.
6. Boundary lines and description of the boundary lines of any area other than streets and alleys which are to be dedicated or reserved for public use.
7. Building setback lines on the front and side streets with dimensions.
8. Name, signature and seal of the licensed engineer and registered land surveyor preparing the plat, as appropriate.
9. Name, signature and seal of the registered surveyor verifying that all monuments and control markers have been set in compliance with County requirements and in accordance with the Land Survey Act, K.S.A. 58-2001 *et seq.*
10. Scale of the plat (scale to be shown graphically and in feet per plat scale inch), date of preparation and north arrow.
11. Statement expressing the intent of the property owner to dedicate for public use all easements, streets, alleys, and all other public areas previously dedicated.
12. The following certificates, which may be combined where appropriate.
 - (a) A certificate signed and acknowledged by all parties having any record, title, or interest in the land subdivided, and consenting to the preparation and recording of said subdivision map, including all mortgage holders.
 - (b) A certificate signed and acknowledged as above, expressing the property owner's intent to dedicate or reserve all parcels of land shown on the final plat and intended for any public or private uses including those parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, visitors, tenants, and servants.
 - (c) The acknowledgment of a notary in the following form:

State of _____)
) SS
 County of _____)

Be it remembered that on this _____ day of _____,
 _____, before me, a notary public in and for said County and
 State, came _____, to me personally known to be the

same person who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

(SEAL)

Notary Public

My Commission Expires: _____

(d) The certificate of the Planning Commission in the following form:

This plat of _____ Addition has been submitted to _____ and approved by the Linn County Planning Commission this ____ day of _____, _____.

Chair

Secretary

(e) The acceptance of easements, rights-of-way and other public dedications by the Board of County Commissioners in the following form:

The dedications shown on this plat have been accepted by Linn County, Kansas, this ____ day of _____, _____.

(SEAL)

Chair

ATTEST:

County Clerk

(f) The certificate of the County Treasurer in the following form:

State of Kansas)
) SS
County of Linn)

I hereby certify that the taxes on the included tracts are current.

Linn County Treasurer

Date

(g) A blank space for noting entry on the transfer record in the following form:

Entered on transfer record this ___ day of _____,
_____.

Linn County Register of Deeds

(h) The certificate of the Register of Deeds in the following form:

State of _____)
) SS
County of _____)

This is to certify that this instrument was filed for record in the Register of Deeds office on the ___ day of _____, _____, in Book _____, Page _____.

Linn County Register of Deeds

Deputy

13. The following additional data and documents shall be submitted with the final plat.

- (a) A title report by an abstract or title insurance company, or an attorney's opinion of title, showing the name of the owner or owners of the land and all other restrictions, easements or encumbrances on the land. The consent of all such persons having a financial interest shall be shown on the plat and acknowledged by a notary public.
 - (b) If any taxes or special assessments, due and payable, have not been paid in full but have been protested as provided by law, monies or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld, shall be placed on deposit with the County in an amount sufficient to meet this requirement.
 - (c) A copy of any restrictive covenants applicable to the subdivision.
 - (d) Certification from the County Engineer that all permanent monuments have been set in accordance with Section 7-2 of these regulations and the Land Survey Act (K.S.A. 58-2001 et seq.).
- c. County Board Acceptance. After the approval of the final plat by the Planning Commission, such plat shall be forwarded to the County Board for its acceptance of streets, alleys, easements or other dedicated public rights-of-way or sites. The County Board may take action on the plat at any meeting following approval of the plat by the Planning Commission and the County Board shall accept or refuse the dedication of land for public purpose within thirty (30) days after the first meeting of the County Board following the date of the submission of the plat to the County clerk. The County Board may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the County Board. No additional filing fees shall be assessed during that period. If the County Board defers or refuses such dedication, it shall advise the Planning Commission of the reasons therefore and may request reconsideration by the Planning Commission.
- d. Recording of Final Plat. After acceptance of the public dedications and easements by the County Board and receipt of (1) engineering drawings, (2) appropriate petitions for improvements, and (3) the agreement with the developer for all required developer-installed improvements, the County Board may accept the final plat by signing the original mylar copy and two additional copies. The Secretary of the Planning Commission shall record the original copy of the final plat with the Register of Deeds of Linn County. One copy shall be provided to the developer and one copy filed with County records.
- e. Building Permits. No building or zoning permit shall be issued for any structure that is located upon a lot in a subdivision that has not been subdivided in accordance with these Subdivision Regulations. No plat, re-plat, dedication or deed shall be filed with the Register of Deeds until such plat, re-plat, dedication or

deed has been approved by the Planning Commission and the County Board as required by law.

SECTION 6-5 ADMINISTRATIVE PLAT APPROVAL

6-501. Administrative Minor Plat Approval Process. As an alternative to the procedures for plat approval in accordance with Section 6-2 of this Article, the following plats or replats may be approved administratively upon the approval of the Zoning Administrator without submission to or approval by the Planning Commission or County Board, provided that all of the following criteria are met.

- a. No new road or street right-of-way shall be proposed or required to serve the lots or tracts resulting from subdivision;
- b. The subdivision includes the total contiguous tract of land owned, or under control of, the subdivider(s);
- c. A drainage study has been completed and approved for the proposed plat;
- d. The plat includes no more than five (5) lots or tracts of land;
- e. No dedication of land for public purposes is required, including but not limited to public parks, open spaces or rights-of-way;
- f. All new lots or tracts front onto existing street right-of-way which is improved to County specification;
- g. No extension of water or sewer mains are required to serve those lots or tracts;
- h. Existing easements for utilities are not altered, removed or realigned unless expressly agreed to in writing by the utility; and
- i. The plat is consistent with the goals and objectives of the Comprehensive Plan and these regulations.

6-502. Administrative Minor Plat Rules and Regulations. The Zoning Administrator shall establish such administrative rules and regulations as necessary to govern the procedure, submission requirements and contents of minor plats. Such administrative rules and procedures may be amended from time to time, and a copy of the current administrative plat approval rules and procedures shall be available for public inspection at the office of the Zoning Administrator.

6-503. Submission/Contents. After the proposed plat has been determined to meet the requirements for administrative minor plat approval, the applicant shall submit the required number of copies of the proposed plat, as specified in the administrative

procedures, including the required documents and the appropriate filing fee. The submission requirements and contents of minor plats shall be determined by the administrative procedures.

6-504. Filing Fees. Administrative minor plat approval fee for minor plat approval shall be fifty percent (50%) of the fee for a major plat.

6-505. Action by the Zoning Administrator. The Zoning Administrator shall administratively approve, approve with conditions, or disapprove the minor plat within thirty (30) days after the completed application has been submitted, including the necessary documents and fee. If the Zoning Administrator finds that the application for the proposed plat does not meet the requirements, the Zoning Administrator shall advise the applicant in writing stating the reasons for such determination. If the plat is not eligible for administrative minor plat approval because it does not meet all the requirements provided in Section 6-501, it may be resubmitted as a plat, in accordance with this Article.

6-506. Recording. The number of copies of the administratively approved recorded minor plat, as specified in the administrative procedures, shall be submitted to the Zoning Administrator within ten (10) days after the plat has been recorded with the Register of Deeds. The Zoning Administrator will distribute the recorded copies to the various government agencies and local utility companies. No building permit shall be issued by the County until the recorded copies of the approved minor plat are on file with the Zoning Administrator.

ARTICLE 7

IMPROVEMENTS

Sections:

- 7-1 (Reserved)
- 7-2 Required Improvements
- 7-3 Exceptions for Existing Improvements
- 7-4 Waivers

SECTION 7-1 (RESERVED)

SECTION 7-2 REQUIRED IMPROVEMENTS

7-201. The subdivider of a proposed subdivision shall install, or provide for installation of, the following facilities and improvements:

- a. Streets. Streets shall be surfaced with concrete, asphaltic concrete, or materials approved by the County and shall include the curb and storm sewer inlets. Prior to constructing any street, the subdivider shall obtain a soil analysis which shall be used in design of the roadway and pavement.

Pavements shall be designed based on the following minimum standard:

Pavement thickness shall be established by the *Standard Specifications for Road and Bridge Construction*, a publication of the Kansas Department of Transportation, *Standard Specifications and Design Criteria*, a publication of the Kansas County Metropolitan Chapter of the American Public Works Association.

Pavement Width	
Street Classification	Minimum Lane Width Not Including Curb & Gutter
Local Residential	12 feet*
Collector	14 feet*
Arterial	14 feet*

* Lane widths do not include curb and gutter sections.

- b. Frontage Roads. If a proposed subdivision adjoins or contains an existing or planned arterial street or state or federal highway the Planning Commission may require the subdivision to provide frontage roads, deep lots with rear service alleys or such other design necessary to ensure that access to lots in the subdivision is not taken directly from such street or highway.

- c. Water. Where an approved public water system is proposed to serve the subdivision, said water lines shall be installed in proper easements or within the limits of the street and alley right-of-way. Utility sleeves shall be provided at the time of street construction for extensions of water mains and other utilities if such improvements are to be installed following initial construction of a street.
- d. Sanitary Sewers. Where an approved public sanitary sewer system is proposed to serve the subdivision, the sewer system shall be constructed to provide service to each lot within the subdivision. The system of mains and laterals shall collect the sewage within the subdivision and discharge it into a community disposal system approved by the County and the Kansas Department of Health and Environment.
- e. Street Signs. Street signs will be supplied and erected by the owner or developer. The type and style of street sign to be erected shall be approved by the County.
- f. Electricity. Poles, power lines, transformers, and street lights shall be installed and paid for in accordance with policies established by the County.
- g. Storm Drainage. The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches and other storm drainage improvements and plans for these improvements shall comply with the minimum standards of the County Board.
- h. Bench Marks, Corners, Monuments and other Markers.
 - 1. Bench Marks.
 - (a) All elevation shown on plats shall be based on USGS datum or approved assumed datum relative to the area, not in a floodplain.
 - (b) The permanent benchmark location and description that is used to extend datum to the project shall be noted on the Preliminary Plat and Final Plat.
 - 2. Monuments.
 - (a) Variations to the monument length and diameter may be allowed by the Zoning Administrator based on subsurface conditions.
 - (b) Installation of lot pins shall commence immediately upon the installation of streets, sewer mains and water mains unless such installation is waived by the Zoning Administrator.
- i. Provision of Utilities. The subdivider shall be responsible to provide for and pay the full cost for the proper installation of all utilities, including: sanitary sewers and connection to approved treatment facilities, water supply, natural gas,

electricity and telephone service. Such utilities shall be installed according to the specifications of the controlling utility company or the County.

- j. All telephone and cable television lines, electrical services and distribution lines shall be placed underground, except that this provision shall not include meters, electric and telephone service pedestals, transformers, three-phase feeder lines, subtransmission and transmission lines (34.5kv and above), electrical substations and such other facilities as the utility may deem necessary to install utilizing "overhead" type construction. Variances from this requirement may be authorized by the Zoning Administrator.

SECTION 7-3 EXCEPTIONS FOR EXISTING IMPROVEMENTS

7-301.

- a. Where the proposed subdivision is a re-subdivision or concerns an area presently having any or all required improvements as previously set out, and where such improvements meet the requirements of this Article and are in good condition no further provision need be made by the subdividers to duplicate such improvements. However, where such existing improvements do not meet said requirements, the subdivider shall provide for the repair, correction, or replacement of such improvements so that all final improvements will then meet said requirements.
- b. Where the proposed subdivision is a re-subdivision or concerns an area presently abutting or containing any existing public street of less than the minimum required right-of-way width or roadway width, land shall be dedicated so as to provide a minimum street right-of-way width established by these regulations, and the subdivider of such proposed subdivision shall provide an additional roadway pavement meeting the minimum standards set by these regulations.

SECTION 7-4 WAIVERS

7-401. The County Board is authorized to grant a waiver of any of the improvements required in this Article. Such waiver may be granted upon a finding of the County Board that the required improvement is either: (1) technically not feasible or (2) no valid public interest is served by requiring the improvement.

ARTICLE 8

IMPROVEMENT PROCEDURES

Sections:

- 8-1 General [Reserved for Future Use]**
- 8-2 Submission of Petitions for Improvements**
- 8-3 Final Improvement Plans**
- 8-4 Content of Engineering Drawings**
- 8-5 Review of Plans**
- 8-6 (Reserved)**
- 8-7 Construction of Improvements**
- 8-8 Construction Observation**
- 8-9 Construction Observation Procedures**
- 8-10 Final Inspection**
- 8-11 Report to Planning Commission and Board of County Commissioners**
- 8-12 Acceptance of Improvements**

SECTION 8-1 GENERAL [RESERVED FOR FUTURE USE]

SECTION 8-2 SUBMISSION OF PETITIONS FOR IMPROVEMENTS

8-201. If petitions are intended to be submitted to meet the requirements of Article 7, the subdivider shall so indicate at the time of submission of the preliminary plat. If the petition method is in accordance with current policies of the County Board, said petitions shall meet the requirements of Section 9-1, and shall be submitted to the County Board for review and action.

SECTION 8-3 FINAL IMPROVEMENT PLANS

8-301. In all other instances when petitions have not been authorized for submission, upon the approval of the preliminary plat, the subdivider shall have prepared by a licensed professional engineer, engineering drawings for proposed required improvements, containing the data and information specified in Section 8-4. Such drawings shall be certified by a licensed professional engineer, and shall be submitted in a number established by the Zoning Administrator.

SECTION 8-4 CONTENT OF ENGINEERING DRAWINGS

8-401. Engineering drawings for required improvements shall contain the following data and information.

- a. Plans, profiles, details, specifications and costs estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale ranging from one (1) inch equals twenty (20) to one (1) inch equals fifty (50) feet horizontal. The vertical scale shall be one-fourth (1/4th) the horizontal scale.
- b. Plans, profiles, details, specifications and detailed cost estimates of proposed storm drainage improvements, along with all appurtenant items of work.
- c. Plans, profiles, details, specifications and detailed cost estimates of proposed water distribution systems and proposed water distribution facilities, along with all fire hydrants, valve assemblies and other appurtenant items of work.
- d. Plans, profiles, details, specifications and detailed cost estimates of sewerage collection systems, along with all appurtenant items of work.
- e. All plans shall be based on County U.S.G.S. datum for vertical control.
- f. Grading plans for all lots and other sites in the subdivision.
- g. All plans for underground wiring shall be prepared by or at the direction of the utility involved.

SECTION 8-5 REVIEW OF PLANS

8-501. The County shall review all engineering drawings in order to determine whether such drawings are consistent with the approved preliminary plat and comply with design standards.

SECTION 8-6 (RESERVED)

SECTION 8-7 CONSTRUCTION OF IMPROVEMENTS

8-701. Except where such is otherwise expressly allowed under these regulations, no improvements shall be constructed nor shall any work preliminary thereto be done until such time as a final plat and the engineering drawings accompanying it shall have been approved by the County Board and there shall have been compliance with all of the requirements relating to an agreement, bond deposit or petition as specified in these regulations.

SECTION 8-8 CONSTRUCTION OBSERVATION

8-801.

All improvements constructed or erected shall be subject to construction observation by the County to determine compliance with the construction plans and County standards. The subdivider shall give at least two (2) business days' written notification to the Zoning Administrator prior to the performance of any of the following work:

1. All phases of roadway and sidewalk construction.
2. All phases of construction including, but not limited to, water lines, sanitary sewer lines, storm sewer, underground wiring and other required improvements.

SECTION 8-9 CONSTRUCTION OBSERVATION PROCEDURES

8-901. The County may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications. If such work does not comply with the approved engineering plans and specifications, the County shall order that all such work shall be terminated until necessary steps are taken to correct any defects, deficiencies or deviations.

SECTION 8-10 FINAL INSPECTION

8-1001. Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the County, which shall thereupon conduct a final inspection of all improvements installed.

SECTION 8-11 REPORT TO PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS

8-1101. When a final inspection or re-inspection indicates that all installed improvements contain no defects, deficiencies or deviations, the inspecting official shall, within ten (10) days of such final inspection, certify to the County Board that all improvements have been installed in conformance with the engineering plans and specifications accompanying the final plat. If the County Board determines, after consideration of such certification, that there are no defects, deficiencies or deviations in any such improvements as installed, the County Board shall so notify the subdivider in writing.

SECTION 8-12 ACCEPTANCE OF IMPROVEMENTS

8-1201. Upon the receipt by the County Board of the certificate that all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all other applicable statutes, resolutions and regulations, the County Board may thereupon by resolution formally accept such improvements. Upon acceptance, the improvements shall become the property of the County.

ARTICLE 9

GUARANTEE OF INSTALLATION OF IMPROVEMENTS

Sections:

- 9-1 Guarantee of Installation
- 9-2 Off-Site Improvements

SECTION 9-1 GUARANTEE OF INSTALLATION

9-101. In lieu of the actual construction of the physical improvements required and the completion of construction occurring prior to recording the final plat, the County Board may either (a) waive any requirement of guarantee of installation or (b) accept one of the following methods of guarantee provided it is in accordance with the policies of the County Board.

- a. Fiscal sureties may be offered subject to the following:
 - 1. The subdivider shall enter into a subdivider's agreement with the County Board under which the subdivider agrees to install such required improvements. Such agreement shall be conditioned upon the acceptances of the final plat by the County Board and its filing with the Linn County Register of Deeds.
 - 2. Simultaneously with the execution of the subdivider's agreement, the subdivider shall furnish a corporate completion bond by a firm authorized to do business in Kansas with good and sufficient sureties thereon or a cashier's check, escrow account or irrevocable letter of credit in favor of the County Board, in the amount of the estimated cost as approved by the official responsible for setting and enforcing the applicable design and construction standards of the installation of the required improvements. Such financial guarantee shall be conditioned upon the acceptance of the final plat and further conditioned upon the actual completion and satisfactory installation of such required improvements within two years from the date that the final plat is accepted by the County Board.
 - 3. Simultaneously with the execution of the subdivider's agreement, if the subdivider furnishes a corporate completion bond, he or she shall also deposit in escrow an amount equal to the cost of all improvements to be made in accordance with the plans and specifications for required improvements or an equivalent amount in the form of a maintenance bond or other securities that may be deemed sufficient by the County Board. If a subdivider furnishes a cashier's check, escrow account or irrevocable letter of credit, 15% of the amount of such guarantees shall be held as a deposit in escrow after the final completion of such improvements.

4. The subdivider shall agree that the deposit in escrow may be held by the County Board for a period of 18 months after such improvements are completed for the purpose of:
 - (a) Guaranteeing and securing the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the County Board; and
 - (b) Guarantee against any damage to such improvements by reason of the settling of the ground, base or foundation thereof.
 - (c) Such escrow agreement shall provide that, as such defects have so developed, that the deposit may be applied by the County Board for any amounts incurred correcting such defects; and that the balance of such deposit, if any, held at the end of such 18-month period shall be returned by the County Board to the depositor, or paid to the order of the depositor without payment of interest.
- b. Petitions to the County Board may be submitted as a means of guaranteeing the authority to install improvements at such time as the County Board deems appropriate. Petitions may be submitted only when the following conditions exist:
 1. The petitions must be brought in the manner set out under Kansas law.
 2. The petitions must be approved by the County Board concurrently with the acceptance of the final plat.
 3. The initiating resolution for such improvement must be adopted by the County Board concurrently with the petition approval or as soon thereafter as may be provided by law.
 4. A certificate signed by the petitioner must be recorded with the Linn County Register of Deeds stating that such petitions have been filed and approved by the County Board and that certain land within the plat as described will be liable in the future for special assessment for the required improvements authorized.
- c. The subdivider shall, prior to the acceptance of the final plat, submit a letter from the utility provider(s) involved stating that satisfactory arrangements have been made by the subdivider guaranteeing the installation of their respective services.
- d. Monuments and benchmarks shall be installed in accordance with the requirements of these regulations and their installation certified by a licensed land

surveyor on the final plat before such plat is recorded with the Linn County Register of Deeds.

SECTION 9-2 OFF-SITE IMPROVEMENTS

9-201. The County Board may, upon making a finding of necessity, require the subdivider to install or upgrade off-site improvements located outside the perimeter of a subdivision. Such off-site improvements should be within dedicated rights-of-way or easements and serve a public purpose. The financing and guaranteeing of such improvements shall be administered as if they were the same as on-site improvements. The County Board may require such subdivision to participate in any or all of the following facilities and improvements, or any other off-site improvements as recommended by the Planning Commission, if the need is created by a proposed subdivision and the requirement is within the lawful authority of the County:

- a. Drainage improvements and drainageways;
- b. Pedestrian ways;
- c. Screening and landscaping;
- d. Grading;
- e. Street improvements;
- f. Traffic control devices;
- g. Parks, recreational areas and open space;
- h. Public water supply and delivery system;
- i. Storm water sewerage; and
- j. Sanitary sewerage.

ARTICLE 10

RULE EXCEPTIONS

Sections:

10-1 Rule Exceptions

SECTION 10-1 RULE EXCEPTIONS

10-101.

- a. Whenever the Planning Commission deems full conformance to the standards and procedures of these regulations is impractical or impossible due to the size, shape, topographic location or condition, or other factor which affects a specific tract or subdivision or portion thereof, the applicant may request and the Planning Commission may recommend a rule exception of these regulations in the final plat. Such recommendation shall intend that substantial justice may be done and the public interest be secured. Such Planning Commission recommendation for authorization of rule exceptions shall be made by letter of transmittal to the County Board. In recommending such rule exceptions, the Planning Commission must find:
 1. That there are special circumstances or conditions affecting the property;
 2. That the exceptions are necessary for the reasonable and acceptable development of the property in question; and
 3. That the granting of the exceptions will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
- b. Such request for exception shall be approved or disapproved by the County Board after its consideration of the recommendation of the Planning Commission. The decision of the County Board shall be transmitted in writing to the applicant and the Planning Commission.

ARTICLE 11

LOT SPLITS

Sections:

- 11-1 Objective**
- 11-2 Approval of Lot Splits; Application Procedure**
- 11-3 Approval Guidelines**
- 11-4 Staff Review and Action**
- 11-5 Filing Fee**
- 11-6 Appeals**

SECTION 11-1 OBJECTIVE

11-101. The objective of this Article is to provide for the division of a tract of land or lot into not more than two buildable lots which meet the minimum size and area requirements for the zoning district in which said lots are located without having to comply with the platting requirements described in Article 6 of these Regulations. The new lots cannot, thereafter, be further subdivided without replatting. The Zoning Administrator may approve or disapprove lot splits in accordance with the requirements of this Article.

11-102. No building permit shall be issued for any structure to be located on a lot produced by a lot split until the lot split has been approved by the Zoning Administrator in accordance with the requirements of this Article.

SECTION 11-2 APPROVAL OF LOT SPLITS; APPLICATION PROCEDURE

11-201. Request for lot split approval shall be made by the owner of the land to the Zoning Administrator. Four (4) copies of a scale drawing of the lots involved if there are no structures thereon or, if structures are located on any part of the lot being split, four (4) copies of a survey of the lot and the location of the structure(s) thereon together with the precise nature, location and dimensions of the proposed lot split, shall accompany the application. The application shall provide a common description for the original lot and legal descriptions for each of the lots produced by the proposed lot split. Following a determination that the application meets the requirements of Section 11-3 the Zoning Administrator shall require a legal description certified by a registered land surveyor.

SECTION 11-3 APPROVAL GUIDELINES

11-301. The division of lots pursuant to this Article shall comply with applicable zoning laws, these Subdivision Regulations, and all other applicable regulations.

- a. No lot split shall be approved if any of the following applies:
 - 1. A new road, street or alley is needed or proposed.
 - 2. A vacation of roads, streets, alleys, setback lines, access control or easements is required or proposed.
 - 3. If such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.; or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
 - 4. There is less street right-of-way than required by these regulations or the Comprehensive Plan unless such dedication can be made by separate instrument.
 - 5. All easement requirements have not been satisfied.
 - 6. If such splits will result in a tract without direct access to a public street.
 - 7. A substandard sized lot or parcel will be created, unless a variance for the lot or parcel has been approved by the Board of Zoning Appeals.
 - 8. If the lot has been previously split in accordance with these regulations.
- b. The Zoning Administrator may make such additional requirements as deemed necessary to carry out the intent and purpose of existing land development regulations and policy. Requirements may include, but not be limited to, installation of public and dedication of right-of-way and easements.

SECTION 11-4 STAFF REVIEW AND ACTION

11-401. The Zoning Administrator shall, in writing, either approve with or without conditions or disapprove the lot split within thirty (30) days of application. If approved, and after all conditions have been met, the Zoning Administrator shall sign and furnish a certificate of approval to be affixed to the lot split survey, and a certified copy thereof shall be filed with the Linn County Register of Deeds, the official designated to issue building or occupancy permits, and a copy shall be furnished to the applicant.

SECTION 11-5 FILING FEE

11-501.

- a. The filing fee for lot split shall be in an amount as established by the County Board.

- b. Cost of recording documents, publications, writs, and engineering costs are payable in addition to filing fees. These costs will be billed to the applicant.

SECTION 11-6 APPEALS

11-601. Appeals of any determinations by the Zoning Administrator made pursuant to the provisions of this Article may be made by any aggrieved party to the Board of Zoning Appeals which may either approve or disapprove such determination.

ARTICLE 12

VACATIONS, CORRECTIONS, BOUNDARY LINE ADJUSTMENTS AND LOT MERGERS

Sections:

- 12-1 Review and Recommendation by Planning Commission
- 12-2 Vacation of Unrecorded Plat
- 12-3 Correction of Platting Errors
- 12-4 Vacation of Roads, Streets, Alleys, Easements and Plats
- 12-5 Boundary Line Adjustments, Lot Mergers

SECTION 12-1 REVIEW AND RECOMMENDATION BY PLANNING COMMISSION

12-101.

- a. Before any application for the vacation of any public right-of-way, road, street, alley, easement, plat, setback or access control shall be approved or recommended for approval by the County Board, the application shall be submitted to the Planning Commission for review and recommendation. Said recommendation shall include conditions which are appropriate to protect the best interests of the public, County Board and utilities. All vacation applications shall be submitted to the Utility Advisory Committee for review and comments prior to the Planning Commission taking action.
- b. The recommendation of the Planning Commission shall be submitted to the County Board. No vacation shall be recommended for approval unless it is established that no private rights will be injured or endangered by such vacation and that the public will suffer no loss or inconvenience by such vacation.
- c. All requests for vacations shall be accompanied by the name and mailing address of all record owners of property touching upon the property proposed to be vacated.
- d. An application for vacation shall be submitted to the Zoning Administrator and shall be accompanied by fees in the amounts established by the County Board.
- e. A written receipt shall be issued to the person(s) making such a payment and records thereof shall be kept in such a manner as prescribed by law. No fee shall be required when said application is submitted by any agency. No fee shall be refunded in the event of disapproval by the Planning Commission or County Board.

SECTION 12-2 VACATION OF UNRECORDED PLAT

12-201.

- a. Upon written request of the subdivider to the Planning Commission, a preliminary or final plat may be withdrawn from consideration either before or after approval by the Planning Commission.
- b. Upon written request of the subdivider to the Zoning Administrator, a final plat for which dedications, if any, have been accepted by the County Board may be vacated by motion of the County Board; provided, that (1) the plat has not been recorded; (2) no lots have been sold or transferred; and (3) no improvements have been installed. After the plat is vacated, the Zoning Administrator shall see that all fiscal sureties are returned to the subdivider except for those expenditures which have been incurred by the County in administrative, legal or engineering costs prior to the date of the request for vacation.

SECTION 12-3 CORRECTION OF PLATTING ERRORS

12-301. If, after recording a final plat, an error is found in distances, angles, bearings, subdivision road or street names, block or lot numbers, the computation of dimension or elevation or other details of the plat, except in connection with the outer boundaries of the plat, and if the property described in that part of the plat containing the error is under the ownership of the same person who caused the plat to be prepared, the County, after substantiation of the existence of the error, may file an affidavit with the Linn County Register of Deeds that the error was made. The affidavit shall describe the nature and extent of the error and the appropriate correction. The Linn County Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of filing and the book and page where it is recorded. The filing of the affidavit shall correct any errors, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto. A copy of the recorded affidavit shall be filed with the Zoning Administrator.

SECTION 12-4 VACATION OF ROADS, STREETS, ALLEYS, EASEMENTS AND PLATS

12-401.

- a. The following procedures are provided to vacate roads, streets, alleys or other public reservations such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, and including all or parts of recorded plats within unincorporated Linn County:
 1. Petitions for vacations received from the County Board, the owner of platted land or the owner of land adjoining on both sides of any street,

alley, easement or other public reservation may be filed with the Zoning Administrator.

2. The petition shall be reviewed by and comments submitted to the Planning Commission by the Utility Advisory Committee.
3. Following its receipt of the comments of the Utility Advisory Committee, the Planning Commission shall make a recommendation to the County Board as to whether the vacation should be approved or disapproved and with or without conditions attached. If the Planning Commission determines that:
 - (a) due and legal notice has been given;
 - (b) no private rights will be injured or endangered; and
 - (c) the public will suffer no loss or inconvenience;

then the Planning Commission shall recommend that such vacation be approved and entered at length in the minutes. Such recommendation may provide for the reservation to the County and/or the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities originally located in such vacated land or planned for the future. The petition shall not be recommended by the Planning Commission nor granted by the County Board if a written objection is filed with the County Clerk by any owner who would be a proper party to the petition, but has not joined therein. Furthermore, when only a portion of a street, alley or public reservation is proposed to be vacated, the petition shall not be recommended by the Planning Commission nor granted by the County Board if a written objection is filed with the County Clerk by any owner of lands which adjoin the portion to be vacated. The recommendation of the Planning Commission to the County Board shall be made as provided by state law for the submission and approval of a final plat, and the County Board may approve or disapprove the vacation or approve it with or without reservation of lesser easements than as recommended by the Planning Commission.

4. Following the approval of the vacation by the County Board, the County Clerk shall certify a copy of the order to the Linn County Register of Deeds.

SECTION 12-5 BOUNDARY LINE ADJUSTMENTS, LOT MERGERS

12-501. Objective. The objective of this article is to provide for the adjustment of boundaries or the merger of previously subdivided lots, tracts or parcels without having to comply with platting requirements as set forth in these regulations.

12-502. Authorization for Approval. The Zoning Administrator is hereby authorized to approve or disapprove the adjustment of one or more common boundaries between existing lots or the merger of two or more existing lots, provided that the resulting lots are in compliance with all applicable regulations. Or, where a nonconforming lot exists, the nonconforming lot is not made more nonconforming. The applicant may make appeals from a decision made by the Zoning Administrator to the Board of Zoning Appeals.

12-503. Application Procedure.

- a. The owner(s) of the land shall make request for boundary line adjustments or the merger of existing lots to the Zoning Administrator. The owner(s) shall submit four (4) copies of a Certificate of Survey, in the case of a boundary line adjustment; or a metes and bounds description of the perimeter boundaries in the case of a merger, prepared by a licensed surveyor or title company, along with the appropriate fee as established by the Board of County Commissioners.
- b. The Zoning Administrator shall submit, in writing, approval or disapproval of the boundary line adjustment or merger within thirty (30) days of receipt of the application. In the event of disapproval, the applicant(s) shall have thirty (30) days to perfect an appeal to the Board of Zoning Appeals.

12-504. Approval of Guidelines. The merger of two or more lots or the adjustment of the common property boundary between two or more lots shall comply with all applicable regulations. No lot merger or boundary line adjustment shall be approved where one of the following applies:

- a. A new street, road or alley is required except that additional easements or right-of-way be required for existing streets, roads or alleys.
- b. There is less street or road right-of-way than required by County unless such dedications can be made by separate instrument.
- c. Any holders of easements have not consented to the relocation or abandonment of the easement.
- d. Such lot resulting from the merger or boundary line adjustment will not have direct access to a public road or street.