

TABLE OF CONTENTS

ARTICLE	SECTION	TITLE	PAGE
1		TITLE AND PURPOSE	
	1-1	Title.....	1-1
	1-2	Purpose and Intent.....	1-1
	1-3	Jurisdiction.....	1-2
	1-4	Consistency with Comprehensive Plan.....	1-2
	1-5	Conversion of Existing Districts.....	1-2
2		RULES, INTERPRETATIONS AND DEFINITIONS	
	2-1	Rules and Interpretations.....	2-1
	2-2	Separability.....	2-3
	2-3	Definitions.....	2-4
3		DISTRICTS AND BOUNDARIES	
	3-1	District Classifications.....	3-1
	3-2	Zoning District Maps.....	3-1
	3-3	Rules Where Uncertainty May Arise.....	3-2
	3-4	Variances and Exceptions Required.....	3-3
	3-5	Violations Continue.....	3-3
	3-6	Exemptions from Regulations.....	3-4
4		INTENT OF DISTRICTS	
	4-1	A, Agricultural District.....	4-1
	4-2	R, Residential District.....	4-1
	4-3	R-LC, Residential Lake Community District.....	4-2
	4-4	CS, Countryside District.....	4-2
	4-5	MP, Manufactured Home Park District.....	4-2
	4-6	C, Commercial District.....	4-2
	4-7	I-1, Light Industrial District.....	4-2
	4-8	I-2, Heavy Industrial District.....	4-3
	4-9	P, Public Use District.....	4-3
	4-10	MU, Mixed Use District.....	4-3

ARTICLE	SECTION	TITLE	PAGE
5		AGRICULTURAL DISTRICT (A)	
	5-1	Intent.....	5-1
	5-2	Permitted Uses.....	5-1
	5-3	Conditional Uses.....	5-2
	5-4	Home Occupations.....	5-5
	5-5	Accessory Uses.....	5-5
	5-6	Height and Yard Regulations.....	5-5
	5-7	Minimum Lot Size.....	5-6
6		RESIDENTIAL DISTRICT (R)	
	6-1	Intent.....	6-1
	6-2	Residential Zoning District.....	6-1
	6-3	Permitted and Conditional Uses.....	6-1
	6-4	Home Occupations.....	6-3
	6-5	Intensity of Use.....	6-3
	6-6	Height and Yard Regulations.....	6-3
	6-7	Accessory Uses.....	6-4
	6-8	(Reserved for Future Use).....	6-4
	6-9	Parking Regulations.....	6-4
	6-10	Supplemental Regulations.....	6-4
	6-11	Removal and Relocation of Manufactured Homes.....	6-6
7		COUNTRYSIDE DISTRICT (CS)	
	7-1	Intent.....	7-1
	7-2	Permitted Uses.....	7-2
	7-3	Conditional Uses.....	7-2
	7-4	Accessory Uses.....	7-2
	7-5	Parking Regulations.....	7-3
	7-6	Height and Yard Requirements.....	7-3
8		RESIDENTIAL-LAKE COMMUNITY (R-LC)	
	8-1	Intent.....	8-1
	8-2	Permitted Uses.....	8-1
	8-3	Conditional Uses.....	8-1
	8-4	Accessory Uses.....	8-2
	8-5	Dimensional Standards.....	8-2
	8-6	Special Regulations.....	8-2

ARTICLE	SECTION	TITLE	PAGE
9		COMMERCIAL DISTRICT (C)	
	9-1	Intent.....	9-1
	9-2	Commercial Zoning District.....	9-1
	9-3	Permitted and Conditional Uses.....	9-1
	9-4	(Reserved for Future Use).....	9-4
	9-5	Height and Yard Regulations.....	9-4
	9-6	Development Standards.....	9-4
	9-7	Accessory Uses.....	9-4
	9-8	Parking Regulations.....	9-4
	9-9	(Reserved for Future Use).....	9-5
	9-10	Supplemental Regulations.....	9-5
	9-11	Travel Trailer Parks.....	9-5
10		MIXED USE DISTRICT (MU)	
	10-1	Intent.....	10-1
	10-2	Permitted Uses.....	10-1
	10-3	Conditional Uses.....	10-2
	10-4	Home Occupations.....	10-2
	10-5	Accessory Uses.....	10-2
	10-6	Height and Yard Regulations; Design Standards...	10-2
	10-7	Parking Regulations.....	10-3
	10-8	Minimum District Size.....	10-3
11		PUBLIC USE DISTRICT (P)	
	11-1	Intent.....	11-1
	11-2	Permitted Uses.....	11-1
	11-3	Parking Regulations.....	11-2
	11-4	Height, Area and Yard Regulations.....	11-2
	11-5	Accessory Uses.....	11-2

ARTICLE	SECTION	TITLE	PAGE
12		INDUSTRIAL DISTRICTS (I-1 AND I-2)	
	12-1	Intent.....	12-1
	12-2	Permitted and Conditional Uses.....	12-1
	12-3	Development Standards.....	12-3
	12-4	Height and Yard Regulations.....	12-4
	12-5	Parking Regulations.....	12-4
	12-6	Screening Requirements.....	12-4
13		MANUFACTURED HOME PARK DISTRICT (MP)	
	13-1	Intent.....	13-1
	13-2	Permitted Uses.....	13-1
	13-3	Conditional Uses.....	13-2
	13-4	Home Occupations.....	13-2
	13-5	Accessory Uses.....	13-2
	13-6	General Requirements.....	13-2
	13-7	Specific Requirements.....	13-3
	13-8	Application for Preliminary Approval.....	13-4
	13-9	Final Plan.....	13-6
	13-10	Deviation from Final Plan.....	13-6
	13-11	Discontinuance of Use	13-6
	13-12	Parking Regulations.....	13-6
	13-13	Visible Lot Numbers.....	13-6
14		SOLAR ENERGY CONVERSION SYSTEMS	
	14-1	Intent and Purpose.....	14-1
	14-2	Definitions.....	14-2
	14-3	Domestic SECS.....	14-2
	14-4	Commercial and Utility SECS; General Requirements for a SECS Conditional Use Permit	14-3
	14-5	Site Plan.....	14-6
	14-6	Construction Management Plan.....	14-7
	14-7	Buffer Plan.....	14-8
	14-8	Roads and Road Management Agreement.....	14-10
	14-9	Operation/Maintenance Plan.....	14-10
	14-10	Decommissioning Plan.....	14-11
	14-11	Final Development Plan.....	14-12
	14-12	Financial Agreement and Assurances.....	14-12
	14-13	Transfer of Conditional Use Permit.....	14-13

ARTICLE	SECTION	TITLE	PAGE
15		WIND ENERGY CONVERSION SYSTEMS	
	15-1	Intent and Purpose.....	15-1
	15-2	Definitions.....	15-1
	15-3	Domestic WECS.....	15-2
	15-4	Prohibited WECS.....	15-3
16		SUPPLEMENTAL DISTRICT REGULATIONS	
	16-1	General.....	16-1
	16-2	Height and Yard Regulations.....	16-1
	16-3	Number of Structures on a Lot.....	16-3
	16-4	Additional Use Requirements.....	16-3
	16-5	Screening for Commercial and Industrial-Zoned Property.....	16-10
	16-6	Temporary Uses.....	16-11
	16-7	Accessory Uses.....	16-13
	16-8	Accessory Uses; Additional Requirements in Residential Districts.....	16-15
	16-9	Fences.....	16-15
	16-10	Residential-Design Manufactured Housing Standards.....	16-16
	16-11	Building Setbacks.....	16-18
	16-12	Home Occupations.....	16-19
	16-13	Signs and Outdoor Advertising.....	16-21
	16-14	Accessory Dwelling Units or ADUs.....	16-21
	16-15	Shipping Containers.....	16-23
17		VESTED RIGHTS AND NONCONFORMITIES	
	17-1	General Provisions.....	17-1
	17-2	Nonconforming Lots of Record.....	17-1
	17-3	Nonconforming Structures.....	17-2
	17-4	Nonconforming Uses.....	17-2
	17-5	Nonconforming Manufactured Homes.....	17-4
18		OFF-STREET PARKING	
	18-1	Off-Street Parking.....	18-1
	18-2	Permanent Parking to be Provided.....	18-1
	18-3	Nonconforming Facilities.....	18-1
	18-4	Parking Spaces Provided.....	18-1
	18-5	Parking Requirements for Uses Not Specified	18-3

ARTICLE	SECTION	TITLE	PAGE
19		BOARD OF ZONING APPEALS AND ADMINISTRATIVE VARIANCES	
	19-1	Board Organization and Procedure.....	19-1
	19-2	Appeals.....	19-2
	19-3	Variances.....	19-2
	19-4	Exceptions.....	19-4
	19-5	Determination of Board.....	19-5
	19-6	Application for Board Hearings.....	19-5
	19-7	Public Hearing Required.....	19-7
	19-8	Performance Upon Grant of Variance or Exception.....	19-8
	19-9	Appeals from Board Decisions.....	19-8
	19-10	Administrative Variances.....	19-9
20		AMENDMENTS, REZONINGS AND CONDITIONAL USE PERMITS	
	20-1	General Authority and Procedure.....	20-1
	20-2	Table of Lesser Change.....	20-8
	20-3	Time of Performance in Rezoning.....	20-8
	20-4	Conditional Use Permits.....	20-9
	20-5	Fees for Rezonings and Conditional Use Permits.....	20-10
21		BUILDING PERMITS	
	21-1	Authority.....	21-1
	21-2	Conformance with Zoning Regulations.....	21-3
	21-3	Filing Procedure.....	21-4
	21-4	Staff Administration Procedures.....	21-4
	21-5	Vested Rights.....	21-4
	21-6	One Dwelling Unit Per Lot.....	21-4
	21-7	Number of Building Permits.....	21-5
	21-8	Zoning Administrator's Authority.....	21-5
	21-9	Appeals.....	21-5
	21-10	Filing Fees.....	21-5
	21-11	Enforcement.....	21-5
	21-12	Building Permit Validity.....	21-6

ARTICLE	SECTION	TITLE	PAGE
22		ENFORCEMENT, VIOLATION AND PENALTY	
	22-1	Enforcement.....	22-1
	22-2	Interpretation and Conflict.....	22-2
	22-3	Validity.....	22-2
	22-4	Repeal of Existing Regulations and Accrued Rights and Liabilities.....	22-2
	22-5	Penalties.....	22-2
	22-6	Effective Date.....	22-3
23		SITE PLANS	
	23-1	Intent.....	23-1
	23-2	Applicability.....	23-2
	23-3	Authority.....	23-2
	23-4	Filing Fee.....	23-2
	23-5	Submission Requirements.....	23-3
	23-6	Standard of Review.....	23-4
	23-7	Development Standards.....	23-4

**LINN COUNTY, KANSAS
TABLE OF FORMS
ZONING AND SUBDIVISION REGULATIONS**

**PROCEDURES MANUAL FOR THE
REGULATION OF LAND USE**

ZONING AND CONDITIONAL USE PERMIT FORMS:

1. Guide to Rezoning Land
2. Frequently Asked Zoning Questions
3. General Instructions for Completing an Application for Rezoning or Conditional Use Permit; Application for Change of Zoning; and Application for Conditional Use Permit
4. Application for change of Zoning
5. Application for Conditional Use Permit
6. Rezoning and Conditional Use Permit Review Checklist
7. How to Protest a Zoning Amendment (Rezoning) or Conditional Use Permit and Protest Petition

LAND DEVELOPMENT (SUBDIVISION) FORMS:

8. Guide to the Subdivision of Land
9. Application for Sketch Plat Approval and Sketch Plat Checklist
10. Application for Preliminary Plat Approval
11. Preliminary Plat Review
12. Application for Final Plat Approval
13. Checklist for Filing of Final Subdivision Plat
14. Final Plat Review

15. Final Plat - Planning Commission Action and Action by Planning Commission to Recommend Approval of Final Subdivision Plat by Board of County Commissioners
16. Performance Bond
17. Offer of Irrevocable Dedication

BOARD OF ZONING APPEALS FORMS:

18. Necessary Information to Accompany Applications to the Board of Zoning Appeals
19. Variance Application
20. Appeal Application

ADMINISTRATIVE FORMS:

21. Agenda for Public Hearing by the Planning Commission
22. Notice to Person in Violation of Zoning Regulations
23. Notice of Public Hearing on Intention to Pass Zoning Resolution and Amend Zoning Regulations Accordingly and Notice of Public Hearing Relating to Zoning Regulation Text Changes

MISCELLANEOUS FORMS

24. Lot Split
25. Application for Vacation of Street, Alley, Utility Easement or Subdivision

ARTICLE 1

TITLE AND PURPOSE

Sections:

- 1-1 Title**
- 1-2 Purpose and Intent**
- 1-3 Jurisdiction**
- 1-4 Consistency with Comprehensive Plan**
- 1-5 Conversion of Existing Zoning Districts**

SECTION 1-1 TITLE

1-101. These regulations, including the zoning district map incorporated herein, shall be known and cited as the “Zoning Regulations for Linn County, Kansas.”

SECTION 1-2 PURPOSE AND INTENT

1-201. These zoning regulations, adopted pursuant to Kansas law, are enacted for the purpose and intent of:

- a. Promoting and serving the public health, safety, morals, comfort and general welfare of the citizens of Linn County.
- b. Preserving and protecting property values.
- c. Creating zoning districts sensitive to the needs of the residents while protecting and enhancing the rural values of the County and encouraging as much non-agricultural development as possible to occur within the incorporated cities of the County.
- d. Encouraging and promoting agricultural development and productivity, and preserving and maintaining agricultural land, including the natural resources associated with the fertility and productivity of agricultural land, from the intrusion of uses which are incompatible, inconsistent, or which otherwise detract from, limit, restrict, or diminish agricultural productivity within Linn County.
- e. Conserving and protecting the natural resources of Linn County for the benefit and enjoyment of the residents of Linn County.
- f. Avoiding undue concentration of populations and preventing overcrowding in the use of land and community facilities.

- g. Providing adequate notice on subsequent changes to these regulations and an opportunity for interested parties to be heard.
- h. Facilitating the adequate provisions of transportation, water, sewage, schools, utilities, and other public improvements and services for the benefits of the residents of Linn County.
- i. Informing the public regarding future development in the County, thereby providing a basis for wise decisions with respect to such development.

1-202. In the development, execution, implementation and enforcement of the zoning regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable characteristics and effects, thereby requiring special regulation of these uses to ensure that these characteristics and effects will not contribute to the blighting or downgrading of the surrounding area.

SECTION 1-3 JURISDICTION

1-301. These Zoning Regulations shall apply to all land located within the unincorporated area of Linn County. Unless expressly provided for otherwise, these regulations shall apply to property owned by Linn County.

SECTION 1-4 CONSISTENCY WITH THE LINN COUNTY COMPREHENSIVE PLAN

1-401. It is the intent that these zoning regulations shall be consistent with the Linn County Comprehensive Plan and any community development policies adopted by the Board of County Commissioners.

SECTION 1-5 CONVERSION OF EXISTING ZONING DISTRICTS

1-501. The Zoning district map designations in effect prior to the effective date of these regulations are converted as follows:

<u>Previous Zoning Map Designations</u>	<u>New Map Designations</u>
A-Agriculture	A-Agriculture
R-1 Single Family Residential	R-Residential
AR-Agricultural/Residential	CS-Countryside
MHP-Manufactured Home Park	MP-Manufactured Home Park
HR-Highway Retail	C-Commercial
*	I-1 Light Industrial
I-2 Heavy Industrial	I-2 Heavy Industrial
*	P-Public
*	MU-Mixed Use
*	R-LC Residential Lake Community

ARTICLE 2

RULES, INTERPRETATIONS AND DEFINITIONS

Sections:

- 2-1 Rules and Interpretations
- 2-2 Separability
- 2-3 Definitions

SECTION 2-1 RULES AND INTERPRETATIONS

2-101.

a. Rules.

1. Meaning and Intent. All provisions, terms, phrases and expressions contained in these regulations shall be construed in accordance with the purposes of these regulations.
2. Text. In case of any difference of meaning or implication between the text of these regulations and any drawing or figure, the text shall control.
3. Delegation of Authority. Whenever a provision appears requiring the head of a department or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authority subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
4. Non-technical and Technical Words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
5. Public Officials, Bodies and Agencies. All public officials, bodies and agencies to which references are made are those of Linn County.
6. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
 - (a) Words used in the present tense shall include the future.

- (b) Words in the singular number include the plural number, and words in the plural number include the singular number.
- (c) Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

“And” indicates that all connected items, conditions, provisions or events shall apply; and

“Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.
- (d) The words “use,” “used,” “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.
- (e) The word “shall” is mandatory, and the word “may” is permissive.
- (f) The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
- (g) Unless otherwise specified, all distances shall be measured horizontally.

- 2. Any word or phrase which is defined in this article or elsewhere in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. “Legal holiday” includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate

county official or in the appropriate county office not later than 5:00 p.m. on the last day of the period as computed.

b. Interpretations.

1. **Minimum requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, morals and welfare.
2. **Overlapping or contradictory regulations.** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern unless otherwise excepted.
3. **Private agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
4. **Unlawful structures and uses.** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

SECTION 2-2 SEPARABILITY

2-201. It is hereby declared to be the intention of Linn County that the several provisions of these regulations are separable, in accordance with the following rules:

- a. If any court of competent jurisdiction shall adjudge any provisions of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

- b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure the judgment shall not affect the applicability of the provisions to any other property or structure.

SECTION 2-3 DEFINITIONS

2-301. For the purposes of these Regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Abut. Touching or contiguous; as distinguished from lying near to or adjacent. The term generally means the same as “adjoin” although different objects such as a lot and a street are said to abut while similar objects such as two lots are said to adjoin.

Accessory building. A subordinate building located on the same lot or groups of lots as a main building and which serves a function customarily incidental to the main use. Customary accessory buildings include detached garages, carports and small storage sheds.

Accessory dwelling unit or ADU. A separate dwelling unit, containing habitable space, bathroom(s) and a kitchen, within a single-family dwelling or a separate structure associated with a single-family dwelling on the same property. ADUs are permitted uses in the A, R, CS and MU zoning districts.

A ***detached*** ADU is either constructed within existing outbuildings, or is stand alone, where the ADU does not share a common wall with the primary dwelling unit. An ***attached*** ADU shares a common wall or floor/ceiling with the primary dwelling unit. Requirements for ADUs are set out in Section 16-14.

Accessory use. A subordinate use which serves an incidental function to that of, or which is customarily found in connection with, the main use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, barbecue ovens, air conditioners, fireplaces and satellite dishes.

Adjacent. Lying near or close to; sometimes contiguous; neighboring.

Adjoin. To touch or to be contiguous; as distinguished from lying near to or adjacent.

Agricultural use. The use of property for the production of plants, animals, or horticultural products, including but not limited to: forages; grains and feed

crops; dairy animals and dairy products; beef cattle; sheep; swine; poultry, and horses; bees and apiary products; trees and forest products; fruits, nuts, and berries; vegetables; or nursery, floral, ornamental, or greenhouse products. Land used for agricultural purposes shall **not** include the following:

- Land which is used for recreational purposes; residential suburban property; home sites and yard areas whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants listed above.
- The operation or maintenance of greenhouses, nurseries, or hydroponics farms operated at retail.
- Wholesale or retail sales as an accessory use except the seasonal retail sale of produce.
- The operation of auction sales yards.
- The operation of a bed and breakfast.
- The operation of junk, scrap, or salvage yards.
- The operation of kennels.
- The establishment of additional dwelling site for any purpose except as accessory dwellings for bona fide farm help employed on the premises.

Airport or heliport. Any landing area, runway or other facilities designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, tie-down areas, hangers, other necessary uses, and open spaces.

Alley. A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property the right-of-way of which is at least twenty feet (20') in width.

Alter or alteration. Any change, addition or modification in construction or use of a structure.

Amendment. The change or alteration to the Zoning Regulations in one of the following forms:

- a. A comprehensive revision or modification of the zoning text and/or maps.
- b. A text change in the zone requirements.
- c. The approval of a Conditional Use Permit as provided in these regulations.
- d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as a “rezoning”.

Animal clinic or hospital. Any building or structure designed for examination, observation, treatment, board or care of animals by a doctor of veterinary medicine.

Apartment. See ***Dwelling, multiple.***

Applicant. The owner of a tract of land, or his or her duly designated representative, for which an amendment has been requested. Consent shall be required from the legal owner of the premises if the applicant is other than the owner.

Architectural projections. Architectural features and accessories which are deemed desirable or necessary for the health or safety of the public, such as, but not limited to: cornice and eaves, architectural decorations (sills, pediments, etc.), ornamental columns (pillars, columns, moldings, etc.), entrance steps, decks, porches, balconies, permanent awnings and canopies, marquees, and bay windows. The term architectural projection, however, does not include any architectural feature which may be removed or retracted at will from the primary structure, such as a flag pole, retractable awnings, or gutter.

Attached. A foundation, wall, or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

Automotive service station. Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.

Automobile, truck and trailer sales and service. A building or premises used for the display and/or sales of new or used automobiles, trucks or trailers and where only incidental, minor repair work is performed.

Basement. That portion of a building that is partly or completely below grade plane for more than one-half of its perimeter. See ***Story.***

Bed and breakfast inn. A residential structure other than a hotel or lodging house, where for compensation and by pre-arrangement for definite short term periods, sleeping rooms and meals are provided for one or more persons who are guests at the inn.

Block. A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof.

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

Board of Zoning Appeals. The Board of Zoning Appeals established by these regulations.

Boarding house. See **Lodging house**.

Building. Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

Building, community. A building used and designed for social, educational, or recreational activities of a subdivision, mobile home park, neighborhood or community, providing such use is not for commercial gain.

Building, height. The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields the greater height.

- a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of a building when such sidewalk or ground surface is no more than ten (10) feet above the lowest grade.
- b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in paragraph (a) above is more than ten (10) feet above the lowest grade.

Building line. The exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of a proposed structure may be built, but shall not include the face of one story unoccupied gable roofed areas over open porches, entrances or like appendages.

Building, principal or main. A non-accessory building in which a principal use of the lot on which it is located is conducted.

Building, public. A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, hospitals and related medical facilities, law enforcement stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools.

Building setback line. A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected. See **Yard**.

Bulk regulations. Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling:

- a. Maximum height.
- b. Maximum lot coverage.
- c. Minimum size of yards and setbacks.

Canopy or Marquee. A structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or, a roof-like structure of permanent nature which projects from the wall of a structure and overhangs the public way.

Car wash. An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

Cellar. A story having more than one-half of its height below grade.

Cemetery. Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Channel. The geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water.

Child care facilities. See **Day care facilities.**

Church or place of worship. An establishment, the principal use of which is religious worship, but which may include accessory uses in the main structure or in separate buildings such as Sunday School rooms, child-care facilities, assembly rooms, kitchens, recreational facilities and libraries.

Club, class A. Premises owned or leased by a corporation, partnership, business trust or association and that is operated thereby as a bona fide nonprofit social, fraternal, or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them.

Club, class B. Premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for food, alcoholic beverages or entertainment.

Club or lodge. See *Fraternal, civic and social organizations*.

Common open space. An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as open space.

Comprehensive plan. The currently adopted Comprehensive Plan for Linn County.

Conditional use. A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses created after the effective date of these regulations are allowed only after public notice, hearing, and approval as prescribed in these regulations and may have special conditions and safeguards attached to assure that the public interest is served.

Conditional use permit. A written document of certification permitting the construction, alteration or establishment of a conditional use created after the effective date of these regulations.

Condominium. A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 *et seq.*) of the State of Kansas.

Contact water. Liquid, consisting primarily of precipitation, that has infiltrated through solid waste or has been in contact with solid waste for any period of time. Contact water shall include all runoff from an active area of a solid waste disposal area or processing facility and all liquid derived from a solid waste disposal area or processing facility.

Convalescent homes. See *Nursing homes, retirement homes* or *convalescent homes*.

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

Curb level. The officially established grade of the curb in front of the mid-point of the lot.

Day care facilities. Definitions for those of the following facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE) and the Kansas Department for Children and Families (DCF). Standards for such definitions may

be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

- a. **Adult day care home.** A facility for adults having some or all of the characteristics of homes for the elderly, whether operated for profit or not, which through its operation provides one (1) or more personal services for five (5) or more persons not related by blood or marriage to the owner or operator, for periods of time of less than twenty-four (24) hours. Personal services are in addition to housing and food service, and include but are not limited to: personal assistance with bathing, dressing, housekeeping, eating, supervision of self-administered medication, individual or group activities, and assistance in securing health care from appropriate sources.
- b. **Child care center.** A facility which provides care and educational activities for thirteen (13) or more children six (6) weeks to sixteen (16) years of age for more than three (3) and fewer than twenty-four (24) hours per day including daytime, evening and nighttime care; or which provides before and after school care for school-age children and licensed by the State as a child care center. A facility may have fewer than thirteen (13) children and be licensed as a center if the program and building meet child care center regulations as defined by the State of Kansas.
- c. **Day care home.** A home in which care is provided for a maximum of twelve (12) children in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a day care home.
- d. **Family day care home.** A home maintained for the purpose of providing children with day-care away from such children's homes, for fewer than twenty-four (24) hours a day, provided that not more than seven (7) children cared for at such place are under kindergarten age and not more than three (3) of the children cared for at such place are less than eighteen (18) months of age, or a maximum of ten (10) children under sixteen (16) years of age operated in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a family day care home.
- e. **Group day care home.** A home in which care is provided for a maximum of twelve (12) children under sixteen (16) years of age, in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a group day care home. (K.A.R. 28-4-114(f)(1).)
- f. **Preschool.** A day-care facility in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool which:

1. Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c), and any amendments thereto, and who are thirty (30) months of age or older.
2. Conducts sessions not exceeding three (3) hours per session;
3. Does not enroll any child in more than one (1) session per day; and
4. Does not serve a meal.

The term “preschool” shall include all educational preschools, nursery schools, church-sponsored schools, and cooperatives. A “preschool” may have fewer than thirteen (13) children and shall operate in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool.

Detached. A building that does not have a wall, roof or other structural member which is connected to and supported by the foundation, wall or roof of another building or structure.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Disability. Shall mean, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of such person’s major life activities; or
- b. Having a record of having such an impairment; or
- c. Being regarded as having such an impairment.

Such term does not include current illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. Sec. 802).

Distance. Horizontal distances unless otherwise designated.

District. A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

Dock (loading). A structure of which its height and primary purpose is to facilitate the loading and unloading of cargo and transportation vehicles.

Drainage course (water course). Any natural depression, draw or ravine which directs and facilitates the flow of water.

Drinking establishment. Premises licensed as a drinking establishment by the State of Kansas, open to the public and selling alcoholic liquor by the individual drink, for consumption on the licensed premises, in accordance with K.S.A. 41-2642 and amendments thereto. For purposes of these regulations a drinking establishment shall be regulated the same as a tavern.

Drive-in service. The service of food or other goods, services or entertainment where patrons remain in their motor vehicles which are parked in spaces provided on the premises for that purpose.

Drive-through service. Service where patrons are served through a window or other device while remaining in their motor vehicles and where products served to patrons are normally not consumed on the premises.

Duplex. The use of a lot for two principal dwelling units within a single building.

Dwelling. A building or portion thereof which is designed and used exclusively for residential purposes. Dwelling shall not include structures constructed or intended for use as shipping containers, whether originally as a transportation vehicle or as a separate structure.

Dwelling, multiple. A residential building having accommodations for and occupied by more than two (2) families, independently.

Dwelling, single-family. A residential building having accommodations for and occupied exclusively by one (1) family.

Dwelling, two-family. A residential building having accommodations for and occupied exclusively by two (2) families, independently.

Dwelling unit. One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by not more than one family, or a congregate residence for five (5) or fewer unrelated persons, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

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.

Engineer. The term engineer shall mean the Linn County Engineer. When the context so requires, engineer shall mean an engineer licensed by the State of Kansas.

Established building line. A building setback line generally parallel to the street right-of-way line established by existing principal buildings in a block.

Exception. An exception from a provision of these regulations, which may be granted by the Board of Zoning Appeals only when such exception is specifically authorized in these regulations.

Family. One or more persons related by blood, marriage or adoption, or pursuant to legal guardianship; living together as a single housekeeping unit; or a group of not more than five (5) unrelated persons living together as a single housekeeping unit in a dwelling unit.

Feed lot. The use of land for commercial livestock feeding operations where any number of livestock or poultry are confined in a concentrated area for the distinct purpose of meat, milk or egg production, where the livestock or poultry are fed at the place of confinement and crop or foliage is not sustained in the area of confinement. Also included are any feeding endeavors which are operated on a contract basis. Not included in this definition are farm feeding operations which are an agricultural endeavor used for personal need, income supplement, and are a seasonal operation. Also not included are pasturing and grazing operations.

Fence. A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials. A fence is not a structure unless it exceeds 80% visual blockage.

Flood plain. Consistent with definitions set by the Federal Emergency Management Agency, land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.

Floodway. The channel of a watercourse and that portion of the adjoining floodplain required to provide passage of a 100-year flood with an insignificant increase in flood stage above that of natural conditions.

Floodway fringe area. The area between the limits of the floodway and the floodplain of the 100-year flood.

Floor area. For the purpose of applying the requirements of off-street loading and parking based on "floor area," floor area shall mean the floor area used or intended to be used by tenants, or for the service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used for nonpublic

purposes such as storage, incidental repair, processing or packaging of merchandise, restrooms, utilities, kitchens, fitting or dressing rooms.

Floor area ratio. The relative comparison of building area to land area that is determined by dividing total floor area of all buildings on a platted lot or tract by the total area of the lot or tract.

Fraternal, civic and social organizations. A corporation, partnership, business trust or association which is nonprofit, which has been exempted from the payment of federal income taxes and for which the sale of alcoholic beverages to members and their guests may be allowed under the Class A club definition of the state statutes provided it is secondary and incidental to the promotion of some other common objective of the organization. Said organizations may include, but are not limited to the following: V.F.W., Eagles, Elks, Knights of Columbus, American Legion, Masonic Lodges and Moose Lodges.

Frontage. All the property on one side of a street between two (2) intersecting streets (crossing or terminatings) measured along the line of the street. Where a street is dead-ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead-end of the street.

Garage, private. An accessory building to residential uses designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is an accessory.

Garage, public. A building, or portion thereof, other than a private or storage garage, designed for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

Garage, storage. A building or portion thereof, designed or used exclusively for housing five (5) or more motor-driven vehicles.

Governing body. The Board of County Commissioners of Linn County.

Grade. A reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point(s) within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Group boarding home for minors. A residential dwelling unit for persons under 18 years of age who do not constitute a "family" as defined in this section, who for various reasons cannot reside in their natural home and where 24-hour adult care, supervision and consultation exists under license of the Kansas Secretary

of the Department of Health and Environment or the Secretary of the Department for Children and Families; provided, however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of “group home” as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered to be a “group boarding home for minors.”

Group home. Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, which is a physical or mental impairment as defined by K.S.A. 12-736, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home. Such a dwelling must be licensed as a group home by the Kansas Department for Children and Families or the Kansas Department of Health and Environment. See also **Large group home**.

Guest house. Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.

Highway. A thoroughfare controlled and/or maintained by the Kansas Department of Transportation (KDOT).

Home occupation. An accessory occupational use conducted entirely within a dwelling unit by the occupants thereof, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site.

Hospital. A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, pharmacies, out-patient departments, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

Hotel or motel. A building or structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin, motel or other type of lodging unit.

Improvements. Any structure, grading, street surface, curbs and gutters, sidewalks, bike-ways, cross-walks, water mains, sanitary sewers, storm sewers,

drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

Institution. A building occupied by a nonprofit corporation or nonprofit establishment for public use.

Intensity. The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.

Junk. Materials that include, but are not limited to: scrap copper, brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicles or parts thereof; iron; steel; or other old or scrap ferrous or nonferrous material or similar materials.

Junk yard. See ***Salvage yard.***

Kennel. Any place, area, building or structure where dogs (including those under one year of age) and other domesticated animals are boarded, housed, cared for, fed, or trained by other than the owner, or where more than four (4) domesticated animals, six (6) months of age or older, are kept for purposes of breeding, raising or as pets.

Laboratory, medical. An establishment which provides bacteriological, biological, medical, pathological and similar analytical or diagnostic services.

Landowner. The legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.

Landscape material. Such living materials as trees, shrubs, ground cover, vines, turf grasses, and non-living materials such as rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

Landscaped open space. That part of the net land area which is free of streets, structures, or parking areas and provided to improve the drainage and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas.

Landscaping. The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and

artificial objects designed and arranged to produce an aesthetically pleasing effect.

Large group home. A group home occupied by more than ten (10) residents, including staff.

Laundry (self-service). An establishment equipped with individual coin- and/or card-operated washing, drying and/or dry cleaning machines.

Laundry. An establishment where commercial laundry and dry cleaning work is undertaken.

Licensed provider. Shall mean a person or agency providing mental health services and licensed by:

- a. The Department of Social and Rehabilitation Services pursuant to K.S.A. 75-3307b or K.S.A. 65-425 et seq., and amendments thereto; or
- b. The Behavioral Sciences Regulatory Board pursuant to K.S.A. 75-5346 et seq. or K.S.A. 74-5301 et seq., and amendments thereto; or
- c. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

Loading or unloading space. An off-street space or berth, on the same tract and contiguous with the principle building or group of buildings for the temporary parking of commercial vehicles for loading and unloading of merchandise or materials.

Lodging house. A building other than a hotel or motel, where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided. Individual cooking facilities are not provided.

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. For the purposes of these regulations, a lot shall have a frontage upon a public street or road right-of-way.

Lot area. The area of a horizontal plane bound by the front, side and rear lot lines, excluding any road right-of-way or road easements. The total area within the property lines of a lot or tract.

Lot, corner. A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front upon that street on which it has its least dimension. A corner tract made up of more than one platted lot shall conform to all requirements established for a corner or other lot and shall be deemed to front

upon that street on which one or more of such platted lots, which would individually not be classified as corner lots, front.

Lot coverage. The total area of building expressed as a percentage of the total lot, plot or tract.

Lot, depth of. The horizontal distance between the front and rear lot lines measured at the mid-point between the two side lot lines.

Lot, double frontage. A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner lot.

Lot, interior. A lot whose side line or lines do not abut upon any street. An interior lot is a lot other than a corner or through lot.

Lot, key. A corner lot adjoining two or more non-corner (interior or through) lots.

Lot lines. The lines bounding a lot as defined herein.

Lot of record. A lot which is a part of a subdivision, which has been recorded in the office of the Register of Deeds of Linn County or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Linn County.

Lot split. The division of a single lot into not more than two (2) tracts without having to re-subdivide said lot.

Lot, through. A lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

Lot width. The mean horizontal distance between the side lot lines.

Lot, zoning. A parcel of land that is designated by its owner or developer at the time of applying for a building permit as one lot, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist of: (1) a single lot of record; or (2) a portion of a lot of record; or (3) a combination or complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

Manufacture. Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.

Manufactured home. A structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code,

established pursuant to 42 U.S.C. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term “manufactured home,” when used by itself, shall not include a “residential-design manufactured home” as defined in these regulations.

Manufactured home lot. A plot of ground for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.

Manufactured home park. An area, parcel, tract or plot of ground equipped as required by these regulations for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term manufactured home park does not include lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage or sale.

Manufactured home skirting. The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home. See also ***Residential design manufactured home***.

Manufactured home space. A plot of ground within a manufactured home park, which can accommodate one manufactured home and which provides the necessary utility services for water, sewerage, gas and electricity.

Manufactured home subdivision. Any area, piece, parcel, tract or plot of ground used or intended to be used primarily for the purpose of selling lots for occupancy by manufactured homes, and residential design manufactured homes.

Manufacturing. Any method of processing, developing, fabricating, or assembling, either raw materials, semi-finished materials, or parts into a semi-finished or finished product.

Manufacturing, light. Manufacturing which does not result in the emission of odor, dust, vibration, smoke, gas or noise offensive to the use and enjoyment of adjoining properties.

Medical, dental or health clinic. Any building designed for use by more than one person lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrist, podiatrists,

and in which no patients are lodged overnight, but which may include a pharmacy.

Minimum building elevation. The elevation to which uses regulated by these regulations are required to be elevated or flood proofed. This elevation would be equal to the elevation that could be reached by the 100-year flood if it occurred under the conditions existing at the time these regulations were adopted, plus one foot to allow for encroachments permitted by the establishment of a floodway.

Mobile home. A transportable, factory-built structure designed to be used as a year-round residential dwelling, which does not meet the standards or, or was built prior to enactment of, the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976. For purposes of these regulations a mobile home is not a manufactured home. Mobile homes are neither a permitted nor a conditional use under these regulations.

Modular home. A residential structure manufactured off-site and built to a nationally-recognized and accepted construction standard published by the Building Officials and Code Administrators International, Inc. (BOCA) or the International Conference of Building Officials (ICBO) that is inspected and certified at the factory so that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures, as is required of residential design manufactured homes under these regulations, and shall be permanently situated on a concrete foundation.

Motel. See *Hotel*.

Motor home. A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.

Motor vehicle. A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

Motor vehicle body shop. A building or premises used for vehicle body repair including painting.

Motor vehicle repair service. A building or premises used for the repair and servicing of motor vehicles excluding body and paint work.

Motor vehicle storage yard. A building or premises where operable, inoperable, abandoned, wrecked or junked vehicles are stored while awaiting final disposition.

Nonconforming lot of record. A lot, whether with or without improvements, which is part of a recorded subdivision or a parcel of land, the deed to which was

recorded prior to the adoption of subdivision regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located. See also ***Lot of record***.

Nonconforming structure. An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

Nonconforming use. An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

Nursing homes, retirement homes or convalescent homes. A building operated by an institution or agency licensed by the State of Kansas for the reception, board, care or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, or alcohol or narcotics addiction.

Overlay district. A district which acts in conjunction with the underlying base zoning district.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in the property.

Package liquor store. An establishment in which alcoholic beverages are sold for consumption off the premises.

Parcel. A lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

Parking lot. An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.

Parking space. Any area surfaced for all-weather use, with materials approved by these regulations, used for the purpose of storing one parked motor vehicle.

Permanent wall foundation. An exterior wall designed to resist frost action. The wall must be continuous around the perimeter of the structure, but may have such openings as required by any County-adopted building code. The wall must be designed as a footing and foundation wall and constructed in accordance with the County building code.

Permitted use. A use by right which is specifically authorized in a particular zoning district.

Pharmacy. A place or premises used for the preparation, compounding and dispensing of drugs, medicines, medical-surgical supplies and prosthetic devices.

Place or court. An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planning Commission or Area Planning Commission. The Linn County Planning Commission.

Plat. A map depicting the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof.

- a. **Plat, Final** means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.
- b. **Plat, Preliminary** means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

Porch. A roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosing features except roof supports, railing or screen wire.

Prime agricultural land or prime farmland. Linn County adopts the definition of prime farmland by the U.S. Department of Agriculture for purposes of these Regulations: Land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, and oilseed crops and is available for these uses. It could be cultivated land, pastureland, forestland, or other land but it is not urban or built-up land or water areas. The soil quality, growing season, and moisture supply are those needed for the soil to economically produce sustained high yields of crops when proper management and acceptable farming methods are applied. In general, prime farmland has an adequate and dependable supply of moisture, a favorable temperature and growing season, acceptable acidity or alkalinity, an acceptable salt and sodium content, and few or no rocks. Prime farmland is permeable to water and air. It is not excessively erodible or saturated with water for long periods. Slope ranges mainly from 0 to 6 percent.

Private club. An association organized and operated for profit or not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be served or sold to members and their guests

provided such service or sale of alcoholic beverages is in compliance with all federal, state and local laws.

Professional office. Any building or part thereof used by one or more persons engaged in the practice of a recognized profession, included but not limited to accounting, medicine and law.

Public utility. Any business of which the purpose is to furnish any of the following to the general public:

- a. Telephone and other telecommunication services.
- b. Telegraph service.
- c. Electricity.
- d. Natural gas.
- e. Water or stormwater control.
- f. Transportation of persons or property.
- g. Cable television.
- h. Sanitation control.
- i. Any other business so affecting the public interest as to be subject to supervision or regulation by a governmental agency.

Recreational vehicle. A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.

Rehabilitation home. A residential building which is used by an organized group licensed or regulated by the State of Kansas to supervise the rehabilitation of the individual occupants.

Residential design manufactured home. A manufactured home on a permanent wall foundation which has minimum dimensions of twenty-two (22) body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes, and that complies with the architectural and aesthetic standards specified in these Regulations. See **Permanent wall foundation**.

Restaurant. A public eating establishment except drive-ins in which the primary function is the preparation and serving of food on the premises.

Restaurant, drive-in. An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include a cafeteria.

Retirement homes. See **Nursing homes, retirement homes** or **convalescent homes**.

Safe house. A nonsecure facility providing 24-hour residential care for persons unrelated to the care givers. Emergency shelter and maternity care may be provided.

Sale, retail. The sale of goods, merchandise and/or commodities to the ultimate consumer.

Sale, wholesale. The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.

Salvage yard. A building or premise where junk, waste, three (3) or more inoperable motor vehicles, airplanes, boats and similar discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling.

School. Any public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.

Service, gas or filling station. A building or group of buildings and adjacent surfaced area where motor vehicles are or may be refueled and serviced. Self-service pumps without buildings shall also be included but such service shall not include tire recapping, body repair, major overhaul, or sale or rental of motor vehicles (including automobiles, trucks, trailers, mobile homes, campers) or similar uses.

Setback. The distance that is required to be maintained in an unobstructed state between a structure and the property line of the lot on which the structure is located.

Setback, front. A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Setback, interior side. A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Setback, rear. A setback that is to extend across the full width of a lot, the required depth of which is measured as the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot.

Setback, street side. A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is abutting a street or street right-of-way line, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Sexually oriented businesses. Any of the businesses defined at K.S.A. 12-770 as a “sexually oriented business” including but not limited to: adult bookstore, adult motion picture theater, nude model studio, and sexual encounter center. These businesses are conditional uses subject to the requirements of Section 16-410.

Sight distances. The area within which no sign, fence, wall, planting or other obstruction to vision shall be constructed, placed or maintained.

- a. No such obstruction above three feet (3') above the established street grade shall occur within the area of a corner lot between the lines of the intersecting streets and a straight line connecting them at points twenty feet (20') distant from the intersection of the lot lines.
- b. No wall or fence more than three feet (3') in height may project into or enclose any required front yard. Walls or fences of up to seven feet (7') in height may project into or enclose other required yards.
- c. An area comprising a triangle with legs of five feet (5') measured from the curbline shall be free from any visual obstruction at all points where alleys intersect with public streets.

Sign. Any sign, billboard or other device which shall display or include any letter, word, mode, banner, flag, pennant, insignia device or representation used as, or which is in the nature of an advertisement or announcement or which directs attention to an object, project, place, activity, person, institution, organization or business, but shall not include any display of official notice or flag, pennant, emblem or insignia or any nation or group of nations of any state, city or political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Signs will be regulated by Resolution 91-10 (Linn County Sign Regulations).

Sleeping room. A room within a residential structure which such room is used for one or more persons for sleeping purposes, and is without cooking facilities.

Solid waste. Garbage, refuse and other discarded materials including, but not limited to: solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include waste of domestic animals.

Solid waste convenience center. A public owned operation where solid wastes are taken by the public for collection. Wastes from these centers are then taken to the Linn County Transfer Station and then to a State-approved disposal site.

Solid waste disposal area. Any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations. Included in this definition are the terms Subtitle D Landfill, C & D landfill, hazardous waste landfill, tire monofill or any other similar activity. Not included in this definition are the terms junkyard or salvage yard.

Solid waste processing facility. An incinerator, compost plant, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored whether loaded or unloaded on property other than the site of origin, salvaged or otherwise processed prior to being transported to a final disposal site.

Storage area/storage yard. An off-street area used for the placement, keeping and storage of inoperable vehicles, vehicles awaiting repair, and parts thereof; building materials, supplies and equipment; trailers; heavy construction equipment and other motorized vehicles and equipment; but not for junkyard or salvage yard purposes.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above. If the finished floor level directly above a basement or unused underfloor space is six feet (6') or more above grade as defined herein for more than fifty percent (50%) of the total perimeter or is eight feet (8') or more above grade for a total lineal distance of twenty feet (20') or more, such basement or unused underfloor space shall be considered as a story.

Story above grade plane. Any story having its finished floor surface entire above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

- a. More than six (6) feet above grade plane.

- b. More than six (6) feet above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- c. More than twelve (12) feet above the finished ground level at any point.

Street. A right-of-way, dedicated to the public use, which provides principle vehicular and pedestrian access to adjacent properties.

Street line or street right-of-way line. A dividing line between a lot, tract or parcel of land and the contiguous street.

Street network.

- a. **Arterial.** A street or road which provides for through traffic movement between and around areas with very limited direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
- b. **Collector.** A street or road which provides for traffic movement between arterials and local streets, with limited direct access to abutting property.
- c. **Local.** A street or road which provides for direct access to abutting property and for local traffic movement whether in business, industrial or residential uses.

Structural alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any rebuilding of the roof or the exterior walls. For purposes of these regulations, the following shall not be considered a structural alteration:

- a. Attachment of a new front where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.
- c. New windows where lintels and support walls are not materially changed.
- d. Repair or replacement of nonstructural members.

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.

Subdivision. The division of a tract of land into one 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," as used herein, 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 subdivision of the same.

Subdivision regulations. The Linn County Subdivision Regulations, as adopted by the County Board and as amended from time to time.

Tavern. An establishment in which the primary function is the public sale and serving of cereal malt beverages for consumption on the premises. For purposes of these regulations a drinking establishment is a tavern.

Townhouse. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

Townhouse building. A grouping of two (2) or more townhouses.

Tract. A plot or parcel of land other than a lot in a subdivision which is recorded in the office of the Linn County Register of Deeds.

Trailer. Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motor power or other means. The term "Trailer" shall include recreational vehicles.

Trailer park. A tract of land containing sites for the overnight or short-term parking of two or more camping trailers. Camping trailers may be parked in a campground or camper park provided such camp area is in conformance with the codes and resolutions of Linn County.

Trailer, camping. A trailer, as defined above, and equipped with an enclosure for sleeping while on vacation or other trips of short duration. Such camping trailers may also contain cooking, bath, and sanitary equipment. Size and furnishing of such camping trailers may vary widely, but in no case shall they be considered structures for residential use of a permanent nature, for purpose of these regulations.

Travel trailer. A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

Use. The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

Use, principal. The main use of land or buildings as distinguished from a subordinate or accessory use. The principal use may be either a permanent or a special use.

Variance. A specific variation granted by the Board of Zoning Appeals from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of these regulations will, in an individual case, result in unnecessary hardship. Such variance, however, shall not permit any use not permitted by the regulations for such district.

Vehicle, inoperable. Any vehicle that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition which includes having uninflated tires, no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.

Vehicle, motor. Every vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled.

Vehicle, recreational. A unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet (8') and a body length not exceeding 40 feet. Units may have their own power, or be designed to be drawn or mounted on an automotive vehicle. Recreational vehicles shall include motor homes, travel trailers, truck campers, camping trailers, converted buses, house boats or other similar units as determined by the Zoning Administrator.

Wall. A barrier which encloses, or partially encloses, and which is built of any materials or combination of materials erected to enclose or partially enclose areas of land or portions of a structure.

Yard. A space on the same lot with a main building, open, unoccupied, and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in these regulations.

Yard, front. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the building setback line.

Yard, rear. A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. Where no rear lot

line exists, a line parallel to the front line shall be drawn, ten (10) feet in length between the side lot lines, and the required rear yard shall be measured from this line.

Yard, side. A yard between the main building and the side lot line, extending from the front lot line to the rear lot line.

Zone or district. A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space are herein established.

Zoning administrator. The person or persons authorized and empowered by the Board of County Commissioners to administer the requirements of these zoning regulations.

Zoning area. The area to be zoned as set out on the official zoning map filed of record.

Zoning map(s). The official zoning map for Linn County, as adopted by the Board of County Commissioners pursuant to K.S.A. 12-753.

Zoning regulations. The term zoning regulations or this or these regulations shall mean the “Zoning Regulations for Linn County, Kansas”.

ARTICLE 3

DISTRICTS AND BOUNDARIES

Sections:

- 3-1 District Classifications**
- 3-2 Zoning District Maps**
- 3-3 Rules Where Uncertainty May Arise**
- 3-4 Variances and Exceptions Required**
- 3-5 Violations Continue**
- 3-6 Exemptions from Regulations**

SECTION 3-1 DISTRICT CLASSIFICATIONS

3-101. To carry out and fulfill the purposes and intent of these regulations, the unincorporated real property within Linn County is hereby divided into the following districts:

“A”	Agricultural District
“R”	Residential District
“R-LC”	Residential-Lake Community District
“CS”	Countryside District
“C”	Commercial District
“MP”	Manufactured Home Park District
“I-1”	Light Industrial District
“I-2”	Heavy Industrial District
“P”	Public Use District
“MU”	Mixed Use District

SECTION 3-2 ZONING DISTRICT MAPS

3-201.

- a. The boundaries of the zoning districts established by these Zoning Regulations are shown on the map designated as the “Zoning Map of Linn County, Kansas”, which together with all legends, symbols, notations, references, district boundaries, and other information thereon, are adopted and incorporated by reference as part of these Zoning Regulations as fully as if it were set out herein in detail.
- b. Original copies of the Zoning Map, which shall constitute the official record, are maintained in the office of the Zoning Administrator. In case of any dispute regarding the zoning classification of property subject to these

Zoning Regulations, the map maintained by the Zoning Administrator shall control.

- c. Changes in the boundaries of any zoning district shall be reflected on the Zoning Map promptly upon approval of the amendment by the County Board. It shall be the responsibility of the Zoning Administrator to update the Zoning Map as amended by action of the County Board.
- d. If there is a difference, either real or apparent, between the Zoning Map adopted by these Zoning Regulations and previous zoning map(s), regardless of whether the real or apparent differences appear or are found to be the result of errors or omissions, the Zoning Map adopted with these Zoning Regulations shall prevail and establish the zoning for all real property.

SECTION 3-3 RULES WHERE UNCERTAINTY MAY ARISE

3-301. It is the intent of these regulations that every part of the unincorporated area of Linn County shall be included in one of the zoning districts established herein. The boundaries of the specific zoning districts are to scale on the zoning map and are to be interpreted by the corresponding measurements on the map. The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map.

- a. Whenever a lot is divided by a zoning district boundary, the zoning regulations applicable within each district shall apply equally to each portion of the lot situated in a separate district. The dimensions of the zoning district(s) on the lot shall be determined by scaled measurements of the zoning district boundaries on the Zoning Map.
- b. Where boundaries approximate blocks and lots, road, street and alley lines or other identifiable property or boundary lines, such lines shall be construed to be the district boundary. Where such boundaries are shown as being within road, street and alley lines or within identifiable rights-of-way or waterways, the centerline thereof shall be construed to be the district boundary.
- c. Where a district boundary divides an unsubdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.
- d. Map codes or symbols indicating the classification of property on the Zoning Map apply to the entire area within the district boundaries.

- e. Where a road, street, alley or right-of-way is lawfully vacated or abandoned, the zoning designation of the abutting property shall apply to the centerline of the vacated or abandoned road, street, alley or right-of-way.
- f. Should any uncertainty remain about the location or meaning of a boundary indicated on the Zoning Map, the uncertainty shall be resolved by the Zoning Administrator, whose decision may be appealed to the Board of Zoning Appeals.

SECTION 3-4 VARIANCES AND EXCEPTIONS REQUIRED

3-401. Except as hereinafter provided for by variance or exception granted by the Board of Zoning Appeals as specifically authorized by these regulations or as provided for under Article 17 regarding lawful nonconformance:

- a. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
- b. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.
- c. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.
- d. The minimum yards and other open spaces required by these zoning regulations for each and every building existing at the time of passage of these zoning regulations or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of these zoning regulations.

SECTION 3-5 VIOLATIONS CONTINUE

3-501. Violations Continue. Any violation of previous County zoning or subdivision regulations shall continue to be a violation under these regulations and shall be subject to penalties and enforcement, unless the use, development, construction or other activity is consistent with the express terms of these regulations, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of these regulations.

SECTION 3-6 EXEMPTIONS FROM REGULATIONS

3-601. The following are exempt from the restrictions imposed by these regulations:

- a. All building, land, structures and accessory uses having an agricultural purpose and not otherwise. K.S.A. 12-758(b).
- b. All buildings, land, structures and uses of any railroad in conjunction with its corporate purpose.

ARTICLE 4

INTENT OF DISTRICTS

Sections:

4-1	“A”	Agricultural District
4-2	“R”	Residential District
4-3	“R-LC”	Residential-Lake Community District
4-4	“CS”	Countryside District
4-5	“MP”	Manufactured Home Park District
4-6	“C”	Commercial District
4-7	“I-1”	Light Industrial District
4-8	“I-2”	Heavy Industrial District
4-9	“P”	Public Use District
4-10	“MU”	Mixed Use District

SECTION 4-1 “A” AGRICULTURAL DISTRICT

4-101. It is the intent of the A District to preserve and protect agricultural uses and resources by regulating density and land use. The A District’s intent is to protect land used for agricultural purposes, especially prime farmland, from the depreciating effects of hazardous, incompatible and unsightly uses. The A District is also intended to protect watersheds and water supplies; to protect forested and scenic areas; and to conserve fish and wildlife habitat. As the A District comprises the great majority of the unincorporated area of the County, it will maintain the rural character of the County with respect to its landscape, open spaces, scenery, peace, tranquility and solitude. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage. Intense urban usage is usually premature and undesirable in the A District, due to lack of infrastructure. Uses within this district are mostly related to agricultural activities. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses.

SECTION 4-2 “R” RESIDENTIAL DISTRICT

4-201. The intent of the R District is to provide primarily for one-family dwellings with accommodation for two-family dwellings, accessory dwelling units, and related residential uses such as churches and certain public uses which tend to be located at the edge of higher density, and more centrally located residential areas. The district is intended to accommodate a low population density for

specified types of dwelling units on large to medium sized lots with emphasis on adequate open space around buildings.

SECTION 4-3 “R-LC” RESIDENTIAL-LAKE COMMUNITY DISTRICT

4-301. The intent of the R-LC District is to establish a district that recognizes the lake lots previously created and to maintain overall densities and development standards historically contained within the lake communities existing at the effective date of these regulations. The R-LC District is not to be used for the creation of additional lots of a similar nature unless adjoining lots already zoned R-LC.

SECTION 4-4 “CS” COUNTRYSIDE DISTRICT

4-401. The intent of the CS District is to provide area to accommodate a rural residential lifestyle, with limited future residential development which will provide adequate open space even after full development. The district is intended for one-family detached dwellings, accessory dwelling units, duplexes and limited related residential and agricultural uses.

SECTION 4-5 “MP” MANUFACTURED HOME PARK DISTRICT

4-501. The intent of the MP District is to provide manufactured home park developments which are compatible with the character of the surrounding neighborhood in which they are located. Manufactured home parks are residential uses and should be located in areas where services and amenities are available such as those found in areas comprised of site-built housing. This district is intended for those areas where the owner proposes to develop and rent or lease individual manufactured home sites.

SECTION 4-6 “C” COMMERCIAL DISTRICT

4-601. The intent of the C District is to allow basic retail, service and office uses located at specific points on major streets and highways. This district is also intended to encourage commercial activities to locate along the US-69 corridor.

SECTION 4-7 “I-1” LIGHT INDUSTRIAL DISTRICT

14-701. The intent of the I-1 District is primarily to provide locations for those manufacturing industries and related industrial activities in which the production performance of the manufacturing industries characteristically produces a

finished product which is generally produced from semi-finished materials and requires little or no outside material storage. The effect of the production process upon surrounding areas is normally that of traffic generated by the receipt and delivery of materials and goods and traffic generated by employees. The district is not intended to create obnoxious noise, glare, dust or odor or create intensive lot or land coverage. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees.

SECTION 4-8 “I-2” HEAVY INDUSTRIAL DISTRICT

4-801. The intent of the I-2 District is to provide locations for basic or primary industries and related industrial activities where there is existing or planned infrastructure adequate to support such activities. Many of these industries characteristically store bulk quantities of raw or scrap materials for processing to semi-finished products. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees. Certain intensive, and obnoxious or hazardous, uses are allowed only upon the issuance of a conditional use permit.

SECTION 4-9 “P” PUBLIC USE DISTRICT

4-901. The intent of the P District is to provide locations for public ownership that are used for major public facilities, such as a courthouse, schools, parks and other recreational areas.

SECTION 4-10 “MU” MIXED USE DISTRICT

4-1001. The intent of the MU District is to encourage compatible mixed use residential and commercial uses of low to moderate intensity.

ARTICLE 5

AGRICULTURAL DISTRICT (A)

Sections:

- 5-1 Intent**
- 5-2 Permitted Uses**
- 5-3 Conditional Uses**
- 5-4 Home Occupations**
- 5-5 Accessory Uses**
- 5-6 Height and Yard Regulations**
- 5-7 Minimum Lot Size**

SECTION 5-1 INTENT

5-101. It is the intent of the A District to preserve and protect agricultural uses and resources by regulating density and land use. The A District's intent is to protect land used for agricultural purposes, especially prime farmland, from the depreciating effects of hazardous, incompatible and unsightly uses. The A District is also intended to protect watersheds and water supplies; to protect forested and scenic areas; and to conserve fish and wildlife habitat. As the A District comprises the great majority of the unincorporated area of the County, it will maintain the rural character of the County with respect to its landscape, open spaces, scenery, peace, tranquility and solitude. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage. Intense urban usage is usually premature and undesirable in the A District, due to lack of infrastructure. Uses within this district are mostly related to agricultural activities. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses.

SECTION 5-2 PERMITTED USES

5-201. In the A District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:

- a. Single-family dwellings and Accessory Dwelling Units where the land is used or intended to be used only for agricultural purposes except that the tract on which the dwellings may be placed shall not be less than ten (10) acres.

- b. Public parks and recreation areas.
- c. General agricultural operations.
- d. Golf courses, except miniature, pitch and putt golf courses, and driving tees operated for commercial purposes.
- e. Greenhouses, nurseries and garden centers.
- f. Stands for the sale, at retail, of agricultural products or commodities raised on the premises.

SECTION 5-3 CONDITIONAL USES

5-301. In the A District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 20 of these regulations:

- a. Airports and heliports.
- b. Any public building or land used by any department of the county, state or federal government.
- c. Cemeteries, crematories or mausoleums.
- d. Churches and similar places of worship.
- e. Commercial agricultural product storage facilities (elevators) when no other business is operated in combination with said storage.
- f. Commercial development of natural resources and commercial extraction of raw materials such as rock, gravel and sand.

At the time an application is made for a conditional use, the applicant shall submit a general plan for restoration of the area to be excavated or to be used in any way as part of the operations. A conditional use permit shall be required for all new or expanded operations or reopening of previously abandoned operations. Information to be submitted with the application includes the following:

- 1. A plan showing the boundary of the entire tract, vehicular access routes and surfacing, prevailing wind directions, existing and proposed road rights-of-way, easements, water bodies, mining areas and proposed fencing.

2. A general plan of operation, including blasting hours, removal plan and hours of operation.
 3. A plan showing the finished topography of the restored areas including grades and slopes.
 4. A plan, with timelines, for restoring the various excavation pits and overburden. Such plan shall indicate vegetative cover to be used in restoration.
 5. A general description of the methods and materials proposed to provide for continuing future use.
- g. Exploration and extraction of oil and natural gas.
- h. Kennels provided that:
1. The minimum lot size shall be not less than ten (10) acres.
 2. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property lines.
 3. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage, solid masonry, brick or stone wall, louvered wood, stockade or chain-link fence with aluminum strip intertwined or other equivalent fencing, providing an effective sight barrier to the dogs.
- i. Privately owned parks, playgrounds, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- j. Public or parochial schools, elementary, junior high, high schools and private schools with equivalent curriculum.
- k. Radio, telephone or television transmitters and towers, subject to additional regulations set out at Article 16.
- l. Salvage yards, subject to the following:
1. The yard must be located at least three hundred (300) feet from the boundary of any residential district.

2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall at least six and one-half (6 1/2) feet high. The fence or wall, having a visual density of at least ninety (90) percent, shall be of uniform height, uniform texture and color, and shall be so maintained by the operator as to ensure maximum safety to the public and obscure the salvage material from view of the public. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
 3. No salvage material shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence, or wall or within the public right-of-way.
 4. Burning of waste materials shall be permitted only in accordance with applicable county, state and federal laws and regulations.
- m. Telephone exchange, electric substations, cable television, or similar public utilities.
- n. Theaters, motion picture, outdoor.
- o. Temporary uses or uses of a temporary nature, such as portable auto shredders and balers, subject to the following requirements:
1. Said temporary use shall be located at least three hundred (300) feet from a residential district (R, R-LC, CS, MP).
 2. The routing and movement of trucks or similar heavy vehicles which are necessary to the operation of said use shall be on streets, roads or highways designated by the County Board as capable for carrying the loads imposed by such vehicles.
 3. Accumulation of trash, junk or other waste materials generated as part of such use shall be disposed of daily.
 4. The applicant shall demonstrate that satisfactory provisions have been made for fire protection, police protection, safety and site drainage.

5. Upon termination of the temporary use, the site shall be cleared of improvements and debris not conforming with uses permitted in the A zoning district and the County Board may require a bond guaranteeing the removal of the improvements.
 6. Approval of a temporary use may be granted by the County Board for up to twelve (12) consecutive months. Upon conclusion of the twelve-month period, the County Board may grant an extension, upon holding a public hearing, not to exceed twelve (12) additional consecutive months. Should the County Board deny an extension of time, the operation shall cease and the site shall be cleared of improvements and debris within ninety (90) days from the time of termination.
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- p. Veterinarian clinic or animal hospital for large or small animals, including livestock.
 - q. Municipal waste disposal sites, subject to all required governmental permitting and certification.
 - r. Duplexes.
 - s. Commercial solar energy conversion systems, subject to the requirements of Article 14.
 - t. Bed and breakfast inns.

SECTION 5-4 HOME OCCUPATIONS

5-401. Regulations relating to home occupations in the A District are set out in Article 16, at Section 16-12.

SECTION 5-5 ACCESSORY USES

5-501. Regulations relating to accessory uses in the A District are set out in Article 16, at Section 16-7.

SECTION 5-6 HEIGHT AND YARD REGULATIONS

5-601. No non-agricultural building in the A District shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 16.

5-602. Front yard.

- a. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 16.
- b. There shall be a front yard having a depth of not less than thirty (30) feet or the established building line as defined in Article 16, except as required in a. above.
- c. No non-agricultural accessory building shall project beyond the front building setback line of any lot.

5-603. Side yard. Except as otherwise provided in Article 16, there shall be a side yard of not less than eight feet (8') on each side of a building.

5-604. Rear yard. Except as otherwise required in Article 16 there shall be a rear yard having a depth of not less than thirty feet (30') or twenty (20) percent of the depth of the lot, whichever amount is smaller.

SECTION 5-7 MINIMUM LOT SIZE

5-701. Following the effective date of these regulations, no parcel, lot or tract of land less than ten (10) acres in area shall be zoned as A District.

ARTICLE 6

RESIDENTIAL ZONED DISTRICT

Sections:

- 6-1 Intent**
- 6-2 Residential Zoning District**
- 6-3 Permitted and Conditional Uses**
- 6-4 Home Occupations**
- 6-5 Intensity of Use**
- 6-6 Height and Yard Regulations**
- 6-7 Accessory Uses**
- 6-8 (Reserved for future use)**
- 6-9 Parking Regulations**
- 6-10 Supplemental Regulations**
- 6-11 Removal and Relocation of Manufactured Homes**

SECTION 6-1 INTENT

6-101. It is the intent of the R-residential zoning district to provide for areas of low density residential development for site-built dwellings, modular dwellings and residential-design manufactured homes. Single-wide manufactured homes, mobile homes, travel trailers and recreational vehicles are not permitted uses in the R District except where expressly provided otherwise.

SECTION 6-2 RESIDENTIAL ZONING DISTRICT

6-201. The following residential zoning district is hereby created: R-residential.

SECTION 6-3 PERMITTED AND CONDITIONAL USES

6-301. In the R-residential zoning district the uses listed in Table 6-1 are permitted uses or conditional uses. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 20. No building or land shall be used and no building or structure shall be hereafter erected, enlarged or altered unless otherwise provided for in these zoning regulations, except as listed in Table 6-1.

TABLE 6-1
Residential Zoned District
Permitted and Conditional Uses

P = Permitted Uses **C** = Conditional Uses

USE		R-1
1.	Any public building or land use by any department of the City, County, state or federal government.	C
2.	Bed and breakfast inns.	C
3.	Churches and similar places of worship	P
4.	Community recreation building owned and operated by a public agency.	C
5.	Day care facilities: adult day care homes, child care centers, day care homes, family day care homes, group day care homes and preschools.	P(1) C(3)
6.	Dwellings: a. Single family and accessory dwelling units b. Two family	P C
7.	Fraternal organizations, lodges.	C
8.	Golf courses.	P(3)
9.	Group boarding homes for minors.	C
10.	Group homes.	P(2)
11.	Hospitals and related medical facilities including, but not limited to, medical, dental and health clinics.	C
12.	Large group homes.	C(1)
13.	Lodging houses.	C
14.	Nonprofit institutions of an educational, philanthropic or eleemosynary nature.	C
15.	Nursing homes, rest homes, convalescent homes and similar facilities.	C
16.	Rehabilitation houses.	C(2)
17.	Safe houses.	P
18.	Schools: a. Public and private elementary b. Public and private secondary c. Post-secondary educational institutions	P C C
19.	Telephone exchanges, electric substations and similar public utilities.	C

TABLE 6-1
Residential Zoned District

Permitted Uses Footnotes:

- (1) When having twelve (12) or fewer children or twelve (12) or fewer adults for whom care is provided.
- (2) When having eight (8) or fewer residents plus no more than two (2) staff.
- (3) Excluding miniature golf and pitch and putt courses and commercially operated golf driving ranges.

Conditional Uses Footnotes:

- (1) For facilities having more than ten (10) residents, including staff.
- (2) If property contains at least 500 sq. ft. of ground lot area per occupant.
- (3) For facilities having thirteen (13) or more children or thirteen (13) or more adults for whom care is provided.

SECTION 6-4 HOME OCCUPATIONS

6-401. Home occupation regulations for the R-residential district are set out in Article 16, Section 12.

SECTION 6-5 INTENSITY OF USE

6-501. Every dwelling structure erected, enlarged, relocated or reconstructed in the residential district shall be upon lots or tracts containing the following minimum areas measured in square feet per dwelling unit.

**TABLE 6-2
MINIMUM LOT AREAS, PER DWELLING UNIT**

Use		R
1.	Single-family dwelling	6,000
2.	Two-family dwelling	4,000

Additional requirements:

Maximum lot coverage by principal buildings shall not exceed forty percent (40%). The combined floor area of all accessory buildings constructed in accordance with these regulations shall not exceed twenty-five percent (25%). Where a lot has less area than required in Table 6-2 and was in existence as a separate legal lot prior to the effective date of these regulations, the provisions in Article 17 for nonconforming lots will govern.

SECTION 6-6 HEIGHT AND YARD REGULATIONS

6-601. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

6-602. Yard Regulations. Front, side and rear yards shall conform with Table 6-3.

**TABLE 6-3
MINIMUM YARD REGULATIONS**

District	Front (feet)	Side (1) (feet)	Rear (2) (feet)
R-1	15	6	20

Footnotes:

(1) Where a lot is located at the intersection of two or more streets, there shall be a setback from the side street of the lot of one-half of the required front yard setback; except that when lots have been platted facing said side street, the setback from the side street shall be no less than five (5) feet less than the required front yard setback of the lots platted on the same street.

(2) Or twenty percent (20%) of the depth of the lot whichever is less.

6-603. Additional yard regulations are set out in Article 16.

SECTION 6-7 ACCESSORY USES

6-701. All accessory uses or structures shall be located in the side and/or rear yard only.

6-702. Regulations relating to accessory uses and structures are set out in Article 16.

SECTION 6-8 (Reserved for future use)

SECTION 6-9 PARKING REGULATIONS

6-901. Parking regulations for the R-residential district are set out in Article 18.

SECTION 6-10 SUPPLEMENTAL REGULATIONS

6-1001. Additional supplemental regulations for the R-residential district are set out in Article 16.

6-1002. Zero Lot Line.

- a. The zero lot line concept is where a single or two (2) family dwelling has one exterior wall on or within one foot of a side property line and the remaining side yard is double the normal side yard required by district regulations. Zero lot line developments may be built under the following conditions:
 - 1. When submitted as part of a new subdivision plat or an amendment to an existing subdivision and each lot to be developed using the zero lot line concept is so designated showing which lot line is the zero lot line.
 - 2. On an existing lot in a partially developed subdivision when submitted to and approved by the Board of Zoning Appeals as a variance under Article 19 of these regulations.
- b. On any lot approved for the zero lot line concept, the following stipulations shall apply:
 - 1. A maintenance easement of at least four (4) feet in width shall be provided and recorded on the property adjoining the designated zero lot line.
 - 2. There shall be no door or window openings on the side of the house which is built on the zero lot line.
 - 3. No portion of a roof, gutter or other part of the structure shall project past the zero lot line and all roof drainage will be installed so as to keep all run-off water off of the adjoining property.
 - 4. If an owner or builder does not build on a designated zero lot line, the double side yard must still be observed.

6-1003. No existing, non-conforming manufactured home or mobile home shall be used for any purpose other than as a residential dwelling.

6-1004. No manufactured home or mobile home shall be attached to or connected to any other manufactured home or mobile home, or to any other structure or building.

SECTION 6-11 REMOVAL AND RELOCATION OF MANUFACTURED HOMES

6-1101. The removal and relocation of nonconforming manufactured homes, other than residential-design manufactured homes, shall be governed by the provisions of Article 17, Section 5 of these regulations.

ARTICLE 7

COUNTRYSIDE DISTRICT (CS)

Sections:

- 7-1 Intent**
- 7-2 Permitted Uses**
- 7-3 Conditional Uses**
- 7-4 Accessory Uses**
- 7-5 Parking Regulations**
- 7-6 Height and Yard Requirements**

SECTION 7-1 INTENT

7-101. The “CS” Countryside District is intended to provide a rural residential lifestyle where residents have adequate open space by which to preserve that character even after the area becomes fully developed in accordance with this Article. To that end the district is particularly suited for cluster subdivisions.

The district is also intended to allow for limited future single-family residential development without encouraging the premature loss of open space or the loss of land used for agricultural purposes. While intended primarily to be used for lands close to incorporated areas, CS zoning classification may also be used for other unincorporated areas.

7-102. Following the effective date of these regulations, to be eligible for zoning classification as Countryside, it is intended that land should be considered on a section (640 acres) basis. CS zoning is discouraged except for property in sections of land which: (1) were comprised of 16 or more tracts, parcels or lots, and each conforming to the relevant zoning regulations and subdivision regulations in effect prior to the effective date of these regulations and (2) have a minimum of three miles of public roads through or abutting the section. Land which does not itself meet the above criteria, but which adjoins sections of land zoned Countryside, may also be zoned Countryside.

7-103. New lots shall be created within the Countryside District only if five (5) or more acres in size.

SECTION 7-2 PERMITTED USES

7-201. In the Countryside District no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following uses:

- a. Agricultural purposes.
- b. Grain storage structures.
- c. One-family dwellings and Accessory Dwelling Units.
- d. Subdivisions for one-family dwellings, with preference for cluster subdivisions.
- e. Public parks, playgrounds and recreation areas.
- f. Cemeteries and mausoleums.

SECTION 7-3 CONDITIONAL USES

7-301. In the CS District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 20:

- a. Greenhouses, nurseries and garden centers.
- b. Veterinarian clinic or animal hospital for large or small animals, including livestock.
- c. Daycare facilities, including adult daycare homes, child care centers, daycare homes, family daycare homes, group daycare homes and preschools.
- d. Churches and similar places of worship.
- e. Duplexes.

SECTION 7-4 ACCESSORY USES

7-401. Regulations relating to accessory uses and structures in the CS District are set out in Article 16.

SECTION 7-5 PARKING REGULATIONS

7-501. Two (2) off-street parking spaces shall be provided for each dwelling unit.

7-502. Additional parking requirements are contained in Article 18 of these regulations.

SECTION 7-6 HEIGHT AND YARD REQUIREMENTS

7-601. Height: Buildings or structures other than those actually used for agricultural purposes shall not exceed 35 feet and/or two and one-half (2 1/2) stories in height.

7-602. Minimum dimensions of yards shall be as follows:

- a. Front Yard. 60 feet from the center of the road or street easement.
- b. Side Yard. 15 feet.
- c. Rear Yard. 25 feet, or 20 percent of the depth of the lot, whichever is the smaller.

7-603. Maximum lot coverage: Buildings, principal and accessory combined, shall not exceed 40 percent.

ARTICLE 8

RESIDENTIAL-LAKE COMMUNITIES (R-LC)

Sections:

- 8-1 Intent
- 8-2 Permitted Uses
- 8-3 Conditional Uses
- 8-4 Accessory Uses
- 8-5 Dimensional Standards
- 8-6 Special Regulations

SECTION 8-1 INTENT

8-101. The intent of the Residential-Lake Communities District (R-LC) is to establish a zoning district which acknowledges the lake lots and tracts previously created by plat at: Holiday Lakes, Lake Chapparral, Sugar Valley Lake and Tanglewood Lakes. These private developments are unique from other residential development in unincorporated Linn County in terms of overall density and development standards, including the absence of block length limits, public roads, public sewer and public water. The R-LC District is not intended for the creation of additional lots or tracts unless adjoining existing lake communities zoned R-LC.

SECTION 8-2 PERMITTED USES

8-201. In the R-LC District no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following uses:

- a. Single family dwellings, residential-design manufactured homes, modular homes and single-wide manufactured homes.
- b. Parks, playgrounds, recreation areas and open space.

SECTION 8-3 CONDITIONAL USES

8-301. In the R-LC District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 20:

- a. Club houses, community centers and similar uses serving the lake community.

- b. Churches and similar places of worship.

SECTION 8-4 ACCESSORY USES

8-401. Regulations relating to accessory uses and structures in the R-LC District are set out in Article 16.

SECTION 8-5 DIMENSIONAL STANDARDS

8-501. The following dimensional standards apply to development in the R-LC District:

- a. Front yard setback 20 feet
- b. Side yard setback 10 feet
- c. Rear yard setback 10 feet
- d. Maximum height 35 feet
- e. Minimum lot area 5,000 sq. ft.
- f. Minimum lot width 40 ft.
- g. Minimum lot depth 75 feet

SECTION 8-6 SPECIAL REGULATIONS

8-601. No existing, non-conforming manufactured home or mobile home shall be used for any purpose other than as a residential dwelling.

8-602. No manufactured home or mobile home shall be attached to or connected to any other manufactured home or mobile home, or to any other structure or building.

8-603. Temporary Use of Recreational Vehicles.

- a. Seasonal use of recreational vehicles for habitation not associated with construction of a dwelling is permitted for a period not to exceed a total of 90 days in any calendar year provided that prior to occupancy of the recreational vehicle the applicant provides a signed statement to the Zoning Administrator specifying the beginning and ending dates during which time the recreational vehicle is to be used for habitation, and further provided the Zoning Administrator determines the applicant's method of wastewater disposal does not violate any County law or regulation and will not pose a threat to public health. The

applicant shall also provide evidence satisfactory to the Zoning Administrator that the location for the recreational vehicle is within an area designated for such use by the operator of the lake community.

- b. Temporary use of recreational vehicles for temporary housing associated with construction of a residential dwelling is allowed for a period not to exceed one (1) year or five (5) days after the constructed dwelling is occupied, whichever is sooner, provided a temporary housing permit is obtained from the Zoning Administrator. A permit shall be issued if the Zoning Administrator determines such use of the recreational vehicle will comply with laws and regulations of the County, including health and sanitation and further that the owner of the recreational vehicle executes a County form acknowledging the time limits set out in this subsection.

8-604.

- a. Year-Round Use of Recreational Vehicles. Recreational vehicles used as year-round dwellings at the effective date of these Regulations may continue such use if located within areas designated for such use by the operator of the lake community, provided that when a recreational vehicle so located is removed from the area so designated no other recreational vehicle shall be placed on the location of the removed recreational vehicle.
- b. Operators of lake communities shall provide the Zoning Administrator with satisfactory information showing the area(s) which were designated for recreational vehicles as of the effective date of these Regulations. Operators shall not extend or enlarge such areas beyond what was so designated on the effective date of these Regulations.

ARTICLE 9

COMMERCIAL ZONED DISTRICT

Sections:

- 9-1 Intent**
- 9-2 Commercial Zoning District**
- 9-3 Permitted and Conditional Uses**
- 9-4 (Reserved)**
- 9-5 Height and Yard Regulations**
- 9-6 Development Standards**
- 9-7 Accessory Uses**
- 9-8 Parking Regulations**
- 9-9 (Reserved)**
- 9-10 Supplemental Regulations**
- 9-11 Travel Trailer Parks**

SECTION 9-1 INTENT

9-101. It is the intent of the commercial zoning district to provide for areas of compatible commercial and service businesses, and to promote uniform development along highly visible properties, including properties near incorporated areas and along the US-69 corridor.

SECTION 9-2 COMMERCIAL ZONING DISTRICT

9-201. The following commercial zoning district is hereby created: C-Commercial District.

SECTION 9-3 PERMITTED AND CONDITIONAL USES

9-301. In the commercial zoning district the uses listed in Table 9-1 are permitted uses or conditional uses when so designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 20.

No building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses indicated in the following Table 9-1.

TABLE 9-1**P = Permitted Uses****C = Conditional Uses**

USE		
1.	Ambulance service.	C
2.	Amusement places, indoor.	C
3.	Animal hospitals.	C
4.	Any public building or land use by any department of the City, County, state or federal government	C
5.	Artists, authors, composers, studios and galleries	P
6.	Auditoriums, exhibition halls, fairgrounds, stadiums and similar uses.	C
7.	Automobile and truck wash services.	C
8.	Churches, similar places of worship.	P
9.	Convenience stores.	C
10.	Day care facilities: child care centers, day care homes, family day care homes, group day care homes and preschools.	P
11.	Dry cleaners-laundries, including self-service.	C
12.	Dwellings: When dwelling unit(s) located on other than ground floor of commercial structure.	P
13.	Electric-telephone substations and similar public utility uses.	C
14.	Food catering service, lockers-storage.	C
15.	Fraternal-civic-social organizations.	P
16.	Funeral, crematory and mortuary services	C
17.	Garden supplies – nurseries, greenhouses.	C
18.	Golf driving ranges.	C
19.	Health and exercise spas, gymnasiums.	P
20.	Hospitals, clinics, laboratories.	P
21.	Hotels and motels.	C
22.	Industrial laundry and linen supply services.	C
23.	Miniature golf, outdoor.	C
24.	Mini-storage, self-storage.	C
25.	Mobile and manufactured home sales.	C
26.	Monument engraving and sales.	C
27.	Motor vehicle repair and body shops, provided all work shall be performed and all materials shall be stored within an enclosed building.	C
28.	Nursing homes, rest homes, convalescent homes and similar facilities.	P
29.	Offices: professional-business-educational-industrial-religious-philanthropic-public.	P
30.	Package liquor stores.	C
31.	Printing, including newspaper publishing.	C
32.	Private clubs.	C(1)
33.	Race track and courses – vehicle and animal.	C

	USE	
34.	Radio and television broadcasting studios (without transmission towers).	P
35.	Radio or television broadcasting studios (with transmission towers).	C
36.	Radio, television or telephone transmitting stations or towers.	C
37.	Recreation centers.	C
38.	Recreational vehicles – trailers, equipment sales.	C
39.	Restaurants.	C
40.	Retail sales and rental of goods and merchandise including, but not limited to: antiques; apparel; appliances; bakeries; bicycles; books and stationery; building materials; carpet and other floor coverings; cigarettes; clocks; farm machinery and supplies; florists; food and groceries; furniture; hardware; heating, plumbing, and air conditioning equipment; jewelry; musical instruments; motor vehicles, parts and supplies; pet shops; pharmacies; photographic supplies and cameras; office equipment and supplies; and service stations.	P
41.	Retail sales of services including, but not limited to: banks, barber and beauty shops; building contractors, including air-conditioning, heating, plumbing and electrical; cleaning and repair; interior decorating; lawn care and landscaping; locksmith; message service; outdoor advertising; pet grooming; photocopying and blueprinting; and stenographic, duplicating and mailing services.	P
42.	Schools: a. Public and private elementary schools b. Public and private secondary schools c. Postsecondary educational institutions d. Business and training/vocational schools	C C C C
43.	Sexually oriented businesses	C(3)
44.	Storage or warehousing, except for products of a highly explosive, combustible or volatile nature.	C
45.	Taverns, bars and drinking establishments.	C(1)
46.	Theaters, indoor.	C
47.	Theaters, outdoor.	C
48.	Travel trailer parks.	C(2)
49.	Wholesale establishment.	C

Permitted and conditional uses footnotes:

- (1) Provided not located within 200 feet of: a church, school or hospital.
- (2) Subject to requirements set out in Section 9-11.
- (3) Provided not located within 1,320 feet of an existing church, public or private school, hospital, library, child care center, daycare home, preschool, business establishment which sells alcoholic liquor for on-premises consumption, or another sexually oriented business.

SECTION 9-4 (RESERVED)

SECTION 9-5 HEIGHT AND YARD REGULATIONS

9-501.

- a. *Height:* Except as otherwise provided in Article 16, no building or structure shall exceed forty-five (45) feet in height in the C zoning district.
- b. *Yard:* Front, side and rear yards shall comply with Table 9-2. Additional yard regulations are set out in Section 16-2.

TABLE 9-2

<i>District</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>
C	25 ft.	5 ft. – 1 or 2 stories 8ft. – 3 stories	25 ft.

SECTION 9-6 DEVELOPMENT STANDARDS

9-601.

- a. All businesses shall be within an enclosed structure.
- b. All outdoor storage shall be screened from public view by at least ninety percent (90%) density screening, unless such storage is for goods for resale to the public.
- c. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, must be located at least twelve (12) feet from any property line.

SECTION 9-7 ACCESSORY USES

9-701. Regulations relating to accessory uses in the C District are set out in Article 16.

SECTION 9-8 PARKING REGULATIONS

9-801. Parking regulations for the C District are set out in Article 18.

SECTION 9-9 (RESERVED)

SECTION 9-10 SUPPLEMENTAL REGULATIONS

9-1001. Supplemental regulations for the C District are set out in Article 16.

SECTION 9-11 TRAVEL TRAILER PARKS

9-1101. Definition. As used in this article, the term travel trailer park means a campground for travel trailers, motor homes, camping trailers, recreational vehicles, camping tents and accessory service buildings and facilities for campgrounds.

9-1102. Where Permitted. A travel trailer park shall be allowed to locate only upon issuance of a Conditional Use Permit issued in accordance with the provisions of this Article and Article 20.

9-1103. General Requirements.

- a. Any tract of land permitted as a travel trailer park after the effective date of these regulations must be at least five (5) acres in area.
- b. The applicant for a conditional use permit for a travel trailer park shall prepare and submit a schedule of construction, which shall provide for commencement of construction within a period of one (1) year following the approval of the permit by the County Board, and which shall provide that construction shall be completed within a period of two (2) years.
- c. The applicant shall prepare or cause to be prepared a development plan and shall present five (5) copies of said plan for review by the Planning Commission and County Board. This plot plan shall show the proposed development and shall conform with the following requirements:
 1. The travel trailer park shall be located on a well-drained site that is not subject to objectionable noise, smoke, odors, or other objectionable influences including unpredictable or sudden flooding. Exposed ground surfaces in all parts of the park shall be paved, covered with stone or other solid materials or protected with a vegetative growth capable of preventing dust.
 2. Travel trailer parks shall have a maximum density of twenty (20) trailer spaces per acre. A minimum of one thousand two hundred fifty (1,250) square feet shall be provided for each trailer space.

3. Each travel trailer space shall be at least twenty (20) feet wide and fifty (50) feet deep and shall have a clearly defined or marked border.
4. Trailers shall be placed on each space so that there is at least a ten (10) foot clearance between trailers. No trailer or other structure shall be located closer than twenty (20) feet from any building within the park or from any property line surrounding the park, except where such property line is a public road or street. No trailer or other structure shall be located closer than twenty-five (25) feet from any public street.
5. All parks shall be provided with safe and convenient vehicular access to each trailer space. Surfacing and maintenance shall provide a smooth, hard and dense surface which should be well drained and shall meet the following requirements:
 - (a) One-way, no parking, 15-foot width.
 - (b) One-way, parking on one side only, 20-foot width.
 - (c) Two-way, no parking, 24-foot width.
 - (d) Two-way, parking on one side only, 27-foot width.
 - (e) Two-way, parking on both sides, 30-foot width.
6. All roadways and walkways within the travel trailer park shall be hard-surfaced and adequately lighted at night.
7. A recreation area shall be provided at a central location in the park. The size of such recreation area shall be no less than two hundred (200) square feet for each trailer space in the park.
8. A solid or semi-solid fence, wall, or evergreen hedge six (6) feet in height and having a visual density of at least ninety (90) percent shall be installed and maintained by the owner when the district abuts a residential zoning district except that said fence, wall, or hedge shall be reduced to forty-two (42) inches in height when located in a front yard. A district shall not be considered as abutting if it is separated by a street or alley right-of-way.
9. One dwelling unit which may be a mobile home may be permitted on the site for the park operator.

10. Travel trailer spaces shall be rented by the day or week only, and the occupant of a travel trailer space shall remain in the same travel trailer park area no more than thirty (30) days.
11. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location within the travel trailer park. Each shelter size shall be equal to at least 21 square feet of shelter floor area per travel trailer space. Storm shelters shall be constructed in accordance with all applicable building codes.

9-1104. Water Supply. An accessible, adequate, safe and potable supply of water shall be provided in each travel trailer park. Where a public supply of water is available, connection shall be made thereto and its supply used exclusively.

9-1105. Sewage Systems. An approved sewage system shall be provided within each travel trailer park. Where a public sewage system is located within 500 feet of the boundary of the park, connection shall be made thereto. The appropriate health authority shall approve all private sewage systems. A sanitary disposal station shall be provided at the rate of one such station for every hundred (100) trailer spaces and shall be approved by the zoning administrator. Such stations shall be screened from other activities by visual barriers such as fences, walls, or natural growth and shall be separated from any trailer or adjoining property by a distance of at least fifty (50) feet.

9-1106. Electrical. Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum of eight (8) feet of vertical clearance between any trailer and the overhead wiring.

9-1107. Service Buildings.

- a. A central service building containing the necessary toilet and other plumbing fixtures specified below shall be provided in travel trailer parks having camping spaces for units which do not have self-contained water and sewage systems. Such service buildings shall be located within a three hundred (300) foot radius of the spaces to be served.

Number of Spaces	Toilets		Urinals	Lavatories		Showers		Service Sink
	M	F	M	M	F	M	F	
1-15	1	1	1	1	1	1	1	1
16-30	1	2	1	2	2	1	1	1
31-45	2	2	1	3	3	1	1	1
46-60	2	3	2	3	3	2	2	1
61-80	3	4	2	4	4	2	2	1
81-100	3	4	2	4	4	3	3	1

- b. Parks having more than one hundred (100) travel trailer spaces shall also provide: One additional toilet and lavatory for each sex for each additional forty (40) travel trailer spaces or fraction thereof; and one (1) additional men's urinal for each additional one hundred (100) travel trailer spaces or fraction thereof.
- c. Where a travel trailer park is designed for and exclusively limited to use by camping units with self-contained water and sewage systems, only the following minimum sanitary facilities shall be required: For each one hundred (100) trailer spaces or fractional part thereof, there shall be one (1) flush toilet, one (1) lavatory, and one (1) shower for each sex.

9-1108. Solid Waste. The storage, collection and disposal of refuse in the travel trailer park shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be stored in flytight, watertight, rodent-proof containers, which shall be located not more than one hundred fifty (150) feet from any trailer space. All refuse shall be collected at least twice weekly.

9-1109. Open Fires. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which used and on neighboring properties. No open fire shall be permitted, except in facilities provided by the park operator. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

9-1110. Register of Occupants. It shall be the duty of the park operator to keep a register containing a current record of all trailer owners and occupants located within the park. The register shall contain the following information:

- a. The name and address of each trailer owner or tenant.
- b. The name and address of each owner of a motor vehicle.
- c. The date of arrival and departure of each trailer.

d. The license tag number of each motor vehicle.

The park owner, manager or caretaker shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

ARTICLE 10

MIXED USE DISTRICT (MU)

Sections:

- 10-1 Intent**
- 10-2 Permitted Uses**
- 10-3 Conditional Uses**
- 10-4 Home Occupations**
- 10-5 Accessory Uses**
- 10-6 Height and Yard Regulations; Design Standards**
- 10-7 Parking Regulations**
- 10-8 Minimum District Size**

SECTION 10-1 INTENT

10-101. It is the intent of the MU District to encourage, near to or adjoining incorporated areas, and the County's unincorporated communities, a compatible mixed use environment, utilizing the character of a particular area. This district facilitates compatible mixed use activity within a residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas. The objectives of the district include:

- a. Retention and attraction of businesses, workplaces and residences; and
- b. Redevelop vacant and under-utilized properties.

10-102. Applicability of Mixed Use Districts. The MU District shall only be permitted on an area that merits special considerations, involving a variety of property owners and uses within a developed environment, such as found in the County's unincorporated communities.

SECTION 10-2 PERMITTED USES

10-201. In the MU District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:

- a. Any use permitted in the R zoning district.
- b. Any use permitted in the C zoning district.

SECTION 10-3 CONDITIONAL USES

10-301. In the MU District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 20 of these regulations:

- a. Any use allowed as a conditional use in the R zoning district.
- b. Any use allowed as a conditional use in the C zoning district.

SECTION 10-4 HOME OCCUPATIONS

10-401. Regulations relating to home occupations in the MU District shall be the same as those for the R zoning district, as set out in Article 16.

SECTION 10-5 ACCESSORY USES

10-501. Regulations relating to accessory uses in the MU District are set out in Article 16. Domestic SECS are not allowed in the MU District.

SECTION 10-6 HEIGHT AND YARD REGULATIONS; DESIGN STANDARDS

10-601. No building in the MU District shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 16.

10-602.

- a. Front yard.
 - 1. Front yards on arterial and collector roads and streets and unplatted tracts on local roads and streets shall conform with the provisions of Article 16.
 - 2. There shall be a front yard having a depth of not less than thirty (30) feet or the established building line as defined in Article 2.
 - 3. No accessory building shall project beyond the front building setback line of any lot.

10-603. Side yard. Except as otherwise provided in Article 16, there shall be a side yard of not less than eight (8) feet on each side of a building.

10-604. Rear yard. Except as otherwise required in Article 16 there shall be a rear yard having a depth of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

10-605. Design Standards. All new development, including permitted commercial, office, institutional, residential uses, or combination thereof, shall be consistent with the following design standards:

- a. *Transition yards* – Where a commercial lot abuts a residential use, a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation.
- b. *Open storage* – Any open storage visible from the road or street, adjacent to residential uses shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means.
- c. The Zoning Administrator may waive any of the above-listed design standards if he or she determines it to be unnecessary to the scope and nature of the proposed development.

SECTION 10-7 PARKING REGULATIONS

10-701. Parking regulations for the MU District are as follows:

- a. Residential dwellings: One space per dwelling unit.
- b. Private clubs, drinking establishments, and restaurants: One space per four occupants permitted.
- c. Retail and office uses: One space per 300 square feet of floor area.
- d. All other uses not specified shall be consistent with Article 18.

SECTION 10-8 MINIMUM DISTRICT SIZE

10-801. No area shall be zoned as MU District, unless it comprises at least three (3) acres.

ARTICLE 11

PUBLIC USE DISTRICT (P)

Sections:

- 11-1 Intent**
- 11-2 Permitted Uses**
- 11-3 Parking Regulations**
- 11-4 Height, Area and Yard Regulations**
- 11-5 Accessory Uses**

SECTION 11-1 INTENT

11-101. The “P” Public Use District is intended for application to sites in public ownership and used for major public facilities.

SECTION 11-2 PERMITTED USES

11-201. Any activity of a governmental, civic or public institutional nature, when located on lands in county, state or federal ownership, is a permitted use in the P District. Primary public uses include, but are not limited to:

- a. Public schools
- b. Athletic complexes
- c. Auditoriums
- d. Cemeteries, public and private
- e. Water and wastewater treatment plants
- f. Civic and community buildings
- g. Courthouse
- h. Fairgrounds
- i. Generating plants
- j. Public safety buildings
- k. Parks and public recreational facilities

SECTION 11-3 PARKING REGULATIONS

11-301. Parking regulations for the P District are set out in Article 18.

SECTION 11-4 HEIGHT, AREA AND YARD REGULATIONS

11-401.

a. Height.

1. For any structure located within one hundred (100) feet of any R-zoned property, the maximum height of the residential district shall apply. There shall be no height requirement for structures more than one hundred (100) feet from the residential district.

b. Yard.

1. *Front yards:* There shall be no setbacks required, except yards adjacent to a residential district (R, CS or MP) shall have a setback equal to the setback of such adjoining residential district.
2. *Side and rear yards:* No side or rear yard shall be required, except where such use abuts a property in the R, CS or MP residential district there shall be a minimum of ten (10) feet side and/or rear yard.

SECTION 11-5 ACCESSORY USES

11-501. Regulations relating to accessory uses in the P District are set out in Article 16.

ARTICLE 12

INDUSTRIAL DISTRICTS (I-1 and I-2)

Sections:

- 12-1 Intent**
- 12-2 Permitted and Conditional Uses**
- 12-3 Development Standards**
- 12-4 Height and Yard Regulations**
- 12-5 Parking Regulations**
- 12-6 Screening Requirements**

SECTION 12-1 INTENT

12-101. It is the intent of the industrial districts to provide for areas of light and heavy industrial uses and for other compatible uses primarily at locations where necessary infrastructure exists, or is planned, and in proximity to other I-1 or I-2 zoned property. Light Industrial (I-1) uses generate few effects felt off-site, such as smoke, noise or odor. Heavy Industrial (I-2) uses tend to be basic or primary industries which do often produce vibration, smoke, noise, odor, glare, dust and other effects that travel off-site. Uses which are intensive, hazardous or which are of a scale or type which is not consistent with the County's rural character should only be allowed upon the issuance of a conditional use permit. See also sections 4-7:8.

SECTION 12-2 PERMITTED AND CONDITIONAL USES

12-201. In the industrial zoning districts the uses listed in Table 12-1 within the designated zoning districts are permitted uses or conditional uses as designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 20. No building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except as listed in Table 12-1.

TABLE 12-1
Industrial Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses

C = Indicates Conditional Uses

	USE	I-1	I-2
1.	Agricultural.	P	P
2.	Airplane hangars.	P	C
3.	Animal hospitals, veterinarian clinics, and kennels.	P	P
4.	Automobile and truck wrecking or salvage yards, junkyards and scrap processing yards.		C
5.	Bottling works.	P	P
6.	Building material sales including lumber yards (except for ready-mix concrete and similar uses which emit dust, odor and smoke.)	P	
7.	Car and truck wash establishments	P	
8.	Carpenter, cabinet, plumbing or sheet metal shops.	P	P
9.	Contractor's office and equipment storage yard.	P	P
10.	Dry cleaning and/or laundry plants.	P	P
11.	Farm implement sales and services.	P	
12.	Feed and seed stores, grain elevators.	C	P
13.	Frozen food lockers.	P	P
14.	Greenhouses and nurseries, retail and wholesale.	P	P
15.	Light manufacturing, processing or fabrication operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, smoke or other particulate matter.	P	
16.	Machine shops, tool and die shops, and similar establishments	P	P
17.	Machinery sales and storage lots, including motor vehicles.	P	C
18.	Manufacturing, processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust fumes, gas, odor.		P
19.	Manufactured home production, storage and sales of units produced on-site.		P
20.	Motor vehicle repair or body shop.	P	P
21.	Offices and service yards for the Kansas Department of Transportation.	P	P
22.	Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.		C

	USE	I-1	I-2
23.	Public utility and public service uses including: municipal power plants; substations; lift stations; railroads; telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings; electric generating systems and power plants; and public utility storage yards.	P	P
24.	Self-storage (mini-storage).	P	
25.	Service stations.	P	P
26.	Solar energy conversion systems.	C	C
27.	Stockyards and slaughterhouses.		C
28.	Storage of bulk oil, gas, explosives and similar materials.		C
29.	Storage yards providing the storage yard is completely enclosed with a six-foot fence or wall.		P
30.	Telecommunication towers.	C	C
31.	Truck and rail terminals.	P	P
32.	Warehouses or storage houses.	P	P
33.	Welding shops.	C	P

SECTION 12-3 DEVELOPMENT STANDARDS

12-301.

- a. Except as otherwise provided in section 12-4, a building, structure or use, allowed in either or both the I-1 and I-2 Districts, may occupy all that portion of a lot except for the area required for off-street parking, off-street loading and unloading and their access roads and/or arterial or collector streets as otherwise required in this Article.
- b. Except as otherwise provided in section 12-4, when the required off-street parking and/or required loading and unloading will be provided within the building or structure, the building or structure may cover the entire lot.
- c. No retail sales or service shall be permitted except when incidental or accessory to a permitted use or except when specifically permitted pursuant to this Article. Further, the portion of the building or structure used for such retail sales or service shall not exceed 10% of the total square footage of the building or structure.
- d. No building shall be used for residential purposes, except a watchman may reside on the premises.
- e. Except where otherwise expressly prohibited by these regulations, outside storage may be maintained provided the view of non-retail storage areas is screened from

streets and residential areas by a solid or semi-solid fence, wall or vegetation at least six (6) feet in height and having a visual density of at least ninety percent (90%).

SECTION 12-4 HEIGHT AND YARD REGULATIONS

12-401.

a. Height.

1. When a building or structure is within one hundred fifty feet (150) of property within any zoning district which allows residential uses, said building or structure shall not exceed forty-five (45) feet in height.
2. When a building or structure is more than one hundred fifty (150) feet from a property within any zoning district which allows residential uses, said building or structure shall not exceed one hundred fifty (150) feet or the maximum height for any applicable airport approach zone, whichever is the lesser.

b. Yard.

1. *Front Yards.* There shall be a front yard having a depth of not less than twenty (20) feet.
2. *Side Yards.* No side yard shall be required except where a use adjoins a residential district, in which case there shall be a required fifteen (15) feet of side yard on the side of the lot abutting the residential district.
3. *Rear Yards.* When the rear lot line adjoins an area which is not zoned for commercial or industrial use, there shall be a rear yard for buildings as follows:
 - (a) One and two-story buildings shall have a rear yard of twenty-five (25) feet or twenty (20) percent of the depth of the lot, whichever is the smaller.
 - (b) Three story or more buildings shall have a rear yard of not less than thirty (30) feet.

SECTION 12-5 PARKING REGULATIONS

12-501. Parking regulations for the I-1 and I-2 Districts are set out in Article 18.

SECTION 12-6 SCREENING REQUIREMENTS

12-601. Regulations for the screening of industrial uses from adjacent residential land are set out in section 16-3.

ARTICLE 13

MANUFACTURED HOME PARK DISTRICT (MP)

Sections:

- 13-1 Intent**
- 13-2 Permitted Uses**
- 13-3 Conditional Uses**
- 13-4 Home Occupations**
- 13-5 Accessory Uses**
- 13-6 General Requirements**
- 13-7 Specific Requirements**
- 13-8 Application for Preliminary Approval**
- 13-9 Final Plan**
- 13-10 Deviation from Final Plan**
- 13-11 Discontinuance of Use as a Manufactured Home Park**
- 13-12 Parking Regulations**
- 13-13 Visible Lot Numbers**

SECTION 13-1 INTENT

13-101. The intent of the MP District is to provide for manufactured home park developments compatible with the character of the surrounding neighborhood in which they are located. Manufactured home parks are residential uses and should be located in areas where services and amenities are available such as those services and amenities found in residential areas comprised of site-built houses. For purposes of this Article the term “manufactured housing” shall not include “mobile home,” as defined in these regulations, but shall include modular housing. The MP District is not intended for “travel trailer parks” which are classified as a commercial use. See Article 9, Sec. 9-11.

SECTION 13-2 PERMITTED USES

13-201. In the MP District no building land or premises shall be used and no building or structures shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:

- a. Manufactured homes.
- b. Public park and recreation areas.
- c. One single-family dwelling for use of the manufactured home park operator, provided that the dwelling meets all lot area and setback requirements as if it were in the R-Residential District.

- d. Structures required or allowed in fulfillment of Sections 13-7 and 13-8 of this Article.

SECTION 13-3 CONDITIONAL USES

13-301. In the MP District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 20:

- a. Any public building or land used by any department of the County, state or federal government.
- b. Churches, synagogues and other similar places of worship.
- c. Telephone exchange, electric substations, cable television or other similar utilities.
- d. Public or private, elementary and secondary schools.
- e. Childcare centers and day care homes, when licensed by the State of Kansas as such, and serving no more than 8 children.

SECTION 13-4 HOME OCCUPATIONS

13-401. Regulations relating to home occupations in the MP District are set out in Article 16.

SECTION 13-5 ACCESSORY USES

13-501. Regulations relating to accessory uses in the MP District are set out in Article 16.

SECTION 13-6 GENERAL REQUIREMENTS

13-601. The requirements of this section shall apply to all manufactured home parks established after the effective date of these regulations. The requirements of 13-603:605 shall apply to the area of any expansions of manufactured home parks which were lawfully established prior to the effective date of these regulations. For purposes of this Article “expansion” means any new development which results in an increase in land area devoted to manufactured home park uses.

13-602. The tract to be used for a manufactured home park shall not be less than three (3) contiguous acres, unless it is an extension of, and adjoining to, an existing manufactured home park.

13-603. Manufactured homes shall be placed on leased spaces and not permitted to be placed on permanent foundations.

13-604. Construction shall commence within a period of one year following the approval of the County Board of the final plan and shall be completed within a period of two (2) years. If construction is not completed within two (2) years, the applicant may request an extension from the County Board. Approval of an extension shall not be withheld by the County Board without good cause.

13-605. No manufactured home manufactured on a date such as to make the home 20 years of age or older shall be located, relocated, stored or parked in the MP District.

13-606. Any recreational vehicle located in a manufactured home park at the time of the effective date of these regulations shall connect to the parks sewer system if occupied 30 or more consecutive days or 90 or more total days in any calendar year. The park operator shall maintain a record of the beginning and end dates of occupancy for any recreational vehicle.

SECTION 13-7 SPECIFIC REQUIREMENTS

13-701. Except where otherwise expressly provided, the requirements of Section 13-7 shall apply to all manufactured home parks, whether operating prior to the effective date of these regulations or established thereafter.

13-702. Water. All parks shall be connected to a public water supply. Individual water service connections shall be provided at each manufactured home space.

13-703. Sewage disposal. All parks shall be connected to a public sewage disposal system where such public sewer is within 500 feet of the boundary of the MP District. The individual sewage connections shall be provided at each manufactured home space.

13-704. Community buildings and grounds. All community buildings, recreation and service facilities, and common grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition menacing the health of any occupant of the park or the public or constituting a nuisance.

13-705. Utilities. Electric, telephone and cable television service lines installed in parks established or expanded after the effective date of these regulations shall be installed underground and shall be in accordance with any applicable County codes and utility company specifications.

13-706. Refuse and garbage. The park operator shall ensure that the storage, collection, and disposal of refuse in the park shall be so conducted in accordance with any requirements of the County.

13-707. Blocking. All manufactured homes placed in a park after the effective date of these regulations shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home and this blocking shall provide sixteen (16) inches by sixteen (16) inches bearing upon the stand.

13-708. Tie-downs and ground anchors. All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the Mobile Home and Recreation Vehicle Code K.S.A. 75-1211 to 75-1234, and amendments thereto.

13-709. Skirting. Each manufactured home shall be provided with skirting on all sides and such material used as skirting shall be harmonious with the composition, color and texture of the material used in the construction of the manufactured home.

13-710. Location of improvements to manufactured home spaces. No paved patios, parking areas, accessory structures or other improvements made after the effective date of these regulations shall be located within eight (8) feet of the perimeter of any manufactured home space.

SECTION 13-8 APPLICATION FOR PRELIMINARY APPROVAL

13-801. An applicant for zoning for the MP District after the effective date of these regulations shall prepare a preliminary manufactured home park plan, drawn to a scale of not less than one inch equals one hundred (100) feet, and five (5) copies of said plan shall be submitted to the Planning Commission for its review and recommendation. Said plan shall be designed in accordance with Section 13-6, General Requirements, and Section 13-7, Specific Requirements, shall have contours at two (2) foot intervals and shall conform with the following requirements:

- a. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- b. The park shall have a maximum density of six (6) manufactured homes per gross acre and space shall be provided for each manufactured home consisting of a minimum of three thousand six hundred (3,600) square feet.

- c. Each manufactured home space shall be at least forty feet (40') wide and eighty feet (80') deep.
- d. Manufactured homes shall be so located on each space that there shall be at least a twenty (20) foot clearance between manufactured homes; provided, however, that with respect to manufactured homes parked end-to-end, the end-to-end clearance shall be not less than fifteen (15) feet. No manufactured home shall be located closer than twenty-five feet (25') from any building within the park or from any property line bounding the park. No park shall be located closer than ten feet (10') from any paved roadway.
- e. All manufactured home spaces shall front upon a private roadway of not less than twenty-seven (27) feet in width, which shall have unobstructed access to a public road or street. Thirty (30) feet of private roadway shall be required where parking is allowed in the roadway.
- f. Walkways not less than thirty inches (30") wide shall be provided from the manufactured home spaces to service, community buildings or storm shelters.
- g. All roadways and walkways within the park shall be surfaced with asphalt, concrete or asphaltic concrete and adequately lighted at night.
- h. Paved off-roadway parking shall be provided at the rate of two (2) spaces for each manufactured home space.
- i. Community buildings may be provided which may include recreation facilities, laundry facilities and other similar uses.
- j. A recreational area shall be provided at a central location in the park at the minimum rate of two hundred (200) square feet for each manufactured home space but in no event shall an individual recreational area be less than five thousand (5,000) square feet.
- k. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location. Each shelter size shall be equal to at least twenty-one (21) square feet of shelter floor area per manufactured home space.
- l. A solid or semi-solid fence or wall and a ten (10) foot landscaped buffer area shall be provided between the park and any adjoining residential zoning district. Said fence or wall shall not be less than four (4) feet high nor more than six (6) feet high and shall have a visual density of at least ninety (90) percent. The operator of the park shall be responsible for the maintenance of the fence or wall and the landscaped buffer area.
- m. Each manufactured home space shall be provided with a paved patio or equivalent, other than parking space, of not less than two hundred (200) square

feet. No open storage of any unsightly material shall be permitted within the park.

SECTION 13-9 FINAL PLAN

13-901. Upon approval of the preliminary plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested by the Planning Commission. The final plan shall be reviewed by the Planning Commission and its recommendations shall be forwarded to the County Board for review and approval. The final plan shall be filed and recorded with the Linn County Register of Deeds as if it were a final subdivision plat.

SECTION 13-10 DEVIATION FROM FINAL PLAN

13-1001. Any substantial deviation, as determined by the Zoning Administrator, from the approved final plan shall constitute a violation of the zoning approval. Substantial changes in the approved final plan must be resubmitted to the County Board for its approval prior to any installation.

SECTION 13-11 DISCONTINUANCE OF USE AS A MANUFACTURED HOME PARK

13-1101. Whenever a park ceases to be used for such purpose for a period of twelve (12) consecutive months, the Planning Commission shall initiate action and hold a public hearing to consider rezoning said property back to its former district classification or to a more appropriate district.

SECTION 13-12 PARKING REGULATIONS

13-1201. Parking regulations for the MP District are set out in Article 18.

SECTION 13-13 VISIBLE LOT NUMBERS

13-1301. All manufactured home lots shall be clearly numbered with a permanent marker placed at the front of the lot line or on the street side of the manufactured home. All such numbers shall follow a consecutive numbering system for manufactured homes fronting on the same roadway. All such numbers shall be clearly visible and at least four (4) inches in height. The numbering system will be designated on the final plat of the park and approved by the Planning Commission. It shall be the park operator's responsibility to ensure the numbering system is installed and maintained.

ARTICLE 14

SOLAR ENERGY CONVERSION SYSTEMS

Sections:

- 14-1 Intent and Purpose**
- 14-2 Definitions**
- 14-3 Domestic SECS**
- 14-4 Commercial and Utility SECS; General Requirements for a SECS Conditional Use Permit**
- 14-5 Site Plan**
- 14-6 Construction Management Plan**
- 14-7 Buffer Plan**
- 14-8 Roads and Road Maintenance Agreement**
- 14-9 Operation/Maintenance Plan**
- 14-10 Decommissioning Plan**
- 14-11 Final Development Plan**
- 14-12 Financial Agreement and Assurances**
- 14-13 Transfer of Conditional Use Permit**

SECTION 14-1 INTENT AND PURPOSE

14-101.

- a. Purpose. It is the purpose of this Article to outline the requirements Linn County has for ground-mounted solar energy conversion systems (SECS). As SECS, depending upon their size and location, can be detrimental to the preservation of the predominantly rural, agricultural character of the County, and of its important natural resources, the County requires all SECS, other than those used for domestic purposes, to apply for and receive a conditional use permit.
- b. Intent. The regulations set out in this Article are intended to address the major issues generally associated with SECS. Because issues not addressed below may be deemed significant to public health, safety or welfare but only emerge during the course of the County's review of the application for conditional use permit, applicants are encouraged to maintain close consultation with the Zoning Administrator during the preparation of the plans and other requirements of this Article.
- c. SECS placed on the rooftops of structures are not subject to the regulations of this Article.

14-102. Consistent with the definitions at 14-201, Linn County allows domestic SECS in specified zoning districts as an accessory use. Commercial SECS are allowed as

conditional uses in the A-Agricultural District. Utility SECS are allowed as conditional uses on land zoned I-1 Light Industrial or I-2 Heavy Industrial.

SECTION 14-2 DEFINITIONS

14-201.

- a. A ***domestic solar energy conversion system (SECS)*** is a system that converts sunlight into usable electricity for the primary purpose (*i.e.*, 51% or greater) of providing electricity for its use on-site and not for commercial power production. Domestic SECS are allowed as accessory uses in the A, R, CS, C and P zoning districts, in accordance with the provisions of this Article, and if the total area of the SECS is less than 10 acres.
- b. ***Commercial solar energy conversion systems (SECS)*** are systems that convert sunlight into usable electricity for the primary (*i.e.*, 51% or greater) purpose of sales or off-site use. **Commercial SECS** are conditional uses in the A zoning district and comprise 0-160 acres. All commercial SECS must comply with the provisions of this Article.
- c. ***Utility solar energy conversion systems (SECS)*** are systems that convert sunlight into usable electricity for the primary purpose of wholesale sales or off-site use. Utility SECS are a conditional use in the I-1 and I-2 zoning districts and comprise over 160 acres. All industrial SECS must comply with the provisions of this Article.

SECTION 14-3 DOMESTIC SECS

14-301. Domestic SECS are allowed as accessory uses in the A, R, CS, C and P zoning districts.

14-302. Ground-mounted domestic SECS shall comply with the following:

- a. Yard requirements
 - 1. Side yard setback: 20 feet
 - 2. Rear yard setback: 20 feet
 - 3. No placement in front yard, except in the A district with a 40' front yard setback from public road or street rights-of-way.
- b. Rear yard maximum lot coverage:
 - 1. A zone no limit
 - 2. R zone 25%
 - 3. CS zone 25%
 - 4. C zone 25%

- 5. P zone no limit
- c. Domestic SECS are encouraged to utilize vegetation under and around solar panels in order to reduce stormwater runoff.

SECTION 14-4 COMMERCIAL AND UTILITY SECS; GENERAL REQUIREMENTS FOR A SECS CONDITIONAL USE PERMIT

Conditional use permit applications for commercial and utility SECS shall comply with the provisions of Sections 14-4 through 14-13.

- a. All applications for a SECS conditional use permit shall bear the stamp of a Kansas-licensed professional engineer and comply with the following and with the requirements of Article 20 of these regulations:
- b. Upon the determination of the Zoning Administrator that an application is complete it will be presented to the Planning Commission. The Zoning Administrator shall provide the Planning Commission with a recommendation as to compliance of the application with the requirements of this Article and Article 20. The Planning Commission may request the review of other County officials, a Kansas-licensed professional engineer, and/or other third parties in determining compliance of the application with these Regulations.

14-401. Concentrating solar thermal devices (CSTs) are prohibited in all zoning districts, except where allowed as accessory uses.

14-402. Ground Cover.

- a. In order to reduce soil erosion and stormwater runoff, disturbed land, including land under and around solar panels, shall be seeded with a revegetation seed mix of native grasses and flowers.
- b. Ground cover shall be continually maintained throughout the term of the conditional use permit.

14-403. Underground Installation of Lines.

- a. All commercial and utility SECS shall install power collection lines and communication lines underground and, wherever possible, under or at the edge of project access roads in order to minimize soil disturbances.
- b. Above-ground transmission lines may be utilized in public road rights-of-way or easements.

- c. The requirements of a. above may be waived by the Board of County Commissioners upon a finding that there are existing conditions which justify alternative, above-ground installation and that such installation would not be averse to the public interest.

14-404. Height of Solar Panels and Related Structures. Ground-mounted SECS structures, other than towers constructed for electrical lines, shall not exceed 15 feet above ground level.

14-405. Power Purchase Agreement. If an applicant has an executed power purchase agreement at the time of application, the applicant shall provide with the application either such agreement, or at the applicant's discretion, an affidavit of non-confidential information regarding such agreement.

14-406. Total Countywide Acreage Cap for SECS.

- a. In order to promote the objectives of protecting agricultural land and preserving the rural character of Linn County, consistent with the 2022 Comprehensive Plan, a cap of 8000 acres is fixed for the total acreage for SECS conditional use permits.
- b. All acreage included in an approved conditional use permit shall apply towards the countywide cap, not just the acreage covered by solar panels and related structures.
- c. The acreage included in an approved conditional use permit remains included under the countywide cap until the SECS is determined by the BOCC to be fully decommissioned, or determined to have been cancelled or abandoned, or at which time the acreage of the cancelled, abandoned, or decommissioned SECS shall be subtracted from the count of SECS acreage.

14-407. County Review of Adequacy of Application.

- a. In making its review of an application for a conditional use permit the County may:
 - 1. Rely upon the information as submitted by the applicant,
 - 2. supplement the information submitted with additional analysis and/or certification by qualified sources, the cost of which may be assessed back to the applicant, and/or
 - 3. advise the applicant that certain analysis and study will be performed by a qualified party selected by the County.
- b. Reimbursement of County Expenses. All applicants and their successors are obligated to reimburse the County for the reasonable expenses it incurs, at its discretion, in retaining engineers and other professionals to review the

information and plans submitted as part of the application for a conditional use permit. This obligation extends to any such expense so incurred regardless of whether the application is approved or denied.

14-408. Toxic Materials Prohibited in Solar Panel Components.

- a. Except as otherwise provided in subsection b. of this Section, panels constructed with toxic materials such as lead and cadmium are prohibited.
- b. An applicant for a conditional use permit may request an exemption from the prohibition against panels with toxic materials from the Board of Zoning Appeals. The Board may grant such an exemption only upon:
 1. Finding the applicant has no feasible alternative to the use of toxic materials, and
 2. Finding the applicant's operation/maintenance plan will avoid contamination of water and soil in the plan, will capture and remove toxic materials prior to any contact with surface water or groundwater in the event of panel failure or breakage and, that the applicant's plan for decommissioning shows the method for, and estimated cost of, ensuring the removal of all such toxic materials from the soil, groundwater and surface water.
- c. Any SECS having toxic materials in its solar panel components shall post at the perimeter of the permitted area, and in a manner approved by the Zoning Administrator, signage listing all the toxic materials at the SECS site, along with contact and emergency telephone and email information.

14-409. Prime Agricultural Land.

- a. In order to conserve prime agricultural land a SECS with a total permitted area of 160 or more acres shall not have more than 50% of its area constituted of prime agricultural land, except as provided in 14-409.b.
- b. Acreage of prime agricultural land within a permitted area and utilized for setbacks and buffers shall not be counted towards the 50% maximum of 14-409.a. For example: A permit encompassing 160 acres, of which 40 acres is for setbacks and buffers, may have up to 100% of the 40 acres be prime agricultural land and up to 50% of the balance of 120 acres (60 acres) be prime agricultural land.

SECTION 14-5 SITE PLAN

14-501. All applicants for a conditional use permit shall submit a site plan meeting the following specifications:

- a. Scale of 1" = 200' with north point.
- b. Names, mailing addresses, email addresses and telephone numbers for landowner(s), project developer and applicant's designated contact person.
- c. Boundary of entire area included within the proposed permit, showing property lines of individual landowners.
- d. Acreage of area and points of access from public roads and streets.
- e. Existing structures within the area and their use.
- f. Existing zoning and use of land within the area to be permitted and 500 feet from its exterior boundaries.
- g. Topography with contours at intervals of 2 feet.
- h. Public roads and streets adjoining the area.
- i. Waterways, watercourses, lakes, ponds, wetlands, drainage districts and other natural features within the boundaries of the area and 500 feet from the exterior boundaries.
- j. 100-year floodplain, and boundaries of any special flood hazard area identified on the FEMA Flood Insurance Rate Map.
- k. Existing dwelling units, whether occupied or vacant, within 2000 feet of the exterior boundaries.
- l. Existing trees and vegetated areas.
- m. Transmission lines, existing and proposed, within the area.
- n. Schematic location of solar panels, collector and feeder lines, access and maintenance roads and other facilities associated with the SECS.
- o. Proposed setbacks of all structures, including solar panels, from the exterior boundaries.
- p. Location and purpose of any existing underground pipelines and other utility easements in the area.

- q. An inventory of any existing wildlife, endangered flora and fauna species and biologically sensitive areas.
- r. Such other information deemed relevant and necessary by the Zoning Administrator.

SECTION 14-6 CONSTRUCTION MANAGEMENT PLAN

14-601. All applicants for a conditional use permit shall submit, with their site plan, a construction management plan meeting the following requirements:

- a. Name and contact information for applicant's field representative responsible for overseeing compliance with the conditions of the Conditional Use Permit during all phases of construction.
- b. A schedule of major construction activities for installation/construction of solar panels, transmission lines and structures accessory to the SECS, and the hours of the day and days of the week during which construction activities will occur.
- c. Details regarding site preparation involving removal of trees and other vegetation, and restoration of the site following construction. During site preparation and construction silt fences and other temporary erosion controls shall be installed and left in place until new native vegetation covers any bare ground under or around the solar panels and related structures.
- d. Traffic. Estimated volume and proposed route for traffic during the construction phase; traffic control measures, including lane closures, signage and flagging.
- e. Fencing. Installation of temporary security fencing prior to commencement of construction.
- f. Lighting. Any temporary construction lighting shall be positioned downward, inward and shielded so as to eliminate glare upon adjacent properties.
- g. Identification, and location, of any off-site accessory structures required for the construction phase.
- h. Measures to address mitigation of dust, smoke and other construction-related impacts which could escape the permitted area.
- i. Grading. Identification of existing and proposed contours; the locations and amount of topsoil to be removed and stockpiled to be used for areas to be reseeded during construction and post-construction; and steps to be taken to minimize impervious surface area.

SECTION 14-7 BUFFER PLAN

14-701. All applicants for a conditional use permit shall submit, with their site plan, a plan for setbacks and screening meeting the following requirements:

a. Setbacks.

1. For SECS with a permitted area of less than 40 acres:
 - (a) Setbacks of a minimum of 25 feet, including five (5) feet of planted vegetative buffer for every permitted acre up to 20 feet, shall be established and maintained from any SECS panel or other structure to any public road right-of-way or to any adjoining property line which is a perimeter boundary line for the area of the conditional use permit.
 - (b) A minimum 200-foot setback from any SECS permitted area to a residential dwelling, provided such setback shall not apply to any residential dwelling of a landowner who leases property to the applicant or its successors and who provides the County with a written waiver from the setback and a release from liability satisfactory to the County.
 - (c) A minimum 2500-foot setback from the property line of any commercial or utility SECS permitted by conditional use permit issued by Linn County.
2. For SECS with a permitted area of more than 40 acres and less than 160 acres:
 - (a) Setbacks of a minimum of 50 feet, including 20 feet of planted vegetative buffer, shall be established and maintained from any SECS panel or other structure to any public road right-of-way or to any adjoining property line which is a perimeter boundary line for the area of the conditional use permit.
 - (b) A minimum of 200-foot setback from any SECS permitted area to a residential dwelling, provided such setback shall not apply to any residential dwelling of a landowner who leases property to the applicant or its successors and who provides the County with a written waiver from the setback and a release from liability satisfactory to the County.

- (c) A minimum of 2500-foot setback from the property line of any commercial or utility SECS permitted by conditional use permit issued by Linn County.
- 3. For SECS with a permitted area of 160 acres or more:
 - (a) A minimum 100-foot setback, which includes a 50-foot planted vegetative buffer, as set out in subsection b. below, shall be established and maintained from any SECS panel or other structure to any public road right-of-way or to any adjoining property line which is a perimeter boundary line for the area of the conditional use permit.
 - (b) A minimum 500-foot setback from any SECS permitted area to a residential dwelling, provided such setback shall not apply to any residential dwelling of a landowner who leases property to the applicant or its successor and who provides the County with a written waiver from the setback and a release from liability satisfactory to the County.
 - (c) A minimum 2500-foot setback from the property line of any commercial or utility SECS permitted by conditional use permit issued by Linn County.
- b. Screening. If existing vegetation is inadequate to serve as an effective buffer, as determined by the Zoning Administrator, the applicant will provide a triple row of trees or shrubs planted on 10-foot centers. New planting of trees and shrubs shall be approximately six (6) feet in height at time of planting.
- c. Modified Setbacks and Screening. The Planning Commission may approve smaller setbacks and/or vegetative cover for any SECS upon a finding of good cause and that the public interest would not be harmed.

SECTION 14-8 ROADS AND ROAD MAINTENANCE AGREEMENT

14-801. All applicants for a conditional use permit shall submit, with their site plan, a plan for roads and their maintenance meeting the following requirements:

- a. Identification of all county roads and other public roads that will be used to access the SECS during the construction, operational and decommissioning stages.
- b. Identification of any improvements to public roads and bridges necessary for the construction stage.
- c. A road maintenance agreement with Linn County for the maintenance and repair of roads, bridges and rights-of-way during the construction and decommissioning

stages. The agreement shall require the applicant or its successor to timely restore all public roads, bridges and rights-of-way to the condition they were in prior to construction, at the expense of the applicant.

- d. Applicant shall construct the smallest possible number of access roads onto public roads.

SECTION 14-9 OPERATION/MAINTENANCE PLAN

14-901. All applicants for a conditional use permit shall submit, with their site plan, an operation/maintenance plan meeting the following requirements:

- a. Plans to mitigate:
 - 1. Adverse impacts to flora, identifying vegetation species, threatened species, critical habitat and habitat conditions for such species.
 - 2. Adverse impacts to fauna, identifying species, threatened species, migratory species, habitat assessment, critical habitat and habitat conditions for such species.
 - 3. Disturbance to the soil. Applicant shall disturb or clear the site, and compact the soil, only to the extent necessary to assure necessary access for construction, installation of panels and safe operation and maintenance of the SECS.
 - 4. Removal of trees shall be minimal.
 - 5. Adverse impacts upon the quality and quantity of ground water resources in the area.
- b. For any SECS with solar panels containing any toxic materials such as lead or cadmium shall comply with the requirements of Section 14-408 of this Article.

SECTION 14-10 DECOMMISSIONING PLAN

14-1001.

- a. Decommissioning Plan. All applicants for a conditional use permit shall provide, with their site plan submission, a decommissioning plan. The plan shall specify the procedure by which the applicant, or its successor, will remove structures and restore the area to its pre-construction condition. The plan will set forth a timeline for completing decommissioning once it is commenced.
- b. Decommissioning Cost Estimate. The decommissioning plan shall include a decommissioning cost estimate prepared by a Kansas-licensed professional engineer.

1. The cost estimate shall provide the estimated cost of decommissioning in accordance with the decommissioning plan and any other applicable conditions set by the County.
2. The applicant or its successor shall compensate the County for any third-party review and analysis by an engineer of the initial cost estimate.
3. The applicant or its successor shall update the decommissioning cost every five (5) years following approval of the conditional use permit and compensate the County for any review and analysis of each cost estimate revision by a Kansas-licensed professional engineer.
4. Notice to County. The applicant or its successor shall provide six (6) months' written notice to the Linn County Clerk that it intends to commence the decommissioning process.
5. Reduction to Financial Assurance. The amount of the bond set by Section 14-12 for assuring decommissioning may be reduced, at the discretion of the County, if an updated cost estimate shows a decrease from an earlier cost estimate.
6. Within six (6) months after the cessation of use of the SECS for electrical power generation or transmission the applicant or its successor, at its sole cost and expense, shall decommission the SECS in accordance with the decommission plan approved by the BOCC.
7. If the applicant or its successors fail to decommission the SECS within six (6) months following commencement of decommissioning the County has the right, but not the obligation, to undertake decommissioning financed by the financial agreement required for a conditional use permit.

SECTION 14-11 FINAL DEVELOPMENT PLAN

14-1101. All applicants for a conditional use permit shall submit, at least two weeks prior to a public hearing before the Linn County Planning Commission, a final development plan meeting the following requirements:

- a. Final location and spacing of solar panels.
- b. Location and width of access roads.
- c. Locations of underground and above-ground electrical lines connecting the SECS to any building, substation or other location.
- d. Location, type, caliper and planting schedule of vegetative screening.
- e. Project construction deadlines.
- f. Stormwater management structures and plans.
- g. Soil and water sampling plans if solar panels utilize toxic materials.

SECTION 14-12 FINANCIAL AGREEMENT AND ASSURANCES

14-1201.

- a. The term “bond” as used in this Section refers to the financial agreement between Linn County and the permit applicant, whether it is a bond, escrow account, surety agreement or similar agreed-to financial assurance.
- b. Applicant shall obtain a bond naming Linn County as a payee in a form and amount acceptable to the County Board provided that the amount shall not be less than 110% of the cost estimate in the approved decommissioning plan. Applicant shall maintain the bond throughout the lifespan of the project and the bondholder shall provide the County Board annual notification of the bond status, and also provide the Board 30 days’ notice of any bond cancellation.
- c. Upon a finding by the County Board that the permit holder is in noncompliance or default the County may call the bond and use it for decommissioning purposes. No refund of any balance will be made until decommissioning is completed to the satisfaction of the County Board.
- d. If the permit is terminated for any reason the permit holder shall remain liable to Linn County for any expense incurred by the County in excess of the bond, and for any damages resulting from a breach of any condition of the permit or any regulation of this Section.
- e. Applicant shall have an Indemnification Agreement with the County throughout the lifespan of the project and shall have a general liability insurance policy, with limits that are satisfactory to the County Board, which identifies the County as an additional insured.
- f. Any use of bond funds by a permit holder for any purpose not expressly provided for in the approved decommissioning plan is a breach of that plan and a violation of the conditional use permit and these regulations.

SECTION 14-13 TRANSFER OF CONDITIONAL USE PERMIT

14-1301.

- a. No conditional use permit shall be transferred from one party to another without the prior written approval of the County Board.

- b. The holder of a permit shall make request, in writing, for a transfer to the Zoning Administrator.
- c. Any party to whom the County Board approves a transfer to shall comply with the conditions set by the County Board, including but not limited to the conditions required of the party who previously held the permit.
- d. The party to whom the permit is transferred shall also meet financial assurance requirements set by the County Board for decommissioning and removal of the system, in accordance with the conditions set by the County Board for decommissioning and removal.

ARTICLE 15

WIND ENERGY CONVERSION SYSTEMS

Sections:

- 15-1 Intent
- 15-2 Definitions
- 15-3 Domestic Wind Energy Conversion Systems
- 15-4 Prohibited Wind Energy Conversion Systems

SECTION 15-1 INTENT

15-101. The regulations set forth in this Article, or set forth elsewhere in these regulations when referred to in this Article, are the regulations governing the placement and operation of Wind Energy Conversion Systems (WECS). The intent of this Article is to allow domestic WECS as accessory uses in the Agricultural, Countryside, Commercial and Public Use Districts, subject to compliance with the relevant provisions for such use set forth in this Article. All other types of WECS are prohibited in the unincorporated areas of Linn County.

SECTION 15-2 DEFINITIONS

15-201.

- a. ***Wind Energy Conversion System:*** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. A Wind Energy Conversion System (WECS) consists of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind.
- b. ***Domestic Wind Energy Conversion System:*** A Wind Energy Conversion System consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW, which has a tower height no greater than 100 feet above grade and which is intended primarily for on-site consumption of utility power and not primarily for commercial power production. For purposes of this Article “primarily” means 51% or greater.
- c. ***Wind Energy Conversion System Height:*** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades. System height shall not exceed 150 feet.

SECTION 15-3 DOMESTIC WIND ENERGY CONVERSION SYSTEMS

15-301. As an Accessory Use, Subject to Permit, in the Agricultural District.

In the "A" Agricultural District domestic WECS are allowed as an accessory use, subject to receiving a permit from the Zoning Administrator. The purpose of the permit is to ensure the applicant is aware of the conditions and restrictions set out in the following subsection.

a. **Domestic wind energy conversion systems.** The following conditions and restrictions shall apply to domestic wind energy conversion systems:

1. **Minimum parcel size.** No system shall be located on a parcel of less than 20 contiguous acres.
2. **Density.** No more than one (1) system shall be located on each 20 acres of a parcel.
3. **Spacing.** No system may be located within 300 feet of another domestic wind energy conversion system.
4. **Setbacks.** Every system shall meet the following minimum setbacks:
 - (a) A setback from the nearest property line a distance equal to twice the height of the system, including the rotor blades.
 - (b) A setback from the nearest public road right-of-way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.
5. **Blade height.** The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.
6. **Tower height.** A maximum of 100 feet.

15-302. As an Accessory Use, Subject to Permit, in the Countryside,

Commercial and Public Use Districts. In the "CS" District, the "C" District and the "P" District domestic WECS are allowed as an accessory use, subject to receiving a permit from the Zoning Administrator. The purpose of the permit is to ensure the applicant is aware of the conditions and restrictions set out in the following subsection.

a. **Domestic wind energy conversion systems in the "CS" Countryside, "C" Commercial and "P" Public Use Districts.** The following conditions and restrictions shall apply to domestic wind energy conversion systems:

1. **Minimum lot size.** No system shall be located on a parcel of less than 20 contiguous acres.
2. **Density.** No more than one (1) system shall be located on each 20 acres of a parcel.
3. **Spacing.** No system may be located within 300 feet of another domestic wind energy conversion system.
4. **Setbacks.** Every system shall meet the following minimum setbacks:
 - (a) A setback from the nearest property line a distance equal to twice the height of the system, including the rotor blades.
 - (b) A setback from the nearest public road right-of-way a distance equal to the height of the system, including the rotor blades, plus an additional 50 feet.
5. **Blade height.** The lowest point of the rotor blades shall be at least 50 feet above ground level at the base of the tower.
6. **Tower height.** A maximum of 100 feet
7. **Advertising.** No advertising signs of any kind shall be located on the system.

SECTION 15-4 PROHIBITED WIND ENERGY CONVERSION SYSTEMS

15-401. All WECS other than domestic WECS, allowed as accessory uses in accordance with this Article, are prohibited within the unincorporated area of Linn County.

15-402.

- a. The County has determined that non-domestic WECS are incompatible with protection and enhancement of the rural character of the County. Further, limiting WECS to domestic WECS is consistent with the goals and objectives of preserving agricultural lands and the natural resources of the County, including environmentally sensitive areas, as stated in the 2022 Linn County Comprehensive Plan.
- b. The 2022 Plan further sets the objective of minimizing adverse effects of intrusive developments and land use. The County finds that non-domestic

WECS would create such “adverse effects of intrusive development” due largely to the characteristics inherent to wind farms, specifically the extreme height and constant motion of towers, turbines and blades, shadow flicker and low-frequency sounds.

ARTICLE 16

SUPPLEMENTAL DISTRICT REGULATIONS

Sections:

- 16-1 General
- 16-2 Height and Yard Regulations
- 16-3 Number of Structures on a Lot
- 16-4 Additional Use Requirements
- 16-5 Screening for Commercial and Industrial-Zoned Property
- 16-6 Temporary Uses
- 16-7 Accessory Uses
- 16-8 Accessory Uses; Additional Requirements in Residential Districts
- 16-9 Fences
- 16-10 Residential – Design Manufactured Housing Standards
- 16-11 Building Setbacks
- 16-12 Home Occupations
- 16-13 Signs and Outdoor Advertising
- 16-14 Accessory Dwelling Units or ADUs
- 16-15 Shipping Containers

SECTION 16-1 GENERAL

16-101. The regulations set forth in this Article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations. The provisions of this Article shall prevail over conflicting provisions of any other article, unless expressly provided otherwise.

SECTION 16-2 HEIGHT AND YARD REGULATIONS

16-201

- a. Height. Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, water towers, solar collectors, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy are not subject to the height limitations contained in the district regulations.
- b. Yard.
 - 1. *Front yards.* The front yards established by the district regulations shall be adjusted in the following cases:

- (a) Where there is no recorded front building setback line established by platting and all of the structures on one side of a block are set back greater than required by the district regulations, a new or enlarged structure may be set in line with the structure closest to the street.
- (b) Where there is no recorded front building setback line established by platting and fifty (50) percent or more of the structures on one side of a block are setback less than required by the district regulations a new or enlarged structure may be set in line with the average of the existing structure or structures adjacent to the new or enlarged structure. However, no new or enlarged structure may be set closer to the front property line than ten (10) feet in a residential, commercial or industrial zone.

2. *Accessory buildings and structures.*

- (a) Except as otherwise provided in Section 16-8 for residential districts, detached accessory buildings or structures must be located behind the front building line and may be located no closer than six (6) feet from the principal building, side or rear lot line, except if the structure has a vehicular entrance directly from an alley such accessory building or structure shall be set no less than twenty (20) feet from the property line adjacent to the alley.
- (b) Existing accessory buildings or structures which do not meet the minimum setbacks may be rebuilt, reconstructed or enlarged, providing they do not further decrease the existing setbacks.
- (c) Except as otherwise permitted or further restricted by the regulations in this Article, the total area of all detached accessory buildings or structures shall not exceed the provisions of section 16-7.

3. *Structural projections.* Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings or structures, and except for:

- (a) Eave projections, sills, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard or setback.

- (b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3.5) feet into a required side yard and five (5) feet into a required rear yard.
 - (c) Patios or decks no more than three (3) feet above grade may project up to ten (10) feet into a front or rear yard, however front yard setbacks shall be no less than ten (10) feet,
- 4. Additional setback requirements are set out at Section 16-11.

SECTION 16-3 NUMBER OF STRUCTURES ON A LOT

16-301. More than one principal use or structure may be located on a lot, provided that such buildings conform to all requirements for the district in which they are located, and all such buildings shall remain in single ownership.

SECTION 16-4 ADDITIONAL USE REQUIREMENTS

16-401. Automobile wrecking yards, salvage yard, junk yards and scrap processing yards shall require a Conditional Use Permit and compliance with the following:

- a. Located on a tract of land at least three hundred (300) feet from a residential district zone.
- b. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall. The fence or wall shall be of uniform height (at least six (6) feet high), uniform texture color shall be so maintained, by the proprietor, as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence or wall must provide a visual screen from all adjoining property and shall be installed in such a manner as to retain all scrap, junk or other material within the yard. For the purpose of visual screening, dense evergreen foliage may be substituted if maintained in good condition.
- c. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently outside the enclosing building, hedge, fence or wall, or within the public right-of-way.

- d. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the fire department and County Board. Said burning, when permitted, shall be done during daylight hours only.

16-402. Confined Animal Feeding Operations (CAFOs) require a Conditional Use Permit and compliance with the following:

- a. The development plan shall include an area map showing the location of all habitable structures within one (1) mile of all properties proposed to be used in the operation, including lands on which facilities and structures are to be constructed as well as land used for disposal of animal wastes by any means. All facilities and structures, including waste lagoons, shall be located a minimum of 2000' from all habitable structures and places frequented by the public; and all lands used for effluent disposal shall be located a minimum of 100' from all habitable structures and places frequented by the public. The separation requirements for lands used for effluent disposal may be reduced if the occupants of any habitable structures within said area agree in writing to waive the requirement and said agreement is recorded with the Linn County Register of Deeds.
- b. Copies of all permit documents, plans, specifications or reports required to be submitted to the KDHE or any State agency shall be submitted with the application.
- c. The applicant shall identify the method to be used in the handling and disposal of all dead animals that are generated from all the operations.
- d. Where applicable, a maintenance agreement between the applicant and the County shall be required to maintain the roads that provide the ingress/egress to the operation.
- e. If the Conditional Use Permit is approved, the applicant and all successors or operators of the facilities shall submit copies of all annual reports and documents required to be submitted to all State regulatory agencies to the Linn County Zoning Administrator who shall keep them on file.

16-403. Explosives:

- a. Storage of any amount of explosives (explosives, blasting agents or detonators) requires a Conditional Use Permit and housing in a magazine designed for that purpose.

- b. Magazines shall be located from residential property lines and areas frequented by the public as follows:

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

- c. Magazines shall be separated from each other the following minimum distances:

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

- d. Permits shall not be transferred or issued to anyone under the age of 21 or to anyone without the prior written approval of the County Board. Permits may be denied or revoked for reasons not limited to the following:

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

16-404. Fireworks:

- a. Vendors and other parties with a quantity of fireworks greater than 1000 lbs. shall obtain a Conditional Use Permit and comply with the requirements of this Section. Said Conditional Use Permit shall be valid only for the dates of June 27th through July 5th of any year.
- b. Fireworks stands with a Conditional Use Permit shall be located no less than 100 feet from the Permit holder's residence, no less than 500 feet from any adjoining residential property line and not less than 75 feet from public roadways.

- c. Fireworks shall not be stored, kept, sold or discharges within one-hundred and fifty (150) feet of any gasoline pump, filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold.

16-405. Group boarding homes, managed group day care homes or residential center, except as permitted by K.S.A. 12-736 as amended, shall require a Conditional Use Permit and compliance with the following:

- a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
- b. A report from the Linn County Health Office shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
- c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
- d. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - 1. That only non-illuminated ground or wall sign not more than four square feet in area is used to advertise.
 - 2. Outside areas shall be fenced.

16-406. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, shall require a Conditional Use Permit and compliance with the following:

- a. Such conditional uses shall be located nearby or adjacent to roads capable of handling the expected highway loads of heavy truck traffic. If the County finds that any road which would be used by the operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant shall be required to improve and maintain the roads such that the roads will accommodate the anticipated traffic. An Improvement and Maintenance Agreement shall be required to assure that the streets used by the operation will be appropriately improved and maintained.

- b. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of one hundred feet (100') from any road right of way or property line, measured horizontally, must be maintained free of any quarrying or mining activity, either surface or sub-surface. No building, equipment, or quarry products or other materials shall be erected or stored within the 100' setback although, the setback area may be used for screening or berms as may be required by the Conditional Use Permit.
- c. Applications for new quarries, expansions of existing quarries or other mining operations shall include an environmental impact assessment. Said assessment shall address areas about which the Planning Commission or County Board may require additional information and which may have the greatest potential for harmful effects on the health, safety, and welfare of the community such as:
 - 1. Noise and vibration impacts;
 - 2. Water impacts;
 - 3. Safety and nuisance potential;
 - 4. Geological impacts; and
 - 5. Wildlife and ecological impacts.
- d. (d.)The initial Conditional Use Permit may be granted for a period not to exceed ten (10) years. Renewals or extensions of said permit shall not exceed periods of ten (10) years. A reclamation plan shall be submitted with the application. The plan shall indicate a timetable for reclamation of the site and a general plan for the proposed future use of the site.

16-407. Storage of bulk oil or gas.

- a. Conditional Use Permit shall be required and compliance with the following:
 - 1. Any state, county or local government installing tanks of 660 gallons or more capacity;
 - 2. Any business or industrial company installing tanks of 660 gallons or more capacity;
 - 3. Any agricultural farm installation of tanks of 1,100 gallons or more capacity.
- b. Dikes shall be constructed around the tank(s) of a material which shall contain a fuel spill of at least 110% of the capacity of the largest tank.

16-408. Storage of L.P. Gas, Ammonia, Ammonia Nitrate, Chlorine or Anhydrous Ammonia:

- a. A Condition Use Permit is required for bulk storage of these substances and compliance with the requirements of this Section. Applicant shall show that all federal and state statutes are met and shall meet any additional requirements of the Linn County Rural Fire Coordinator.

16-409. Solid Waste Processing Facility or Solid Waste Disposal Area shall require a Conditional Use Permit and compliance with the following:

- a. Operations shall be located nearby or adjacent to principal or minor arterial roads capable of handling the expected highway loads of heavy truck traffic.
- b. No solid waste disposal area or solid waste processing area shall be set back less than 150 feet from any property line or nearer than 500 feet from any dwelling, school or hospital that was occupied on the date when application was first made for the Conditional Use Permit to operate a solid waste disposal or processing area. No open stored equipment, disposal materials or cover material shall be located within this setback area. However, this setback area may be used for visual screening purposes or for the construction of buildings to house equipment. Nothing in this section shall prohibit Linn County from increasing this setback distance if there is evidence that a greater setback is necessary to protect the health, safety and welfare of the residents of the county.
- c. The initial Conditional Use Permit may be granted for a period not to exceed five (5) years. Renewals or extensions of said permit shall not exceed a period of five (5) years.
- d. All waste disposal operations shall be buffered and screened by a method such as berms, dense landscape plantings, privacy fences, and the like, when the use would be visible from any public road, any Residential District or any area planned for residential development as designated by the Linn County Comprehensive Plan.
- e. The permit holder shall utilize dust abatement measures for all unpaved interior roads and equipment and processing areas as required by the Conditional Use Permit.
- f. If the County finds any roads which would be used by the solid waste processing or disposal operation to be inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, then the applicant may be required to improve and maintain the roads to accommodate the anticipated traffic. An Improvement and

Maintenance Agreement between the applicant and the County shall be required to assure that the streets used by the operation will be appropriately improved and maintained.

- g. A plan for the reclamation of the site shall be prepared and submitted with the application. The plan shall indicate a timetable for the reclamation to the site and a general plan for the proposed future use(s). The reclamation plan submitted shall be binding to the extent required to assure that the phase of the site changes underway during the Conditional Use Permit term shall remain consistent with the reclamation plan which shows the overall intentions of the applicant for the reclamation of the site. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however the reclamation plan must be approved by the Linn County Planning Commission and the Board of County Commissioners before reclamation work may begin. Said approval shall require a public hearing under the same procedures as required for the Conditional Use Permit.
- h. The applicant's operation shall be available for inspection by County staff at any reasonable time following approval of the permit. Said inspection shall evaluate compliance with the above listed requirements and the conditions on the particular permit. If the operation is found to be in violation, the permit may be canceled after a hearing has been granted by the Linn County Planning Commission and the Board of County Commissioners as provided in Article 16 of these regulations if the noncompliance is not corrected immediately for the items involving potential safety hazards, or for items not involving potential safety hazards, within sixty (60) days of written notice from the County. Said written notice shall itemize the violations and corrective measures necessary for compliance.
- i. An environmental impact assessment shall be provided with the application for a Conditional Use Permit for a solid waste disposal area or a solid waste processing facility. Said assessment shall be conducted by a qualified engineer and shall include assessment of items as deemed by the Linn County Planning Commission as being necessary to protect the health, safety and welfare of the community. The environmental impact assessment shall also include a recommendation regarding the necessity and/or type of liner to be installed and criteria for installation in order to protect the waters of the state.
- j. All solid waste disposal areas or processing facilities shall meet all requirements established by the Kansas Department of Health and Environment. A copy of the current state permit and copies of all state

inspections shall be filed with the Linn County Planning and Zoning Office and shall be kept on file for inspection by any interested party.

- k. Any application for a proposed solid waste disposal area or processing facility shall include a statement from the Linn County Solid Waste Coordinator, the Lake Region Authority or from the local solid waste management committee that the proposed use is in compliance with the Solid Waste Management Plan.
- l. Any application for a proposed solid waste disposal area or processing facility shall include a plan for contact water control and management. Said plan shall be designed by a professional engineer and shall provide for the retention of the contact water on the site. Said plan shall also provide for either the disposal of or the beneficial re-use of contact water in a manner to protect the waters of the state.

16-410. Sexually oriented businesses.

- a. Sexually oriented businesses are a conditional use in the C Commercial zoning district.
- b. In addition to the requirements for a Conditional Use Permit pursuant to Article 20, sexually oriented businesses shall be at least 1,320 feet from any existing church, public or private school, hospital, library, child care center, daycare home, preschool, business establishment which sells alcoholic liquor for on-premises consumption, or another sexually oriented business.

SECTION 16-5 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

16-501.

- a. Commercial or industrial use adjacent to a residential zone. Screening which is adequate to protect the residential land from the affect of an adjoining commercial or industrial use shall be erected by the commercial or industrial property owner.
- b. Type of screening required. Screening shall consist of a wall, fence or evergreen plantings six (6) to eight (8) feet in height having a visual density of at least ninety percent (90%). Screens adjacent to the front yard of a residential zone shall not exceed forty-eight (48) inches in height.
- c. Location of screen. All required screening shall be located within three (3) feet of the property line adjacent to the residential zone.

- d. Evergreen hedges or shrubs. Evergreen plantings shall be planted at a height of at least thirty-six (36) inches and shall reach the required height and effective screening within eighteen (18) months.
- e. Maintenance of screens. All required screens shall be permanently maintained in good and effective condition, and whenever necessary, repaired or replaced.
- f. Installation prior to occupancy. Whenever screening is required, it shall be installed before occupancy of the commercial or industrial use is allowed. However, where plantings are being used to accomplish the required screening and the season is unsuitable for planting, the owner shall submit a written verification, satisfactory to the Zoning Administrator, of when the required screening shall be planted.

SECTION 16-6 TEMPORARY USES

16-601.

- a. Only the following temporary uses may be permitted.
 - 1. Carnivals and circuses, located in a commercial or industrial zone or on public property, when located at least two hundred (200) feet from the boundary of a residential zone and for a time period not exceeding two (2) consecutive weeks.
 - 2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.
 - 3. Model homes or development sales offices located within the subdivision or development area to which they apply, with such use to continue only until sale or lease of all units in the development.
 - 4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.
 - 5. Seasonal sales of farm or garden produce, bulbs, plantings or cut flowers, on an individual's place of residence and raised by

the same individual, provided no structure is constructed for such use.

6. One mobile home or manufactured home to be used as a temporary office for any allowable use in an industrial or commercial zoning district, provided that such home shall not be used for more than a one (1) year period starting the day the home is set upon the property.
7. Asphalt or concrete plants are allowed as temporary uses if they meet all of the following criteria:
 - (a) The proposed location has direct access to a state or federal highway or right of way,
 - (b) The proposed location is not less than 1000 feet to the nearest residence other than the residence of the owner of the land upon which the limited plant is to be located,
 - (c) The application shall include a statement from the Kansas Department of Health and Environment certifying that all wastewater, air and fuel containment issues have been addressed to the satisfaction of the State of Kansas.
 - (d) A surety bond or letter of credit assuring the site will be returned to its original condition shall be submitted to the County prior to issuance of the permit.
 - (e) All equipment and materials utilized in the operation of the asphalt or concrete plant shall be removed from the site within 30 days following completion on the construction project for which the plant was established.
 - (f) A plan showing the arrangement of the proposed activity on the site and the designated haul roads shall be submitted with the application.
- b. Persons seeking approval for a temporary use authorized by items 1,2 and 4 in subsection a. of this section shall make application to the Zoning Administrator at least ten (10) days in advance of the time desired for usage. Such application shall include a site plan showing existing and proposed usage. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee resolution and upon finding:

1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.
 2. The temporary use will not impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.
 3. That adequate off-street parking is available for the temporary use and any permanent use on the site.
- c. The following conditions for a temporary use shall apply:
1. Each site used by an authorized temporary use shall be left free of debris, litter and all evidence of such use.
 2. Such use when conducted upon a parking lot of another business shall not occupy more than twenty (20) percent of the required parking spaces of such uses.
 3. No temporary use shall be located within the required setback of the site.

SECTION 16-7 ACCESSORY USES

16-701. Accessory uses are permitted in any zoning district in connection with any permitted principal use, consistent with the provisions of this section and section 16-8.

- a. **Definitions.** An accessory use is a structure or use which:
1. Is subordinate to and serves a principal building and principal use.
 2. Is subordinate in area, extent or purpose to the principal building or buildings served.
 3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
 4. Is located on the same tract as the principal building or principal use served.
- b. Permitted accessory uses. Any structure or use that complies with the terms of subsection a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:
1. Private garages and carports, whether detached or attached, as further regulated by section 16-8.

2. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed one hundred forty-four (144) square feet in gross floor area.
 3. A children's playhouse.
 4. A private swimming pool and bathhouse.
 5. A guest house or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.
 6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
 7. Storm shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 8. Off-street parking and loading spaces as regulated by Article 18 of these regulations.
 9. Retail sales of products manufactured, processed or fabricated on site.
 10. Storage of recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.
 11. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
 12. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
 13. The storage of retail merchandise when located within the same building as the principal retail business.
 14. Domestic solar energy conversion systems, when located in the "A" Agricultural, "CS" Countryside, "R" Residential, "C" Commercial, or "P" Public districts and further subject to the requirements set forth in Article 14 of these regulations.
- c. **Prohibited accessory uses.** None of the following shall be permitted as an accessory use:
1. Outdoor storage or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Zoning Administrator that such waiver would not be adverse to public health, safety or welfare.
 2. Outdoor storage, except as specifically permitted in the district regulations.

3. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure. Further, in the event any such container, lawfully placed as of the effective date of these regulations, is removed, no replacement container may be placed on the property.

SECTION 16-8 ACCESSORY USES; ADDITIONAL REQUIREMENTS IN RESIDENTIAL DISTRICTS

16-801. No detached accessory building shall occupy a required front yard or be located within ten (10) feet of any dwelling existing or under construction on the building site.

16-802. No single accessory building in a residential district (R, R-LC, MHP, MU, CS) shall occupy more than 30%, nor shall all such buildings collectively occupy more than 40%, of the required yard spaces in the rear half of the lot. No accessory building shall be located closer than six (6) feet to any lot line. In the case of a corner lot no accessory building shall project closer to the road or street side yard than the front yard abutting.

16-803. Garages shall not be constructed upon lots in residential-zoned districts upon which no principle dwelling is located.

SECTION 16-9 FENCES

16-901. Except for fences used for agricultural purposes, and as otherwise specifically provided elsewhere in these regulations the following restrictions shall apply to the construction of all fences or improvements, replacements or extensions of existing fences.

- a. No fence shall be constructed without first obtaining a fence permit from the Zoning Administrator.
- b. No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected. However, a fence not exceeding three (3) feet in height may be constructed within a required front yard setback if the Zoning Administrator determines that such a fence otherwise complies with the regulations of this section.
- c. No fence shall be constructed in the sight distance area or any other location by which it would constitute a traffic hazard.

- d. A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.
- e. No fence shall be constructed, repaired, replaced or reconstructed in such a manner or be of such design, or constituted of such materials, as to be hazardous or dangerous to persons or animals. No person shall erect or repair, replace or reconstruct any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence will adversely affect the public health, safety or welfare.
- f. For corner lots the following rules shall apply: All sides adjacent to a street shall be considered front yards, with the one on the non-address side having the lesser setback requirement. The primary front yard shall meet the applicable district setback. However, on corner lots back to back with another corner lot, the fence may be installed up to the non-address side property line, in the front yard setback area.
- g. For institutional uses in residential (R, R-LC, MHP, MU, CS) districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed in the front yard setback provided it complies with subsections c, d and e of this section, with a maximum of six (6) foot height.
- h. A fence may be erected in a commercial (C, MU) district to not more than ten (10) foot maximum height, however no barbed wire or electrification shall be attached.
- i. A fence may be erected in an industrial district to not more than ten (10) feet maximum height.

SECTION 16-10 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS

16-1001.

- a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally know as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable County regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet

in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of four (4) inches for every twelve (12) inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete tile, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of ten (10) inches which may include a gutter.
2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with any applicable County-adopted building codes.
3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and any applicable County-adopted building code.
4. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home.
5. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of any applicable County-adopted building codes.
6. On level sites, the main floor shall be no greater than twenty four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.
7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the applicable building codes and attached permanently to the primary structure and anchored permanently to the ground.

8. Any attached addition to such a home shall comply with all construction requirements of any applicable County-adopted building codes, unless designed and constructed by a manufactured home factory.
 9. If fifty (50) percent or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, "street" shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage, porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.
- b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home".

SECTION 16-11 BUILDING SETBACKS

16-1101. For purposes of determining the applicability of building setback lines established in these regulations, the following rules shall govern:

- a. Except as otherwise provided at subsections b. and c., below, whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.
- b. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is more restrictive than the yard requirements established in these regulations, such platted setbacks shall control and building permits shall not be issued for any building or structure outside of such platted setback.
- c. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is less restrictive than the yard requirements established in these regulations, such platted setbacks shall control, and building permits may be issued for a building or structure which would be located in the yard under these regulations.

16-1102. Corner lots shall be free from any visual obstruction between a height of two and one-half (2-1/2) feet and eight (8) feet above the grade of the top of the curb of the adjoining street. This sight triangle area shall be determined by the "Visibility Triangle for Driveways and Sideroads (Stop Condition)" table in the current KDOT Corridor Management Policy Manual. The table distances shall be applicable to all highways or streets without regard to street classification.

16-1103. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, shall not be located less than twelve (12) feet from any property line and at least forty (40) feet from the center of any street.

16-1104. Canopies covering gas or other fuel pumps shall be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.

SECTION 16-12 HOME OCCUPATIONS

16-1201. Home occupations as defined in Article 2 of these regulations shall be permitted in the A District, MU District, and the CS, R and R-LC residential districts, subject to the following:

a. Restrictions and Limitations.

1. No more than one employee or volunteer shall engage in such home occupation in addition to the person occupying the dwelling unit as his or her place of residence.
2. There shall be no outdoor storage of materials or equipment used in the home occupation.
3. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
4. No new accessory buildings shall be constructed for use, in whole or in part, in the home occupation.
5. The repair of items as a home occupation may occur only when the delivery and pickup of the item is conducted off the premises by the proprietor of the home occupation or by an employee (as authorized in item 1 above) of the home occupation. No trips shall be generated to or from the home occupation by customers with items which have been or are to be repaired.
6. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single family residential dwelling.

7. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.
 8. The area within a dwelling exclusively devoted to home occupations shall be limited to twenty-five percent (25%) of the total floor area of the dwelling or three hundred fifty (350) square feet, whichever is less.
 9. The area of an accessory structure devoted to home occupations shall be limited to nine hundred (900) square feet.
 10. The giving of lessons of any type shall be limited to no more than five (5) persons at any one time.
 11. There shall be no advertising of the home occupation on the exterior of a dwelling or accessory structure other than one (1) non-illuminated sign of not more than three (3) square feet, per building, mounted flat against the exterior wall.
- b. **Power of Zoning Administrator.** The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including the power to:
1. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.
 2. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.
- 16-1202.** Permitted home occupations are primarily of a service nature similar to, but not limited to, the following:
- a. Artists, sculptors and writers.
 - b. Custom dressmaking, tailoring sewing of fabrics for custom apparel.
 - c. Giving of lessons of any type, provided instruction does not exceed five (5) pupils at a time. Such limitation shall not apply to recitals or other performances.
 - d. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar professional offices.

- e. Fabrication and/or assembly of handicraft or hobby articles.
- f. Photographic studios.
- g. Beauty or barbershops having one chair, stand or station.
- h. Multi-level marketing and home party product sales.

16-1203. Prohibited Home Occupations. Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

- a. Animal care other than grooming.
- b. Funeral homes or services.
- c. Retail sale or rental of any goods or products, other than where the commercial exchange constituting such sales or rental is accomplished by means of catalog orders, whether in written or electronic form.
- d. Automotive sales, repair or service of any type.
- e. Appliance repairs (other than for hand-held household appliances).

SECTION 16-13 SIGNS AND OUTDOOR ADVERTISING

16-1301. No signs shall hereafter be built, erected or placed upon structures, and no existing signs shall be moved or modified unless in compliance with Resolution 91-10, Linn County Sign Regulations.

SECTION 16-14 ACCESSORY DWELLING UNITS OR ADUs

16-1401. ADUs are permitted uses in the A, R, and CS zoning districts.

16-1402. Purpose. Linn County recognizes the benefit that ADUs can provide as a housing alternative when such benefits are balanced with other land use goals. The purpose of these regulations of ADUs is to:

- a. Protect the rural and neighborhood character of areas where ADUs are permitted.
- b. Increase and diversity available rental housing stock in the unincorporated areas of the County.

- c. Provide for the convenience of land owners to accommodate family, guests and farmworkers with living quarters.

16-1403. General Requirements:

- a. ADUs shall not be single-wide manufactured homes, travel trailers, recreational vehicles, vans, buses, storage containers or similar manufactured units which are not originally intended to be used for permanent residences.
- b. Water. ADUs shall utilize the same potable water source as the associated primary residential dwelling unit.
- c. Wastewater. ADUs must have received certification from Linn County that the sewage disposal facilities are adequate for the projected number of bedrooms.
- d. Density. There shall be no more than one ADU allowed per lot.
- e. Sale or Transfer. ADUs shall not be sold as separate dwelling lots from the subject property, unless the portion of the subject property containing the ADU is legally subdivided, or a lot split has been approved, in accordance with the County's Subdivision Regulations.

16-1404. Additional Standards.

- a. The property on which an ADU is to be located must be a legal lot of record.
- b. Design. ADUs shall be designed so that the appearance of the lot remains that of a single-family residential development through the following standards:
 - 1. Building entrances shall be located so that only one entrance faces public road frontage.
 - 2. Access from a public road shall be the same as that for the primary dwelling unit. No new public road access will be established for the ADU.
 - 3. The ADU shall be no more than 300 feet from the primary dwelling unit.

SECTION 16-15 SHIPPING CONTAINERS

16-1501. Definition. Shipping containers, also known as cargo or storage containers are enclosed boxes of standardized size used for intermodal transport. They are originally or specifically designed or used to store goods or merchandise during shipping by container ships, rail or other types of transportation, but have no attached wheel assemblies or chassis. Shipping containers are not dwellings.

16-1502. Regulations Governing Shipping Containers.

a. Containers: Shipping containers shall not be stored on any premises zoned for residential uses for more than ten (10) days in any one (1) calendar year unless the yard setbacks of the underlying zoning district are maintained and one (1) or more of the following conditions are met:

1. Screening by one (1) or more of the following:
 - (a) A permanent primary or accessory structure;
 - (b) Landscaping or other vegetation that provides year-round screening;
 - (c) Masonry walls or wooden privacy fences;
 - (d) Berms or other screening provided by changes in topography.
2. Shipping containers are permitted pursuant to a conditional use permit.
3. They are located at a construction site for the duration of the construction project or one (1) year, whichever occurs first. Units are to be removed within sixty (60) days of the issuance of the Certificate of Occupancy. Time extensions may be requested for extenuating circumstances.
4. They are for short-term, temporary use as part of a natural disaster recovery and clean-up effort, remodeling, fire damage repair, or moving.

The number of containers allowed at any one (1) time shall be limited to three (3), unless limited to fewer or allowed more by a conditional use permit. Containers used solely for agricultural purposes and located on property used primarily for agricultural purposes are exempt from these requirements. Any modification to a container, including attachment to utilities, shall require compliance with all building codes and other applicable code requirements including the removal of all signage.

b. Repurposing of Shipping Containers. Containers may be repurposed and used as building material for permitted uses in all zoning districts, subject

to the requirements of these Regulations, including but not limited to zoning, building, sanitation, fire, etc. This includes, but is not limited to, storage containers that are modified with plumbing and/or electrical services.

16-1503. Nonconforming Shipping Containers. Any legal shipping container which is nonconforming to these Regulations may continue, however if removed for any reason no other shipping container may be put in place of the removed container unless it is in compliance with these Regulations.

ARTICLE 17

NONCONFORMITIES

Sections:

- 17-1 General Provisions**
- 17-2 Nonconforming Lots of Record**
- 17-3 Nonconforming Structures**
- 17-4 Nonconforming Uses**
- 17-5 Nonconforming Manufactured Homes**

SECTION 17-1 GENERAL PROVISIONS

17-101. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. Types of nonconformities are defined as follows:

- a. **Nonconforming lots of record:** Means an unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded with the Linn County Register of Deeds, and neither said lot nor parcel complies with the lot width and/or area requirements for the district in which it is located.
- b. **Nonconforming structure:** Means an existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which the structure is located.
- c. **Nonconforming use:** Means an existing, lawful use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

SECTION 17-2 NONCONFORMING LOTS OF RECORD

17-201. The Zoning Administrator may issue a zoning certificate for any nonconforming lot of record, provided that:

- a. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by the County zoning regulations, and

- b. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the County zoning regulations, and
- c. The lot can meet all yard regulations for the district in which it is located.

SECTION 17-3 NONCONFORMING STRUCTURES

17-301.

- a. **Authority to continue.** Any structure that is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
- b. **Enlargement, repair, alterations.** Any nonconforming principal structure may be enlarged, maintained, repaired or remodeled. No such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. An enlargement which does not, in the Zoning Administrator's determination, extend the nonconformity beyond the existing nonconformity shall not be an additional nonconformity or an increase in the degree of nonconformity.
- c. **Damage or destruction.** In the event that any nonconforming principal structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located.
- d. **Moving.** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same lot or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

SECTION 17-4 NONCONFORMING USES

17-401.

- a. **Authority to continue.** Any nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land which was lawful and in existence at the effective date of these regulations and does not involve a structure or only involves a structure which is accessory to

such use of land, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

b. **Ordinary repair and maintenance.**

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a Linn County official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

c. **Extension.** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the following:

1. Extension of such use to any structure or land area other than that actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming.
2. Extension of such use within a building or other structure to any portion of the floor area that was not actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that is found by the Zoning Administrator to have been lawfully and manifestly designed or constructed for such use on such effective date.

d. **Damage or destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

e. **Moving.** No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the

same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

- f. **Change in use.** Any change in use from nonconforming use to a different nonconforming use is prohibited.
- g. **Abandonment or discontinuance.** When a nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land or buildings shall comply with the regulations of the zoning district in which such land is located.
- h. **Nonconforming accessory uses.** No nonconforming use which is accessory to a principal nonconforming use shall continue after the cessation or termination of the principal nonconforming use.

SECTION 17-5 NONCONFORMING MANUFACTURED HOMES

17-501. Except as otherwise provided in Article 10, the removal and relocation of nonresidential-design manufactured homes in the R District shall be governed by the following regulations:

- a. Upon removal of a nonconforming manufactured home, unless another manufactured home is moved onto the same lot in accordance with Article 6, such use is discontinued and shall not thereafter be reestablished.
- b. Any manufactured home moved in accordance with a. above shall be placed on a permanent, enclosed perimeter foundation within thirty (30) days from the date it is moved onto the lot.
- c. No manufactured home shall be moved onto the lot if such will result in an increase in nonconformity with respect to lot size, yard or bulk requirements.
- d. No manufactured home shall be moved onto the lot if its location shall place it within twenty feet (20') of a principal building or ten feet (10') of an accessory building.
- e. Upon proper application the Board of Zoning Appeals may grant an exception to the time requirements of subsections a. and b. above upon a finding by the Board of hardship for the party who would reside in the manufactured home upon its relocation.

17-502. Relocation of a nonresidential-design manufactured home as a replacement for another such home, when located on property in actual use as a manufactured home park, but not zoned as such, as of the effective date of these regulations, is allowed in accordance with the following regulations:

- a. No such home may be placed within fifteen feet (15') of another such home.
- b. Any such replacement home: must be manufactured on a date more recent than that of the replaced home; and must be moved on to the same lot within ninety (90) calendar days from the date that the previous home was moved off the lot. The Board of Zoning Appeals may grant an exception to the time requirements of this subsection upon a finding by the Board of hardship for the party who would reside in the home upon its relocation.

ARTICLE 18 OFF-STREET PARKING

SECTIONS:

- 18-1 Off-Street Parking
- 18-2 Permanent Parking to Be Provided
- 18-3 Nonconforming Facilities
- 18-4 Parking Spaces Provided
- 18-5 Parking Requirements for Uses Not Specified

SECTION 18-1 OFF-STREET PARKING

18-101. The number of off-street parking spaces required in connection with any particular land use shall not be less than that set forth in this Article. The parking requirements established in this Article apply to all zoning districts.

SECTION 18-2 PERMANENT PARKING TO BE PROVIDED

18-201. Whenever a dwelling is erected, converted or structurally altered there shall be provided on the same lot, adjacent lot or group of lots, accessible off-street parking spaces, including drives. Said spaces may be provided in a garage or surfaced area.

SECTION 18-3 NONCONFORMING FACILITIES

18-301. Any use of property which on the effective date of this Article, or of any subsequent amendment thereto, is nonconforming only as to the regulation relating to off-street parking facilities may continue in the same manner as if the parking facilities were conforming. Provided that such existing parking facilities shall not be further reduced.

SECTION 18-4 PARKING SPACES PROVIDED

18-401. Except as otherwise provided in these regulations, the number of off-street parking spaces for various uses shall meet the following minimums:

REQUIRED PARKING SPACES

- a. Auditorium: One (1) parking space for each four (4) seats up to eight hundred (800) seats, plus one (1) parking space for each eight (8) seats over eight hundred (800).
- b. Automobile Sales & Service Garages: One (1) space for each 400 sq. ft. of retail floor space.
- c. Banks, Business & Professional Offices: One (1) space for each 200 sq. ft. up to 1,000 sq ft., and one (1) space for each 400 sq. ft. of additional space thereafter.
- d. Bowling Alleys: Five (5) spaces for each lane or alley.
- e. Churches: One (1) space for each five (5) seats in the auditorium or one (1) space for each seventeen (17) classroom seats, whichever is the larger.
- f. Dance Halls, Assembly Halls, and Exhibition Halls, without fixed seats: One (1) space for each 100 sq. ft. used for assembly.
- g. Dwellings, Single Family and Two Family: One (1) space for each dwelling unit.
- h. Dwelling, Three, Four Family and Multiple Family: One and one-half (1½) spaces for each dwelling unit containing one bedroom, and two (2) spaces shall be provided for each dwelling unit containing two or more bedrooms. All parking shall be located behind the front building line of each structure.
- i. Funeral Homes and Mortuaries: Four (4) spaces for each parlor or one (1) space for each 100 sq. ft. of floor area.
- j. Furniture & Appliance Stores: One (1) space for each 800 sq. ft of floor area.
- k. Home Occupations: Two (2) spaces in addition to those required for dwelling purposes to be located behind the front building line.
- l. Clinics with Beds, Nursing Homes, Rest Homes and Institutional Homes: One (1) space for each three (3) beds.
- m. Hotel or Motel: One space for each living or sleeping unit. For a facility with a restaurant, see restaurant requirements.
- n. Industrial Uses: One (1) space per two (2) employees on maximum shift.
- o. Manufacturing uses, Research and Testing Laboratories, etc.: One (1) space per two (2) employees on maximum shift.

- p. Medical and Dental Clinics or Offices: Two (2) spaces for each examination room plus one (1) for each employee.
- q. Motor Vehicle and Machinery Repair, Sales or Wholesaling: One (1) parking space for each eight hundred (800) sq. ft. of floor area.
- r. Offices not providing customer services or sales on premises: One (1) parking space for each eight hundred (800) sq. ft. of floor area.
- s. Professional Offices for Attorneys, Accountants, Architects, Engineers, etc.: Four (4) spaces per one thousand (1000) sq. ft. of floor area. The minimum requirement shall be four (4) spaces.
- t. Public Buildings: One (1) space for each three (3) employees, plus one (1) space for each one hundred (100) sq. ft. used for public assembly.
- u. Restaurants, Taverns and Night Clubs: One (1) space for each three (3) seats.
- v. Retail Stores and Personal Services: One (1) parking space for each two hundred (200) sq. ft. of floor area.
- w. Rooming and Boarding Houses, Lodging Houses, Clubs and Fraternity Housing having sleeping rooms: One-half (½) parking space for each tenant.
- x. Schools, Private, Vocational, etc.: One (1) parking space for each employee and one (1) space for each three (3) students of driving age.
- y. Theaters: One (1) parking space for each four (4) seats up to eight hundred (800) seats, plus one (1) parking space for each eight (8) seats over eight hundred (800) seats.
- z. Warehouse & Wholesale Storage Building: Two (2) parking spaces for each employee on the maximum shift.

SECTION 18-5 PARKING REQUIREMENTS FOR USES NOT SPECIFIED

18-501. The parking requirements for land uses which are not specified in this Article shall be determined by the Zoning Administrator whose determination shall be based upon the requirements for the most comparable use specified herein.

ARTICLE 19
BOARD OF ZONING APPEALS
AND ADMINISTRATIVE VARIANCES

Sections:

- 19-1 Board Organization and Procedure**
- 19-2 Appeals**
- 19-3 Variances**
- 19-4 Exceptions**
- 19-5 Determinations of Board**
- 19-6 Applications for Board Hearings**
- 19-7 Public Hearing Required**
- 19-8 Performance Upon Grant of Variance or Exception**
- 19-9 Appeals from Board Decisions**
- 19-10 Administrative Variances**

SECTION 19-1 BOARD ORGANIZATION AND PROCEDURE

19-101. The Linn County Board of Zoning Appeals (“board”) was created in accordance with the provisions of K.S.A. 12-741 et seq. and amendments thereto. Such board shall consist of the number of members, and for terms, as established by the County Board. Vacancies shall be filled by the County Board for the unexpired term of the member vacating.

19-102. The board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings and to effectuate the provisions of these regulations. Board rules shall not be in conflict with other relevant laws, regulations, or resolutions. A majority of the board shall constitute a quorum for the transaction of business. The concurring vote of a majority of the entire membership of the board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator or to decide in favor of the applicant upon any matter which it is required to pass under these regulations or to affect any variation in these regulations. When the board fails to receive a motion for a recommendation on an appeal, or application for a variance or exception, the board shall be deemed to have denied the appeal or application.

The board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the board, the decision of the board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board and shall be public record.

19-103. The Board of Zoning Appeals shall meet as needed to consider the business before it. The board shall select one of its members as chair and one as vice-chair, who shall serve one year and until their successors have been selected. The board shall appoint a Secretary. Special meetings may be called at any time by the chair or in the absence of the chair, by the vice-chair.

SECTION 19-2 APPEALS

19-201. The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

- a. Appeals to the board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within sixty (60) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the board, after the notice of appeal has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

SECTION 19-3 VARIANCES

19-301. The board shall have the power to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property which existed at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or

exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of the property in the manner similar to that of other property in the zoning district where it is located.

- b. Variances from these regulations may be granted only in the following instances:
 - 1. To vary from the applicable lot area and width, height and yard regulations.
 - 2. To vary from the applicable off-street parking and loading requirements.
- c. In accordance with Section 19-10 a request for a variance may be granted by the Zoning Administrator for variances of 20% or less of the requirement. Requests for variances of greater than 20% of the requirement of the regulation may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record:
 - 1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.
 - 2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - 3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - 4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - 5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- d. In granting a variance, the board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the

neighborhood or nearby area, and to carry out the general purpose and intent of these regulations.

- e. Whenever the board grants a variance the results of such action will be recorded with the Register of Deeds of Linn County by the secretary, after the passage of the thirty (30) day appeal period.

SECTION 19-4 EXCEPTIONS

19-401. The board shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts.

- a. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning regulations. The board shall not grant an exception when the conditions established by this section are not found to be present.
- b. The board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
 - 1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 - 2. The proposed exception at the specified location will contribute to and promote the welfare or convenience of the public.
 - 3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood or area in which it is to be located.
 - 4. The location and size of the exception, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets and roads giving access to it are such that the exception will not dominate the immediate neighborhood or area so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood or area, consideration shall be given to:

- (a) The location, nature and height of buildings, structures, walls and fences on the site, and
 - (b) The nature and extent of landscaping and screening on the site;
- 5. Adequate utility, drainage and other such necessary facilities have been or will be provided; and
- 6. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

19-402. Exceptions Allowed. The following exceptions are expressly allowed to be granted by the board when such is consistent with Section 19-401:

- a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within fifty (50) feet of said district boundary line.
- b. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises.

SECTION 19-5 DETERMINATIONS OF BOARD

19-501. In exercising the foregoing powers, the board may reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken.

SECTION 19-6 APPLICATIONS FOR BOARD HEARINGS

19-601.

- a. The procedure for requesting a hearing before the board shall be as follows:
 - 1. All applications to the board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning

Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor, and shall determine whether the filed application is complete.

2. The Zoning Administrator may either create the required ownership list or may require an application to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within one thousand (1,000) feet of the boundaries of the property included in the application.
 3. The board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, and each person on the ownership list fifteen (15) days prior to the hearing.
 4. An application shall be accompanied by the filing fee required by the County Board. A separate filing fee shall be required for each application.
- b. In addition to the above requirements, certain applications must meet additional requirements as follows:
1. Appeals.
 - (a) An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
 - (b) A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
 - (c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the applicant's position.
 - (d) Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
 2. Variances.
 - (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically

the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 19-301.c.

- (b) The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the board in consideration of the application should be included.

3. Exceptions.

- (a) The applicant shall submit a statement in writing justifying the exception applied for, and indicating under which article and section of the zoning regulations the Board of Zoning Appeals is believed to have jurisdiction.
- (b) The applicant shall prepare and submit in duplicate at the time of filing the application a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the board in consideration of the application.

SECTION 19-7 PUBLIC HEARING REQUIRED

19-701. The board shall hold a public hearing on each application for an appeal, variance or exception. On all applications, notice of time and place of the public hearing shall be published once in the official newspaper not less than twenty (20) days prior to the date of such public hearing. In addition, for all applications for a variance or exception, all property owners within 1000' of the subject property shall be notified by mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or exception.

SECTION 19-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION

19-801.

- a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
- b. The board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the board, and shall be enforceable by or payable to the County Board in a sum less than or equal to the cost of constructing the required improvements.
- c. In lieu of the performance bond requirements, the board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration
- d. After the board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

SECTION 19-9 APPEALS FROM BOARD DECISIONS

19-901. In exercising its powers the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the District Court of Linn County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the board, in accordance with state law.

SECTION 19-10 ADMINISTRATIVE VARIANCES

19-1001.

- a. Except where variances are expressly prohibited by the Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 19-3 may be submitted to the Zoning Administrator with a request for an administrative variance.
- b. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than twenty (20) percent.
- c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for administrative variance.
- d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board of Zoning Appeals.

ARTICLE 20

AMENDMENTS, REZONINGS AND CONDITIONAL USE PERMITS

Sections:

- | | |
|-------------|---|
| 20-1 | General Authority and Procedure |
| 20-2 | Table of Lesser Change |
| 20-3 | Time of Performance in Rezoning |
| 20-4 | Conditional Use Permits |
| 20-5 | Fees for Rezonings and Conditional Use Permits |

SECTION 20-1 GENERAL AUTHORITY AND PROCEDURE

20-101. Who May Petition or Apply.

- a. Applications for amendments, revisions or changes in the zoning district boundary maps or for a Conditional Use Permit may be made by any person who owns the land for which such an amendment, revisions, change or Conditional Use Permit is sought, or by the owner's agent. If such application is made by the owner's agent, that agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for the owner prior to the setting of any public hearing.
- b. Applications for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps and/or Conditional Use Permit may also be made by the Planning Commission or the County Board. Any such proposed amendments, revisions, changes, or Conditional Use permit shall be submitted to the Planning Commission for recommendation and report with the final decision made by the County Board.

20-102. Procedures for Consideration of Request for Amendments, Revisions or Changes.

- a. All applications or requests for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of any applicable fee shall be made at the time of the submission of the application.

Immediately upon receipt of an application for rezoning or conditional use by the owner, or agent, and the payment of the appropriate fee, the

Zoning Administrator shall note on the application the date of filing and make a permanent record thereof.

- b. All such proposed applications for amendment, revisions or changes to the zoning regulations and/or for a conditional use shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing on the application and shall cause a written summary to be made of the proceedings. Notice of the hearing shall be published once in the official Linn County newspaper at least 20 days prior to the date of the hearing. The date of newspaper publication and the date of the hearing shall not be included in the calculation of 20 days. Notice shall fix the time and place for the hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or proposed change in the boundary or classification of any zone or district, or the requested conditional use.
- c. If the application is not a general amendment, revision or change to the zoning regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by legal description and by a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of the proposed rezoning or conditional use shall be mailed at least 20 days before the public hearing to all owners of record of the property affected and all owners of record of lands located within at least 1,000 feet or 200 feet where surrounding property is within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission and shall not invalidate any subsequent action taken by the Planning Commission or County Board. The applicant shall provide a list of the owners of record, such list certified by a licensed abstractor, of said lands at the time of the filing of the application.
- d. In the case of an application by the Planning Commission or the County Board, all the above stated requirements shall be followed except:
 - 1. No fee shall be required.
 - 2. If the application is for an amendment or revision to the text of the zoning regulations, notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.

20-103. Public Hearing Before Planning Commission. The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the hearing the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these regulations, or disapprove the application. Any such action must be approved by a majority of the members of the Planning Commission present and voting at the hearing.

When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

20-104. Action by Planning Commission and Board of County Commissioners.

- a. **Recommendations.** Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the County Board. The recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included. If a motion for approval fails to gain approval for any reason, the application is deemed to have been denied and will be submitted to the County Board. If the recommendation is for approval, the recommendation shall be in the form of resolution by Linn County.
- b. **Amendments to text.** When a proposed amendment would result in a change in the text of these regulations, but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and its reasons for recommending approval or denial.
- c. **Adoption of amendments.** The County Board shall not consider an amendment which would result in a change of zoning classification for a specific property, or any application for a Conditional Use Permit, until its next regular meeting after the lapse of the fourteen (14) day protest period provided by state law. A proposed amendment which changes the text of the regulations but would not result in change of zoning classification of any specific property may be considered by the County Board without waiting for the lapse of the fourteen (14) day protest period. Upon receipt of the recommendation of the Planning Commission and any protest petitions that have been submitted, the County Board shall consider the application and may 1) approve the recommendation of the Planning

Commission without change; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the County Board; or 3) return such recommendation to the Planning Commission with a statement specifying the basis for the County Board's failure to approve or disapprove. Upon return of a recommendation from the Planning Commission, the County Board may take whatever action it deems necessary. Whenever a proposed amendment is defeated by vote of the County Board, such amendment shall not thereafter be passed without a further public hearing and notice thereof as provided in this Article.

- d. If such amendment or Conditional Use Permit affects the boundaries of any zone or district, the resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which as been incorporated by reference, the amending resolution shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment or conditional use, shall amend the section of the resolution incorporating the same and shall reincorporate such maps as amended.

20-105. Protest Petition. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, revision, change, or Conditional Use Permit, if a protest petition against such amendment is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of twenty (20) percent or more of any real property proposed to be rezoned or by the owners of record of twenty (20) percent or more of the total area, excepting public streets and ways, which is located within the notification area described in Section 20-102, the resolution adopting such amendment shall not be passed except by at least a 3/4 majority vote of all the members of the County Board. Immediately upon receiving the filing of such a protest petition the County Clerk shall notify the Zoning Administrator of such petition.

20-106. Limitations on Successive Applications. Provisions for a limitation on successive applications to the Planning Commission shall be as follows:

- a. No application for an amendment to these regulations including the zoning map shall be accepted by the Planning Commission if an application for the same amendment has been denied by the Planning Commission within the preceding twelve (12) months. The withdrawal of an application after it has been advertised for public hearing shall constitute a denial of the application just as if the public hearing had been held and concluded. For good cause shown by the applicant the County Board may waive the twelve (12) month requirements.

- b. Irrespective of the preceding subsection, an application for a rehearing may be accepted by the Planning Commission if in the judgment of the Planning Commission substantial justification is given. All such applications for a rehearing must be submitted to the secretary at least fifteen (15) days in advance of the next regularly scheduled meeting of the Planning Commission following the denial of the application. If the Planning Commission at such meeting determines that there has been substantial change or justification for a rehearing, the item will be advertised and a public hearing held at the next regular scheduled meeting of the Planning Commission.

20-107. Posting of Sign. An applicant for a rezoning or for a Conditional Use Permit may be required by the Zoning Administrator to place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall display the sign as instructed by the Zoning Administrator. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

20-108. Factors to be Considered in a Rezoning. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines:

- a. Whether the change in classification would be consistent with the intent and purpose of these regulations;
- b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
- c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
- d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
- e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;

- f. The suitability of the applicant's property for the uses to which it has been restricted;
- g. The length of time the subject property has remained vacant or undeveloped as zoned;
- h. Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
- i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
- j. The recommendations of staff;
- k. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Linn County comprehensive plan;
- l. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,
- m. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

20-109. Applications for Conditional Use Permit.

- a. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are allowed as conditional uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property and neighborhood.
- b. In approving a conditional use, the minimum requirements set out in these regulations for the underlying district must be met unless otherwise reduced by specific reference in the approval of the County Board. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property or the neighborhood or which may be contrary to public health, safety or welfare.

20-110. Factors to be Considered in Conditional Use Permit Applications.

The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the County Board may approve such conditional use, using the following factors as guidelines:

- a. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations;
- b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
- c. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
- d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
- e. The length of time the subject property has remained vacant or undeveloped as zoned;
- f. Whether the applicant's property is suitable for the proposed conditional use;
- g. The recommendations of staff;
- h. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the Linn County comprehensive plan;
- i. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;
- j. For such uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with any adopted solid waste management plan, and amendments thereto; and
- k. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

20-111. Traffic Studies. In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Planning Commission, substantially change traffic patterns, or create traffic congestion,

the Planning Commission may require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study to be presented to the Planning Commission prior to its taking action on an application for rezoning or for a Conditional Use Permit. Such traffic study shall show that the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner, that vehicular ingress and egress from the site onto public roads and streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public road and street system. The results of the traffic study shall be used in determining the impact of the proposed rezoning or Conditional Use Permit and guide the development of a recommendation or decision regarding the same.

20-112. Platting. Approval of any rezoning may be conditioned upon approval of final platting of some or all the property to be rezoned.

SECTION 20-2 TABLE OF LESSER CHANGE

20-201. The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates which zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the most restrictive zoning district to the least restrictive zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending to the County Board a rezoning to a district of lesser change, as determined by the following Table of Lesser Change:

A	Agricultural District
CS	Countryside District
R	Residential District
C	Commercial District
I-1	Light Industrial
I-2	Heavy Industrial

SECTION 20-3 TIME OF PERFORMANCE IN REZONING

20-301.

- a. In cases where the Planning Commission and County Board deem that time of development is a critical factor in protecting the public welfare in a rezoning action, a time of performance may be included in the rezoning resolution. Such time allowed for performance shall be reasonable. Such resolution shall state what constitutes performance in each case, and shall

comply with the vesting of development rights rule set out in the Subdivision Regulations and at K.S.A. 12-764.

- b. If at the termination of such stipulated period of time performance as required has not occurred, the Planning Commission may, within six (6) months thereafter, publish notice and conduct a public hearing for purposes of determining whether or not to change the zoning to a more restrictive district. The owner of the property in question shall be notified by certified mail of the proposed hearing not less than 20 days prior to the date of the hearing. Other notification and posting as required in this section shall be performed and all proceedings shall be the same as for other rezoning actions.
- c. It shall be the purpose of this hearing to hear the owner and other interested parties and make a determination as to which of the following actions would be recommended to the County Board.
 - 1. Extend the time of performance to a specified date,
 - 2. Remove the time of performance, or
 - 3. Rezone the land.
- d. After the hearing the Planning Commission shall forward its recommendations to the County Board. The County Board will then act to approve or disapprove the recommended action, consistent with these regulations.

SECTION 20-4 CONDITIONAL USE PERMITS

20-401. The application, notice, public hearing, and action procedures set forth in this Article shall be applicable to all applications for Conditional Use Permits submitted after the effective date of these regulations.

20-402. The County Board, when approving a Conditional Use Permit, shall specify the period of time for which the permit is valid or shall state that the term of the permit is not limited in time.

20-403. Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in this Article.

20-404. The County Board may revoke any Conditional Use Permit upon finding that (a) necessary building permits have not been issued within twelve (12) months of approval of the Conditional Use Permit or (b) if no building permit is

required for the use allowed under the Conditional Use Permit, that the use so allowed has not been commenced within twelve (12) months of the approval of the Conditional Use Permit. No revocation shall occur once a valid building permit has been issued or conditional use commenced, regardless of the running of such twelve (12) month period.

20-405. In all instances where a use was allowed under a valid Conditional Use Permit properly issued prior to the effective date of these regulations, which such use would have been a nonconforming use under these regulations but for the issuance of such permit, the property owner shall continue to comply with the conditions set forth in that permit until the permit expires or is otherwise terminated in accordance with the provisions of these regulations.

SECTION 20-5 FEES FOR REZONINGS AND CONDITIONAL USE PERMITS

20-501. A fee in the amount established by resolution shall accompany an application for rezoning or Conditional Use Permit. Such fee shall include the cost of publication notice.

20-502. No fee shall be required if the zoning change is initiated by the Planning Commission or the County Board. No fee shall be required if either the Planning Commission or County Board initiate an amendment to the zoning regulations that will not affect specific property.

ARTICLE 21

BUILDING PERMITS

Sections:

- 21-1 Authority**
- 21-2 Conformance with Zoning Regulations**
- 21-3 Filing Procedure**
- 21-4 Staff Administration Procedures**
- 21-5 Vested Rights**
- 21-6 One Dwelling Per Lot**
- 21-7 Number of Building Permits**
- 21-8 Zoning Administrator's Authority**
- 21-9 Appeals**
- 21-10 Filing Fees**
- 21-11 Certification of Completion**
- 21-12 Enforcement**

SECTION 21-1 AUTHORITY

21-101. No building or structure shall be constructed, erected, altered, or remodeled within the unincorporated territory unless the owner, contractor or the duly authorized agent of either shall have received from the Zoning Administrator a building permit therefore, as herein provided. For purposes of this Article, the terms "altered" or "remodeled" shall refer to an increase in the size of a structure and not to the alteration or remodeling limited to the interior. A structure allowed under a building permit shall be deemed "complete" when the following are met:

- The structure is weather-tight and securable.
- The structure, if it is a dwelling, is connected to an approved wastewater system.

21-102. Exemptions from Permit Requirements. The following are exempt from the restrictions and regulations imposed under this Article:

- a. Buildings, structures and accessory uses having an exclusive agricultural purpose.
- b. Buildings, structures and uses of any railroad in conjunction with railroad purposes.
- c. Officials signs of the County, state and federal governments.
- d. Fences, driveways, playhouses, play equipment, and above-ground pre-fabricated swimming pools.

- e. Domestic solar and wind energy conversion systems, except as otherwise provided in Article 14 and Article 15.
- f. Landscaping structures, gazebos, pergola and trellises, patios and retaining walls.
- g. Poles, wires, propane tanks, CATV devices, satellite dish antennae, devices for oil or natural gas distribution or transmission or equipment for the distribution of electricity and storage tanks for fuel, fertilizer and other chemical substances.
- h. Water towers, water storage tanks and windmills.
- i. Accessory storage buildings no larger than 120 square feet, whether pre-assembled or constructed on-site.
- j. Remodeling or rehabilitation of an existing structure that does not add additional area, addition or enclosed square footage.

21-103. Building, Zoning and Sign Permits. A building permit is required to construct, erect, modify, or re-adapt any structure specified in these regulations. Permits shall be valid for a period of 365 days and are not transferable from one property to another, or for a use other than specified on the permit. A building permit shall automatically expire 365 days after its issuance. Upon such expiration, all work on the project must cease unless and until a new building permit is issued for an additional 365 days. The new permit shall be issued in the same manner and under the same conditions as the original permit. A landowner may cut, clear, and remove vegetation from a site without a permit.

- a. A building permit may be issued for any structure listed as a permitted use in any zoning district or permitted conditional use.
- b. An application form must be completed and submitted to the Zoning Administrator and signed by the property owner or designated agent.
- c. "Permit Issued" placards shall be prominently posted on the building site along with a placard or sign giving the street address. The Zoning Administrator may issue alternative requirements.
- d. Unless the Zoning Administrator issues different instructions, all building permit applications shall place a three (3) foot stake at the dig line in front of all faces of a proposed building and notify the Zoning Administrator that the lot is ready for inspection, or submit a plot plan indicating the placement of all structures relative to lot lines.

- e. Lots less than one-half acre in size shall retain a registered professional Kansas surveyor to stake lot lines, building corners, required yard boundaries, and existing easements.
- f. All buildings not having an exclusive agricultural purpose must follow the instructions specified by the Zoning Administrator to determine yards, building corners, and easement dimensions.
- g. Building permits may be revoked for cause, including, but not limited to error, fraud, changed use or zoning district regulations. The Zoning Administrator may revoke or refuse to issue building permits to any and all sites if the builder(s), contractor, developer and/or owner violates or breaks agreements, conditions, or requirements imposed by the Planning Commission, Board of County Commissioners, or County Engineer.

21-104. A sign permit may be issued for any structure, array, portable arrangement, or advertising device listed in these regulations as “permitted signs” within any zoning district. An application form must be completed and submitted to the Zoning Administrator and signed by the property owner and sign owner.

21-105. Any permit may be revoked by order of the Zoning Administrator for cause including, but not limited to:

- a. Insufficient funds check.
- b. Fraud or other misrepresentation.
- c. Improper or erroneous ownership information.
- d. Violations of the rules, regulations, and procedures or requirements of any part of these regulations.
- e. A violation of any condition, requirement, rule or site-plan notation or developer agreement.

21-106. If more than one building permit is issued to an applicant within the same development or subdivision, and the Zoning Administrator issues a notice of violation or stop-work order to one or more sites, then the Zoning Administrator is empowered to suspend all ongoing permits within the same subdivision or development until such time compliance is assured.

21-107. Any property owner aggrieved by the revocation or suspension of a building permit may file an appeal, within 30 days of such action, to the Board of Zoning Appeals.

SECTION 21-2 CONFORMANCE WITH ZONING REGULATIONS

21-201. No building permit shall be issued for any building or structure unless the same is in conformity with the provisions of these regulations and the subdivision regulations of the County. No building permit for a structure shall be issued unless a plot plan has been submitted. If an application for rezoning is not required, such plot plan shall contain sufficient information as deemed necessary by the Zoning Administrator to carry out the intent and purpose of these regulations.

SECTION 21-3 FILING PROCEDURE

21-301. Applications for building permits shall be filed with the Zoning Administrator upon forms prescribed, setting forth the legal description of the lot, together with a general description of the building or structure to be constructed, erected or altered thereon, including the size and shape, square foot area, principal material of construction, location of the building or structure upon the lot and the intended use. A copy of the deed of the property will also be required. In addition, the applicant shall pay the deposit and fees required under the Sanitation Code of Linn County, Kansas, and the required building permit fee.

SECTION 21-4 STAFF ADMINISTRATIVE PROCEDURE

21-401. Upon delivery of the completed application and the required payments, the applicant shall proceed to obtain written notification that the site has been preliminarily evaluated by the County Health Officer or County Sanitarian as required in the Sanitation Code of Linn County, Kansas. Such written notice and approval shall be delivered to the Zoning Administrator and a building permit may be issued, provided all other requirements of these regulations are met.

SECTION 21-5 VESTED RIGHTS

21-501. No building permit lawfully issued prior to the effective date of these regulations, or of any change or amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of these regulations, or any such change or amendment, but shall remain a valid permit, subject only to its terms and provisions in effect at the time of the issuance of said permit.

SECTION 21-6 ONE DWELLING PER LOT

21-601. Unless otherwise provided for in these regulations, the Zoning Administrator shall not issue more than one (1) building permit for a dwelling on each lot, except that a

building permit may be issued for a new dwelling where a dwelling unit currently exists provided the owner/builder has provided a notarized affidavit to the Zoning Administrator agreeing to remove the previous existing dwelling unit within six (6) months of completing the new dwelling unit. The affidavit shall state that the owner/builder understands and agrees that failure to remove the previously existing dwelling unit constitutes a violation of these zoning regulations.

SECTION 21-7 NUMBER OF BUILDING PERMITS

21-701. There shall be a separate building permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the building permit for the principal building when construction is simultaneous.

SECTION 21-8 ZONING ADMINISTRATOR'S AUTHORITY

21-801. The Zoning Administrator shall be empowered to act within the provisions of these regulations upon all applications for building permits, and the same shall be approved or denied not later than the third business day succeeding the day the complete application is received.

SECTION 21-9 APPEALS

21-901. In the event of refusal to issue a building permit, the applicant shall have the right to a hearing by the Board of Zoning Appeals. Appeals shall only be permitted after payment of required filing fees.

SECTION 21-10 FILING FEES

21-1001. Building permit fees shall be set by resolution of the Board of County Commissioners.

SECTION 21-11 CERTIFICATION OF COMPLETION

21-1101.

- a. At or after the time of the expiration of any building permit, or prior to such expiration when notified by the owner, the Zoning Administrator or designee shall make an on-site visit to the construction site for the purpose of authorizing a Notice of Completion of the project. During said visit, the Zoning Administrator shall ascertain compliance with these regulations and consistency of the

structure with the building permit application by observing and noting the following:

- That the structure is located where the application indicated it would be built.
 - That the structure's dimensions and total square footage are consistent with that indicated on the application.
 - The wastewater system (if applicable) has been approved and appears to be properly connected to the structure.
 - The structure appears to be weather-tight and securable.
- b. If the Zoning Administrator finds the structure to be consistent with the building permit application, a Certificate of Completion shall be issued by the Zoning Administrator, which shall effectively terminate the building permit. The Zoning Administrator shall submit a copy of the Certificate of Completion to the County Appraiser's office.

SECTION 21-12 ENFORCEMENT

21-1201. In addition to any other method of enforcement of these regulations, the following enforcement procedures may be invoked:

- a. A permit may be revoked and/or a "stop construction" order posted on the building or structure by the Zoning Administrator at any time prior to the completion of a building or structure for which the same was issued, when it shall appear to the Zoning Administrator that the same was procured by false representation, or that any of the provisions of these regulations are being violated. Twenty-four (24) hours' written notice of such revocation shall be served upon the owner, owner's agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.
- b. Upon the failure, refusal or neglect of any owner, owner's agent, contractor or duly authorized representative to secure such permit as required by these regulations and pay the prescribed fee therefore, the Zoning Administrator shall post a "stop construction" order on any and all buildings or structures involved. No construction shall proceed until and unless said owner, owner's agent, contractor or duly authorized representative secures the required permit and pays the required fee.

ARTICLE 22

ENFORCEMENT, VIOLATION AND PENALTY

Sections:

- 22-1 Enforcement**
- 22-2 Interpretation and Conflict**
- 22-3 Validity**
- 22-4 Repeal of Existing Regulations and Accrued Rights and Liabilities**
- 22-5 Penalties**
- 22-6 Effective Date**

SECTION 22-1 ENFORCEMENT

22-101. It shall be the duty of the Linn County Zoning Administrator to enforce these regulations. Appeals from decisions of the Zoning Administrator shall be made to the Board of Zoning Appeals as provided in Article 19.

22-102. Duties of the Zoning Administrator.

- a. Issue all certificates and permits.
- b. Supervise all floodplain development permits and certificates.
- c. Administer and interpret the zoning resolutions.
- d. Administer and process all zoning amendments and conditional uses.
- e. Administer and process all variances and exceptions.
- f. Administer all official road names and addresses.
- g. Collect all fees and assess all late charges.
- h. Accept and process all plats, surveys, and site plans.
- i. Conduct all inspections.
- j. Investigate and process all complaints and violations.
- k. Issue “stop work” orders.

- l. Prepare all staff reports.
- m. Prepare all amendments to County plans and policies.
- n. Duties and assignments as delegated by the Board of County Commissioners from time to time.

SECTION 22-2 INTERPRETATION AND CONFLICT

22-201. In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties. Provided, however, that where these zoning regulations impose a greater restriction upon the use of structures or premises or upon height of structures, or require larger open spaces, lots areas, setbacks and so forth than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of these zoning regulations shall govern.

SECTION 22-3 VALIDITY

22-301. Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

SECTION 22-4 REPEAL OF EXISTING REGULATIONS AND ACCRUED RIGHTS AND LIABILITIES

22-401. The adoption of these regulations repeals the existing zoning regulations of Linn County, Kansas.

22-402. Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under any previously existing regulations.

SECTION 22-5 PENALTIES

22-501. Any violation of any provision of these zoning regulations shall be punishable by a fine of not to exceed \$500. Each day's violation shall constitute a separate offense.

22-502. The County Board shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.

22-503. Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the County Board, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such structure or land.

SECTION 22-6 EFFECTIVE DATE

22-601. These zoning regulations shall become and are in full force immediately upon passage and publication in accordance with state law.

ARTICLE 23

SITE PLANS

Sections:

- 23-1 Intent**
- 23-2 Applicability**
- 23-3 Authority**
- 23-4 Filing Fee**
- 23-5 Submission Requirements**
- 23-6 Standard of Review**
- 23-7 Development Standards**

SECTION 23-1 INTENT

23-101.

- a. The very nature of land development in Linn County creates potential for challenges to the preservation of the rural character of the County, traffic congestion, overcrowding, adverse visual and environmental impacts. It is the intent of these Regulations to achieve the goal of promoting economic growth while stabilizing established development patterns and protecting agricultural land and the County's natural resources. This Article requires that any location that accommodates certain types of urban use be subject to Site Plan Review by the Zoning Administrator. Site Plan Review helps ensure that the meaning and intent of these zoning regulations are fully complied with and helps ensure that property owners and developers understand requirements under these Regulations before projects begin.
- b. Site Plan Review regulates the development of structures and sites in a manner that considers the following:
 - 1. The balancing of landowners rights to use their land, with the corresponding rights of abutting and neighboring landowners, as well as the larger community, to live without undue disturbances, including, for example, noise, smoke, fumes, dust, odor, glare and stormwater runoff;
 - 2. The convenience and safety of vehicular and pedestrian movement within the site, and also in relation to adjacent areas or roads;
 - 3. The adequacy of waste disposal methods and protection from pollution of surface water or groundwater;

4. The protection of historic and natural environmental features of the site under review, as well as those of adjacent areas; and
5. The stability of the built environment, particularly residential neighborhoods, by promoting development that is compatible with identified natural resources.

SECTION 23-2 APPLICABILITY

23-201.

- a. The Zoning Administrator shall require that all applications for building permits for commercial and industrial developments in the C, MU, I-1 and I-2 Districts be subject to site plan review in accordance with these Regulations, and for redevelopments which enlarge the size of the original structure by more than fifty percent (50%) in the case of a renovation or alteration. The Zoning Administrator may require a site plan review in accordance with these Regulations for any development requiring a building permit upon the Administrator's determination that such development may impact storm water, traffic or create other impacts upon public health, safety or welfare. Developments shall be encouraged to implement the objectives of any relevant adopted comprehensive plan in order to foster compatibility among land uses.
- b. Prior to application, the Zoning Administrator may require a pre-application conference between the applicant and the Zoning Administrator to discuss the site review requirement and other site or application issues specific to the proposed development or redevelopment. The applicant should submit preliminary plans for initial review and comment at this time.

SECTION 23-3 AUTHORITY

23-301. Building permits shall not be issued for any use of land or proposed construction on a lot for which site plan review is applicable, unless site plan review approval has been granted.

SECTION 23-4 FILING FEE

23-401. A filing fee shall be charged and collected from the applicant in an amount as established by the County Board by resolution. The site plan shall not be accepted until a completed site plan application has been submitted and the filing fee paid by the applicant.

SECTION 23-5 SUBMISSION REQUIREMENTS

23-501.

- a. The site plan shall include the following data, details, and supporting plans which are found relevant to the proposal. The applicant shall make notations explaining the reasons for any omissions.
- b. Site plans shall be prepared at the largest scale possible, but no less than a scale of one (1) inch equals 20 feet, on standard 24" x 36" sheets, with one copy on 8 ½ " x 11" or 11" x 17". The number of copies of the site plan to be submitted for review shall be set by the Zoning Administrator. Items required for submission include:
 1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
 2. Name and address of the owner of record, developer, and seal of any engineer, architect or landscape architect.
 3. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and structures.
 4. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area, show all exterior entrances and all anticipated future additions and alterations, side views of structure, building elevations of structure, and proposed building materials.
 5. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type and screening details for all waste disposal containers shall also be drawn.
 6. The Zoning Administrator may require location, height, intensity and bulb type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods proposed to eliminate glare onto adjoining properties must also be shown.
 7. The location, height, size, materials, and design of all proposed signage.
 8. The location of all present and proposed utility systems including:

- (a) sanitary sewerage system;
 - (b) water supply system;
 - (c) telephone, telecommunication, cable and electrical systems;
and
 - (d) storm drainage system including both existing and proposed.
- 9. Plans to prevent: pollution of surface water or groundwater, erosion of soil both during and after construction, excessive run-off, and flooding of other properties.
- 10. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
- 11. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, and curb cuts on the site and within 100 feet of the site.

SECTION 23-6 STANDARD OF REVIEW

23-601. Approval by the Zoning Administrator shall be based on the following standards:

- a. The extent to which the proposal conforms to this Article and these Regulations.
- b. The extent to which the development is compatible with the surrounding area.
- c. The extent to which the proposal conforms to the provisions of the County's subdivision regulations and comprehensive plan.
- d. The extent to which the proposal conforms to customary engineering standards.

SECTION 23-7 DEVELOPMENT STANDARDS

23-701. Buildings that are subject to this Article are encouraged to meet the following minimum standards:

- a. Rooftop equipment should be screened from view from the ground near the building with vertical extensions of the building walls or with parapets

or other architectural design features of the same materials used on the wall of the building.

- b. The form and proportion of buildings should be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- c. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes. The use of walls in a single color, with little detailing or completely bland, is discouraged.
- d. Use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged. The use of aluminum siding, metal ribbed panels, and extensive mirrored glass surfaces is discouraged. Corrugated metal facades should be complemented with abundant use of masonry, whether brick, stone, stucco or split-face block, especially along perimeter streets. Architectural metal panels may be an acceptable substitute for masonry. Appropriate landscaping can be used to complement and enhance a building's design, color and material.
- e. Architectural treatments (e.g., building material, colors, facade design, roof lines, screening) should be consistent and compatible on all sides. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment.