

Adopted by Ordinance #127- 02/08/10



2010 ZONING REGULATIONS

ARTICLE 1

TITLES AND JURISDICTION

SECTION 1.1: TITLE: This Ordinance, including the zoning district map made a part hereof, shall be known and cited and referred to as the Zoning Ordinance of the City of Linn Valley, Kansas

SECTION 1.2: JURISDICTION: The Zoning Ordinance shall apply to all structures and land within the corporate limits of the City of Linn Valley, Kansas.

ARTICLE 2

GENERAL PROVISIONS

SECTION 2.1: PURPOSE AND INTENT: This Ordinance, adopted pursuant to the provisions of K.S.A. 12-756 et seq., is intended to serve the following purposes:

- To divide the City of Linn Valley into zones and districts;
- To regulate and restrict the location and use of buildings and the uses of land within each district or zone;
- To promote the health, safety, comfort and general welfare of the City;
- To conserve and protect property values throughout the City;
- To restrict and regulate the height, number of stories and size of buildings; the percentage of lot coverage; the size of yards, courts and other open spaces; and the density of population; and
- To promote the achievement of the Comprehensive Plan, Future Land Use Plan for the City of Linn Valley.

SECTION 2.2: REPEALS: Upon the adoption of these Zoning Regulations by the City Council, pursuant to K.S.A. 12-756 et seq., all previously existing Zoning Regulations for the City shall be repealed in their entirety.

SECTION 2.3: SAVINGS PROVISION: Despite the repeal of Zoning Regulations existing at the time of the adoption of this Ordinance, nothing contained in these Zoning Regulations shall affect any rights accrued or liabilities incurred under said previously existing Zoning Regulations.

ARTICLE 3

RULES AND DEFINITIONS

SECTION 3.1: RULES AND INTERPRETATION:

1. **Rules:** 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.
 - C. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
 - D. The word “shall” is mandatory.
 - E. The word “may” is permissive.
 - F. The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - G. The word “Board” means the Board of Zoning Appeals.
 - H. Unless otherwise specified, all distances shall be measured horizontally.
 - I. The word “City” means City of Linn Valley, Kansas.
 - J. The abbreviation N/A means not applicable.

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.

2. **Interpretation:**

- A. **Minimum Requirements:** In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- B. **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 other provision of any other

law, enactment resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern.

- C. Private Agreement: These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship of the Linn Valley Lakes Property Owners Association.
- D. Unlawful 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 3.2: SEPARABILITY: It is hereby declared to be the intention of the City that several provisions of these regulations are separable, in accordance with the following the rules:

- A. If any court of competent jurisdiction shall adjudge any provision 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, such judgment shall not affect the application of said provisions to any other property or structure.

SECTION 3.3: DEFINITIONS: For the purpose of this Zoning Ordinance, certain words and terms used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

1. **Accessory Structure:** A subordinate building which serves a function customarily incidental to that of the main building. Customary accessory buildings include garages, carports and small storage sheds.
2. **Accessory Use:** A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens and fireplaces.
3. **Agricultural Use:** The use of a tract of land of not less than the minimum size as established in these regulations for the growing of crops, pasturage or nursery, including the structures necessary for carrying out farming operations and the dwellings of those owning or operating the premises, a member of the family thereof, or persons employed thereon, and the family thereof, but such use shall not include feedlots as defined by State statute.
4. **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 twenty (20) feet or less in width.
5. **Alteration:** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side,

LINN VALLEY, KANSAS
Zoning Regulations

increasing in height or the moving from one location or position to another, shall be considered as an alteration.

6. **Basement:** A lower story, the floor of which lies below the finished exterior grade at the front of the building, the average elevation of said exterior grade being above the middle of the interior height of such story.
7. **Block:** A piece or parcel of land entirely surrounded by streets, streams, parks, or a combination thereof. In cases where platting is incomplete or disconnected, the Commission shall determine the outline of the block.
8. **Board:** City of Linn Valley Board of Zoning Appeals which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals and variances to the Zoning Regulations.
9. **Building:** A structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, chattel, equipment or storage.
10. **Building Line – Front:** A line established, in general parallel to the front street line beyond which no part of a building shall project, except as otherwise provided in this Ordinance.
11. **Building Line – Side:** A line established, in general, perpendicular to the front property line between which said property line, no part of a building shall project, except as otherwise provided in this Ordinance.
12. **Building, Detached:** A building separated by open space from any other building on the same lot.
13. **Building, Principal:** The building housing the main use of the property on which it is situated.
14. **Building, Height of:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point on the roof, exclusive of chimneys.
15. **Camping and Recreational Activities:** The use of tents, trailers, campers, recreational vehicles and related equipment, temporarily located on a lot or lots for the purpose of providing temporary shelter; but in “R-1” Zones only, explicitly not including the storage of such equipment when not being occupied on a daily basis unless such equipment is stored in an accessory structure.
16. **City:** City of Linn Valley, Kansas
17. **Clerk:** City Clerk of the City of Linn Valley, Kansas.
18. **Council:** City Council of the City of Linn Valley, Kansas.
19. **Commission:** Planning Commission of the City of Linn Valley, Kansas.

- 20. Court, Inner:** A Court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.
- 21. Court, Outer:** An open, unoccupied space, bounded on two or three sides by exterior walls of a building, and on the other side by yards, streets or alleys.
- 22. Cul-de Sac:** A street having one end open to traffic and being permanently terminated by a traffic turn-a-round.
- 23. Dwelling:** A building or portion thereof designed exclusively for residential occupancy, but no motels or hotels.
- 24. Dwelling – One Family:** A detached building arranged, intended or designed for residential occupancy by one family.
- 25. Easement:** A grant by the property owner to the public, a corporation, or persons of the use of a strip or parcel of land for specific purposes. Easements granted to the public by recorded plat shall be called **UTILITY EASEMENTS** and may be designated **U/E EASEMENTS** reserved on recorded plats to the subdivider for contingent usage and the use of which is subject to permission by the subdivider shall be called **RIGHTS-OF-WAY** and may be designated **R/W**. Easements may also be acquired by exercising the power of eminent domain.
- 26. Exception:** Permission, with the Board of Zoning Appeals review and approval, to do what is specifically listed in the Ordinance as a possible Exception.
- 27. Family:** One (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than three (3) not so related (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a non-profit, cost-sharing basis, or both.
- 28. Fence:** A free standing protective, confining or decorative structure separate from any building and not including a living plant material
- 29. Fence, Privacy:** A free-standing structure intended to provide privacy, protection or confinement. A fence may be constructed of, but not limited to, wood, stone or any standard building material.
- 30. Floor Area:** The gross area within a building as measured from the exterior surfaces of the exterior walls, including the floor areas of all floors, basements, garages and attics where the headroom exceeds seven (7) feet and the floor area of all fully enclosed accessory buildings where headroom exceeds seven (7) feet.
- 31. Front Lot Line:** Any lot line(s) which abut(s) a street.
- 32. Front Yard Setback:** The distance between any front lot line and the required front building setback. The front yard setback line shall be a line inside the lot and parallel to the lot line

fronting onto a street and running from side lot line to side lot line. The area between the front lot line and the front yard building setback line shall be required front yard (see Yard, Front).

- 33. Garage, Private:** An accessory building or portion of a main building designed for storage of motor vehicles. (Private garages must comply with minimum setback requirements and, if detached, shall not be placed in front of the main building).
- 34. Home Occupation:** Any occupation of a service character conducted for or on behalf of a member of the family residing in the dwelling which is clearly secondary to the main use of the premises as a dwelling place and does not change the character thereof or have any exterior evidence of such secondary use either in the form of signs, materials, equipment, noise, odor or other nuisance or unusual pedestrian or vehicular traffic appurtenant to such home occupation.
- 35. Lot:** A portion of a subdivision or other parcel of land which may contain both platted and unplatted land intended as a unit of ownership and occupied or intended to be occupied by one building or use and the accessory building or uses customarily incidental to it.
- 36. Lot, Corner:** A lot abutting upon two or three streets at their intersection.
- 37. Lot Coverage:** That proportion of the lot area covered by structures, including but not limited to accessory structures such as porches, patios, decks, pools and tennis courts, but not including driveways, sidewalks and parking areas.
- 38. Lot Depth:** The mean horizontal distance from the front street line to the rear line of a lot.
- 39. Lot, Developed:** For the purpose of this Ordinance, a developed or improved lot shall be defined as any lot that has any type of improvement made including, but not limited to, culverts, structures or fencing. Clearing of the brush, weeds and debris from a lot is not considered as a development of the lot.
- 40. Lot Frontage:** The length of the front lot line or the combined length of all front lot lines where there is more than one.
- 41. Lot, Interior:** A lot whose side lines do not abut upon a street.
- 42. Lot Line:** A straight line or smooth curved line defining the boundary of a lot. Continuous line segments which vary in their bearing by less than 20 degrees shall be considered as one lot line.
- 43. Lot, Net Area of:** Area of lot exclusive of street right-of-way.
- 44. Lot, Through:** An interior lot having frontages on two streets, as distinguished from a corner lot.
- 45. Lot Width:** That distance equal to one-half of the sum of the greatest distance between side lot lines and the least distance between side lot lines; except in the following cases:

- a. Where the side lot lines intersect, such as a corner lot or a pie shaped lot, the lot width shall be equal to the length of the shortest side lot line.
 - b. Where there is only one side lot line, lot width shall be equal to the longest lot dimension measured perpendicular to the side lot line.
- 46. Master City Plan or Comprehensive Plan:** The Comprehensive Plans made and adopted by the City Planning Commission indicating the general locations recommended for the major arterial traffic routes, streets, parks, public buildings, zoning districts and other public improvements.
- 47. Modular Home:** A manufactured residential structure built to a nationally-recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior building materials and appearance similar to the customary single-family structures in the neighborhood and shall be permanently situated on a concrete foundation.
- 48. Mobile Home:** A transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15th, 1976.
- 49. Non-Conforming Uses:** Use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.
- 50. Non-Conforming Lot of Record:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to these regulations, and which does not comply with the lot width or lot area requirements for any permitted use in the district in which it is located.
- 51. Non-Conforming Structure:** An existing structure which does not comply with the heights or yard setback requirements applicable to new structure in the zoning district in which it is located.
- 52. Off-Street Loading Space:** Space located outside of streets for standing of trucks and for loading and unloading them.
- 53. Off-Street Parking Space:** A permanently surfaced area, enclosed or unenclosed, connected by a permanently surfaced driveway to a street or alley to permit ingress and egress located away from space improved for street purposes.
- 54. Pedestrian Way:** A right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
- 55. Planning Commission:** The City of Linn Valley Planning Commission appointed by the City Council with the powers and jurisdiction as provided by State Statutes.
- 56. Plat:** A map, plan or layout of a City, Township, Section or Subdivision indicating the location and boundaries or individual properties.

- 57. Platted Lot:** A lot as shown on a plat filed in the Office of the Register of Deeds of Linn County.
- 58. Property Line:** See Lot Line.
- 59. Rear Lot Line:** Any lot line which is neither a front lot line nor a side lot line.
- 60. Rear Yard Setback:** The distance between any rear lot line and the rear yard setback line. The rear yard setback line shall be a line inside the lot and parallel to the rear lot line, running from lot line to lot line (generally side lot line to side lot line). The area between the rear lot line and the rear yard setback line shall be the required rear yard (see Yard, Rear).
- 61. Recreation Vehicle:** A vehicle or vehicular structure without permanent foundation designed to be towed, hauled or driven from place to place with the intended purpose of providing temporary living accommodations for recreational, camping or travel use. This definition shall include but not be limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.
- 62. Required Yard:** The area required by the zoning district for new construction between the lot line and the setback line. (May also be referred to as the required setback area, required front yard, required side yard or required rear yard.)
- 63. Setback:** The required minimum horizontal distance between the building line and the related front, side or rear property line as stipulated in each of the zoning district regulations.
- 64. Side Lot Line:** Any lot line which intersects a front lot line. A side lot line shall include any connecting lot lines which vary in their bearing by less than 20 degrees.
- 65. Side Yard Setback:** The distance between the side lot line and the side yard setback line. The side yard setback line shall be a line inside the lot and parallel to the side lot line, running from setback line to setback line (generally front yard setback line to rear yard setback line). The area between the side lot line and the side yard setback line shall be the required side yard (See Yard, Side).
- 66. Sign:** Any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building, structure or object, or designate or mention an individual, profession, firm, business, commodity or service.
- 67. Special Use Permit:** A Special Use Permit is a permit authorized by the Planning Commission and adopted by the City Council. The Special Use Permit provides permission, under special conditions, to make certain special uses of land in certain zoning districts as stipulated in each of the zoning district regulations.
- 68. Story:** That portion of a building included between the surface of any floor above the finished exterior grade at the front of the building, and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and ceiling next above it.

- 69. Street:** An improved right-of-way which provides the principal route of access to abutting property for vehicular and pedestrian usage.
- 70. Street Improvement:** The constructed physical facilities within a street which adapt it for vehicular and pedestrian usage. Street improvements include grading, pavement, curbs, gutters, sidewalks, pedestrian ways, storm drainage facilities, permanent street survey monument, trees, street signs and other appropriate facilities.
- 71. Street Line:** The dividing line between the street and the abutting property.
- 72. Structural Alterations:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, of any structural change in the roof, but not including extension or enlargement.
- 73. Structure:** Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards and poster panels; but exclusive of customary fences, boundary or retaining walls, driveways or utility poles.
- 74. Subdivider:** A person, firm or corporation undertaking the subdivision or re-subdividing of a tract of land or of a parcel of land.
- 75. Subdivision:** The division of a tract or parcel of land into two or more lots and/or blocks for the purpose of establishing units of ownership of land. A subdivision may also include the establishment of new streets. The subdivision becomes officially established by means of recorded plat.
- 76. Truck:** The word “truck” shall include tractor and trailer trucks or any motor vehicle in excess of 8,000 G.V.W. which, at the discretion of the owner thereof, can be licensed as a truck or passenger vehicle.
- 77. Variance:** Permission to do, with the Board of Zoning Appeals review and approval, what is specifically not allowed in the City’s Ordinance or not addressed by the Ordinance but which does not violate the intent or the spirit of the Ordinance.
- 78. Wall:** A continuous, physical, exterior extension of building which is architecturally compatible with the building.
- 79. Yard, Front:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the front lot line and the front yard building setback line.
- 80. Yard:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the lot line and the building line.
- 81. Yard, Rear:** An open space, unoccupied and unobstructed, except as hereinafter provided, located between the rear lot line and the rear yard building setback line.

- 82. Yard, Side:** An open space, unoccupied and unobstructed, except as hereinafter provided, located between the side lot line and the side yard building setback line.
- 83. 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.
- 84. Zoning Administrator:** The person or persons authorized and empowered by the City Council to administer the requirements of these Zoning Regulations.
- 85. Zoning Area:** the area zoned as set out in the official Zoning Map filed or record.
- 86. Zoning Regulations:** The term “Zoning Regulations” or “this or these regulations” shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted Zoning Regulations of the governing body of jurisdiction.

ARTICLE 4

ZONING DISTRICTS BOUNDARIES AND EXEMPTIONS

SECTION 4.1: Zoning District Establishment: The jurisdictional area of the City of Linn Valley is hereby divided into zoning districts which are designated as follows:

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|-----------|------------|--|
| A. | A-1 | Agricultural |
| B. | R-1 | Single Family Residential Moderate Density Building Lots |
| C. | R-2 | Single Family Residential Multi-Purpose/Camping Lots |
| D. | P-1 | Parks and Open Space |
| E. | C-1 | Restricted Commercial |
| F. | I-1 | Light Industrial |
| G. | PUD | Planned Unit Development |

SECTION 4.2: Zoning District Map: The boundaries of the districts are shown on the official Zoning District Map of the City of Linn Valley Kansas. The Zoning District Map, with all notations, references and other information shown thereon, is as much a part of these Zoning Regulations as if such Zoning District Map with all notations, references and other information was specifically set forth herein.

SECTION 4.3: Rules for Interpretation of District Boundaries: Where uncertainty exists with respect to the boundaries of any district on the official Zoning Map herein incorporated by reference, the following rules shall apply:

- A.** Boundaries indicated as approximately following platted lot lines shall be construed as following such City limits;
- B.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C.** Boundaries indicated as approximately following the centerlines of streets, highway or alleys shall be construed to follow such centerlines;
- D.** Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks of said railroad line;

- E.** Boundaries indicated as approximately following shore lines shall be construed to follow such shore lines and in the event of a change in the shore line, shall be construed as moving with the actual shore line;
- F.** Boundaries indicated as approximately following the centerlines of streams shall be construed to follow such centerlines;
- G.** Boundaries indicated as parallel to or extensions of features indicated in subsections A through F above shall be so construed;
- H.** Whenever any street, alley or other public way is vacated, a zoning district adjoining either side of said street, alley or public way shall automatically be extended to it's centerline if ownership is split along the centerline; and
- I.** When a lot held in single ownership on the effective date of these regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district unless a specific description with dimensions has been prepared for that portion of the lot with the less restrictive district.

Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the official district Zoning Map.

SECTION 4.4: Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:

- A.** Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.
- B.** Streets, sidewalks and similar facilities for public use.
- C.** Agriculture defined as: The use of a tract of land of not less than ten (10) acres for the growing of crops, fruit or nursery stock, including structures for carrying out farming operations; but not including pasturing, feeding or breeding of livestock. In the event that any structure of land ceases to be used only for agriculture, then such structure of land shall be subject to the applicable regulations of this Ordinance.
- D.** Retaining walls.
- E.** Public signs.

SECTION 4.5: Applications of Regulations: The following general requirements shall apply to all zoning districts:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with these regulations.

ARTICLE 5

AGRICULTURAL (A-1) DISTRICT

SECTION 5.1: Agricultural (A-1) District Purpose: The intent of this district is to provide for Agricultural and related uses; protect and preserve agricultural resources including timberland, wetlands and riparian/wildlife habitat, and to allow low density residential uses.

- A. Uses Permitted:
 - 1. Agricultural uses including the following:
 - a. the raising, pasturing and feeding of animals (confined animal feed lots shall not be permitted)
 - b. growing of crops, orchards, grove & timber
 - c. the raising of fish, birds or poultry; and
 - d. the necessary operations including storage, processing and sales of equipment, products, animals and farm commodities raised on the premises.
 - 2. Single family residential dwelling and detached accessory structures
 - 3. Greenhouses and nurseries
 - 4. Fish farms, including hatcheries
 - 5. Campgrounds
 - 6. Public and private wildlife habitats and reserves
 - 7. Accessory buildings and structures customarily incidental to any of the above uses.
- B. Maximum Building Height: 50 feet
- C. Minimum Lot Size: 10 acres
- D. Minimum Lot Width: 250 feet
- E. Maximum Lot Coverage: None
- F. Minimum Front Yard Setback: 50 feet for residential structures
75 feet for agricultural structures
- G. Minimum Side Yard Setback: 50 feet for residential structures
75 feet for agricultural structures

- H. Minimum Rear Yard Setback: 50 feet for residential structures
75 feet for agricultural structures

- I. Miscellaneous Restrictions:
 - 1. All residences shall be connected to a public sewer or an on-site sanitation system constructed in compliance with the State of Kansas Department of Health and Environment Bulletin 4-2.
 - 2. Any sign installed in the A-1 Zoning District shall be in compliance with the requirements set forth in Article 14 of this Ordinance.

ARTICLE 6

SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

SECTION 6.1: Single-Family Residential (R-1) District Purpose: The intent of this district is to provide for moderate density, single-family housing in a manner consistent with the character of Linn Valley.

- A. Uses Permitted:
 - 1. Single-family, detached dwellings.
 - 2. Garage: Accessory Structure
 - 3. Parks and playgrounds
 - 4. Camping and/or recreational activities.

- B. Maximum Building Height: 30 feet

- C. Minimum Lot Size: 8,400 square feet

- D. Minimum Lot Width: 70 feet

- E. Maximum Lot Coverage: 30 percent

- F. Minimum Front Yard Setback: 25 feet

- G. Minimum Side Yard Setback: 10 feet

- H. Minimum Rear Yard Setback: 10 feet

- I. Miscellaneous Restrictions:
 - 1. These lots are restricted to permanent living structures (double-wide, modular homes, prefabricated or conventional built homes) with a minimum of 600 square feet of interior living space on the main floor level.
 - 2. All residences shall be connected to a public sewer or sewage holding tank of at least 1,500 gallons. Holding tanks must be pre-approved and installed by a contractor licensed by the City of Linn Valley and must be located in an area that is readily accessible to sewage trucks.
 - 3. No building materials, building material debris or construction equipment shall be kept or stored in the open on any lot which is not the site of a then valid building permit issued by the City.
 - 4. No recreational vehicle, camping trailer, non-operative motor vehicle, or motor vehicle without a current state registration shall be stored or parked in the open at any one or more locations for longer than seventy-two (72) consecutive hours.

5. No signs shall be placed or maintained on any lot at any time with the exception of one sign, not to exceed two (2) square feet in area, which identifies the property owner, owner's home town and lot number or address.

ARTICLE 7

**SINGLE-FAMILY RESIDENTIAL MULTI PURPOSE/CAMPING LOTS (R-2)
DISTRICT**

SECTION 7.1: Single-Family Residential Multi Purpose/Camping Lots (R-2) District Purpose:

The intent of this district is to provide for single-family housing and/or camping and recreational activities in a manner consistent with the character of Linn Valley.

- A. Uses Permitted:
 - 1. Single-family, detached dwellings.
 - 2. Garage: Accessory Structure
 - 2. Camping and/or recreational vehicles and activities
 - 3. Parks and playgrounds

- B. Maximum Building Height: 30 feet

- C. Minimum Lot Size: 4,000 square feet

- D. Minimum Lot Width: 50 feet

- E. Maximum Lot Coverage: 30 percent

- F. Minimum Front Yard Setback: 25 feet

- G. Minimum Side Yard Setback: 10 feet

- H. Minimum Back Yard setback: 10 feet

- I. Miscellaneous Restrictions:
 - 1. All permanent residences shall be a minimum of 600 square feet of interior living space.
 - 2. All permanent residences shall be connected to a public sewer or sewage holding tank of at least 1,500 gallons. Holding tanks must be pre-approved and installed by a contractor licensed by the City of Linn Valley and must be located in an area no more than twenty-five (25) feet that is readily accessible to sewage trucks.
 - 3. No building materials, building material debris or construction equipment shall be kept or stored in the open on any lot which is not the site of a then valid building permit issued by the City.
 - 4. No non-operative motor vehicle, or motor vehicle or any form of R.V. without a current state registration, if required by state law, shall be stored or parked in the open at any one or more locations for longer than seventy-two (72) consecutive hours.

| 4.5. No signs shall be placed or maintained on any lot at any time with the exception of one sign, not to exceed two (2) square feet in area, which identifies the property owner, owner's home town and lot number or address.

| 5.6. Only one recreational vehicle or permanent residence may be placed or stored on any lot except on a temporary basis while in actual use. Recreational vehicles, in excess of one, left unattended for more than twenty-four (24) hours are in violation of this Ordinance.

ARTICLE 8

PARK AND OPEN SPACE (P-1) DISTRICT

SECTION 8.1: Park and Open Space (P-1) District Purpose: The intent of this district is to provide for parks, recreational facilities, open space areas and lakes in a manner consistent with the character of the City of Linn Valley.

- A. Uses Permitted:
 - 1. Parks, lakes and open space area.
 - 2. Recreational facilities such as golf courses, tennis courts, swimming pools, swimming beaches, playgrounds, ball fields and campgrounds.
 - 3. Clubhouses, community centers, pro shops and similar facilities used in conjunction with recreational activities.
 - 4. Maintenance shops and similar facilities used in conjunction with and in support of recreational activities.
 - 5. Fish breeding ponds.
 - 6. Forest and wildlife reservations, petting zoos and the stabling and pasturing of horses and ponies.

- B. Maximum Building Height: 30 feet

- C. Minimum Lot Size: None

- D. Minimum Lot Width: None

- E. Maximum Lot Coverage: None

- F. Miscellaneous Restrictions:
 - 1. No vehicles, trailers, boats or trucks may be parked overnight in any P-1 area. The only exception to this section is maintenance vehicles and recreational vehicles registered in the campgrounds.

ARTICLE 9

RESTRICTED COMMERCIAL (C-1) DISTRICT

SECTION 9.1: Restricted Commercial (C-1) District Purpose: The intent of this district is to provide limited business uses consistent in scope and appearance with the needs and character of the City of Linn Valley. The following are the permitted uses:

- A. Uses Permitted:
1. Offices and office buildings.
 2. Retail stores and merchandise display rooms.
 3. Dressmaking, tailoring, shoe repair, repair of household goods and appliances, dry cleaning and laundry, bakery and other uses of a similar character.
 4. Personal service uses including barber shops, banks, beauty parlors, photographic or artist's studios and other personal services of a similar character.
 5. Service stations provided all storage of gasoline or fuel oil shall be underground.
 6. Churches, temples and synagogues.
 7. Elementary and secondary schools.
 8. Governmental Offices and facilities.
 9. Mini-warehouses and Storage Buildings subject to the following conditions:
 - a. The use must be located in close proximity to an arterial street as designedly in the Comprehensive Plan.
 - b. All storage shall be within enclosed buildings except for boats, campers and other vehicles, which may be outside if properly screened.
 - c. Any side of the building providing doorways to storage areas shall be set back from the property line not less than thirty-five (35) feet.
 - d. All driveways, parking, loading and vehicle circulation areas shall be paved with Chip and Seal, Concrete, Asphalt or Asphaltic Concrete. All one-way driveways, which provide direct access to cubicles, shall provide for one (1) ten (10) foot parking lane and one (1) fifteen (15) foot travel lane. All two-way drive-ways, which provide direct access to cubicles, shall provide one (1) ten (10) foot parking lane and two (2) twelve (12) foot travel lanes. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
 - e. All lights shall be shielded to direct light away from adjacent properties.
 - f. No activities, such as miscellaneous or garage sales or the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall be conducted on the premises. Also, no manufacturing, assembly or processing of any products shall be permitted.

- g. The area shall be property policed by the owner or operator for the removal of trash and debris.
 - h. Two (2) copies of the plot plan showing ingress and egress, width of drive-ways, off street parking, loading areas and on-site traffic circulation shall be submitted to the Planning Commission for approval.
 - i. One (1) residential dwelling may be erected in conjunction with the facility so as to allow a watchman to reside on the premises, providing the residence meets the requirements of R-1 Zoning.
- B. Maximum Building Height: 30 feet (Except as otherwise permitted by these Regulations)
- C. Minimum Lot Size: 8,400 square feet
- D. Minimum Lot Width: 70 feet
- E. Maximum Lot Coverage: 35 Percent
- F. Minimum Front Yard Setback: 25 feet
- G. Minimum Side Yard Setback: 10 feet
- H. Minimum Rear Yard Setback: 10 feet
- I. Miscellaneous Restrictions:
 - 1. All applications for rezoning to the “C-1” District shall include a site plan drawn to scale containing the following information:
 - a. The boundaries of the property, easements, rights-of-way, adjacent property and adjacent uses.
 - b. The approximate location and size of all buildings, signs and other structures.
 - c. The approximate location of all driveways, parking areas and landscaping.
 - d. Any additional restrictions of the use of the property, including types of uses or operational limitations, beyond those already required by these regulations.

A record copy of each approved site plan shall be kept on file by the City Clerk. No structure shall be erected, and no land or structure shall be used except in conformance with said site plan.
 - 2. No outdoor storage will be permitted, with the exception of the Linn Valley Lakes vehicle storage area.
 - 3. All areas not covered by buildings or parking areas shall be landscaped in harmony with the neighborhood, and such landscaping shall be continuously maintained.
 - 4. No recreational vehicle, camping trailer, boat, boat trailer, truck, non-operative motor vehicle or motor vehicle without a current state registration

- shall be stored or parked in the open at any one or more locations for longer than forty-eight (48) consecutive hours.
5. No building materials, building material debris or construction equipment shall be kept or stored in the open on any lot which is not the site of a then valid building permit issued by the City of Linn Valley.
 6. All signs shall be in compliance with Article 14 of this Ordinance.

SECTION 9.2: Special Uses: The following uses may be permitted by approval of a Special Use Permit as provided by Article 16 of this Ordinance subject to such conditions as recommended by the Planning Commission and adopted by Ordinance of the City Council to ensure the utility and value of adjoining property and the protection of the public health, safety and general welfare.

- A. Radio, Telecommunication and Microwave Towers subject to the following standards:
 1. Development Plan Required. At the time of application for a Special Use Permit, the applicant shall submit a development plan in sufficient detail, as determined by the Planning Commission, to evaluate its conformance with applicable standards and guidelines. The development plan shall include:
 - a. The applicant shall provide written authorization from the property owners of the proposed tower site.
 - b. An application for tower approval shall include the submission of a site plan drawn to scale showing property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours and existing land uses surrounding the site. If any accessory building is proposed, details of the building, including elevations and proposed use of the building is required to be submitted with the application.
 - c. An application for tower approval shall include a report or written information which describes the tower heights and design including a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.
 2. General Provisions for Towers:
 - a. An effort in good faith must be made to co-locate the new antennae on existing towers or other structures. A request for a new tower must be accompanied by evidence that an effort was made to co-locate on existing towers, with no success.
 - b. A proposal for a new communication tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:

- 1). The planned equipment would exceed the structural capacity of the existing and approved towers, and existing and approved towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost;
 - 2). The planned equipment would cost RF interference with other existing or planned equipment for these towers and the interference cannot be prevented at a reasonable cost;
 - 3). Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonable in parity with other similar equipment in place or approved; and
 - 4). Other reasons that make it impractical to place the equipment planned by the applicant on existing and approved towers.
- c. All towers shall be designed to accommodate at least three (3) two-way antennas for every 150 feet of tower height, or at least one (1) two-way antenna and one (1) microwave facility for every 150 feet of tower height. The above requirement may be modified as determined necessary or desirable by the Planning Commission.
- d. The owners, at the owner's expense, shall remove any tower that is not in use for a period of two (2) years or more.
- e. A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.
3. Development Standards for Towers.
- a. The location of a ground-mounted tower must be such that it is setback at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground-mounted tower may be setback less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed setback area. All guy wires, similar support devices and other apparatus shall not be closer than twenty (20) feet from any lot line.
 - b. Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:
 - 1). Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge; and
 - 2). The height of a ground-mounted tower may be used for a roof-structure mounted tower if the required setbacks for a ground tower are satisfied.
 - c. Additional setbacks may be required to contain icefall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors and to any accessory facilities.

- d. The height of a tower shall meet the setback requirements as stated in this section.
- e. All towers shall be located in areas zoned Commercial.
- f. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by FAA. In all cases, monopole towers shall be preferable to guyed towers or freestanding structures. Towers should be designed and sited so as to avoid, whenever possible, applications of FAA lighting and painting requirements.

B. Auto Repair Garage subject to the following standards:

- 1. No used auto parts, salvage materials, used tires or similar material shall be stored, collected or deposited on the site unless totally enclosed with a building.
- 2. All vehicles awaiting repairs shall be screened from view of adjoining properties and streets/roads by a solid fence at least six (6) feet in height.
- 3. Any repaired vehicle must be removed within forty (40) hours or maintained within a screened area.
- 4. Any screen wall or fence shall be constructed of new materials, be uniform in color or texture and shall be maintained in good condition.
- 5. Parking areas for vehicles and driveways shall be paved in accordance with the requirements in Section 13.5 of the City Zoning Ordinance.
- 6. All parking shall be maintained in good condition.

C. Dog Kennel

ARTICLE 10

LIGHT INDUSTRIAL (I-1) DISTRICT

SECTION 10.1: Light Industrial (I-1) District Purpose: The intent of this district is to permit industrial uses, which do not require intensive land coverage; are not offensive due to obnoxious appearance, noise, dust, vibration, glare or odor and can be compatibly developed adjacent to surrounding districts and which is consistent with the needs and character of the City of Linn Valley. The following are the permitted uses:

- A. Uses Permitted:
1. Animal hospitals or clinics
 2. Automobile repair and body shop
 3. Bottling works
 4. Building material (new) sales and storage, providing the storage is completely enclosed with a six (6) foot high solid or semi-solid fence or wall or is maintained entirely within a building
 5. Carpenter, cabinet, plumbing or sheet metal shops, providing the storage is completely enclosed with a six (6) foot high solid or semi-solid fence or wall or is maintained entirely within a building
 6. Contractor's office and equipment storage yard, providing the storage yard is completely enclosed with a six (6) foot high solid or semi-solid fence, wall or hedge
 7. Dog kennels
 8. Dry cleaning and/or laundry plants
 9. Frozen food storage, warehousing and distribution facilities
 10. Greenhouses and nurseries, retail and wholesale
 11. Light manufacturing operation providing that such is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas odor or smoke
 12. Mini storage facilities
 13. Monument sales and manufacture
 14. Motor vehicle sales, services, repairs and painting
 15. New and used machinery sales, service repairs, painting and storage
 16. Public utility and public service uses as follows:
 - a. Substations
 - b. Telephone and telecommunication exchange and transmission buildings
 - c. Public utility storage yards when the entire storage area is screened from public view by a fence or wall six (6) feet or greater in height.
 17. Service stations
 18. Sign printing and manufacturing
 19. Truck and rail terminals

- 20. Upholstery shops
- 21. Warehouses
- 22. Wholesale merchandise sales and storage

B. Maximum Building Height: 50 feet

C. Minimum Lot Size: ½ acre (21,780 square feet)

D. Minimum Lot Width: 100 feet

E. Maximum Lot Coverage: 50 percent

F. Minimum Front Yard Setback: 35 feet

G. Minimum Side Yard Setback: 15 feet

H. Minimum Rear Yard Setback: 15 feet

I. Miscellaneous Restrictions:

- 1. All applications for rezoning to the “I-1” District shall include a site plan drawn to scale containing the following information:
 - a. The boundaries of the property, easements, rights-of-way, adjacent property and adjacent uses.
 - b. The approximate location and size of all buildings, signs and other structures.
 - c. The approximate location of all driveways, parking areas and landscaping.
 - d. Any additional restrictions of the use of the property, including types of uses or operational limitations, beyond those already required by these regulations.

A record of each approved site plan shall be kept on file by the City Clerk. No structure shall be erected, and no land or structure shall be used except in conformance with said site plan.

- 2. All outdoor storage shall be screened and no storage shall exceed the height of the required screening. Screening shall include a solid fence or wall at least six (6) feet in height and completely enclosing the area of land used for outdoor storage. Such fence or wall shall be constructed of new materials, be uniform in color and texture and shall be maintained in good condition. As a substitute for a solid fence or wall, the Planning Commission may approve dense evergreen vegetation for visual screening. Where evergreen vegetation is approved for screening, such vegetation shall be maintained in good condition and shall be capable of reaching a height and density to provide a visual screen from all adjoining property within one (1) year.
- 3. All Industrial operation requiring sanitation shall be served by public or on-site sanitation system constructed in compliance with the State of Kansas Department of Health and Environment Bulletin 4-2.

4. All signs shall be in compliance with Article 14 of this Ordinance.

SECTION 10.2: Special Uses: The following uses may be permitted by approval of a Special Use Permit as provided in Article 16 of this Ordinance subject to such conditions as recommended by the Planning Commission and adopted by Ordinance of the City Council to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

- A. Livestock auction sales
- B. Telecommunication towers, water towers and grain elevators
- C. Oilfield and Natural Gas supply sales and service stores and storage yards
- D. Electric power plants
- E. Propane, anhydrous ammonia or similar gas storage
- F. Gun clubs, trap and skeet ranges
- G. Food processing plants (human consumption)

ARTICLE 11

PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

SECTION 11.1: Planned Unit Development (PUD) District Purpose: The purpose of the Planned Unit Development District is to encourage a more efficient use of land and services while preserving or protecting resources such as open space, natural habitat, agricultural lands and topographic and geological features by allowing the use of modern planning and development standards and criteria as set forth in each of the zoning districts of this Ordinance.

SECTION 11.2: Objectives: In order to insure the effective management of land and its environmental resources within the City of Linn Valley while recognizing the economic constraints and limitations inherent in all types of development, the following objectives are established:

- A. Promote and encourage innovation in residential, recreational, limited retail business and employment center developments by creative planning so that the growing demands of the residents of the City of Linn Valley may have a greater variety in type, design and layout of buildings and development.
- B. To aid in the reduction of development costs by allowing developers to incorporate changes in technology and market demands for land development.
- C. Encourage a more desirable environment by providing for a combination of different land uses which complement each other but which may not, in all aspects, conform to the requirements and strict application of other sections of these Regulations.
- D. Promote a development environment that is in harmony with the character of the developments in the surrounding community and in a manner consistent with the County Comprehensive Plan.

SECTION 11.3: Applicability and Procedures: The Planned Unit Development District is intended to be used in conjunction with any zoning district established in these regulations to create a combined zoning district to provide small and large scale development incorporating a single type or a mix of related land uses which are planned and developed as a unit. The Planned Unit Development District may provide a greater overall development density based on the gross project area where private roads, common open space and common recreation areas and facilities are incorporated in the development plan. Applications for rezoning to include a Planned Unit Development District shall be submitted and processed in accordance with the provisions of K.S.A. 12-757.

SECTION 11.4: Permitted Uses: All uses permitted by the Planned Unit Development District shall comply with those uses specifically permitted by the basic zoning district with which the Planned Unit Development District zone is combined, except for those uses and activities requiring a Special Use Permit as identified in the basic zoning district. Additional uses may be approved by the Planning

Commission provided such uses are shown on the Preliminary Development Plan and found to compliment the other uses included in the Development Plan and to be consistent with the provisions of the City Comprehensive Plan.

SECTION 11.5: Special Uses: Any use or activity included on the Preliminary Development Plan submitted with an application for rezoning to combine a Planned Unit Development Zone that requires a Special Use Permit as identified in the basic zoning district, shall submit a request for a Special Use Permit concurrently with the rezoning application. The Planned Unit Development District and Preliminary Development Plan shall not be approved unless the Planning Commission approves the Special Use Permit as provided by Article 16 of this Ordinance.

SECTION 11.6: Preliminary Development Permit Required: A Preliminary Development Plan shall be submitted and approved concurrently with the rezoning application for a Planned Unit Development District. The Preliminary Development Plan shall be reviewed at the public hearing(s) for the rezoning and approved or conditionally approved. The Preliminary Development Plan shall include the following:

- A. Shall be drawn to a scale not smaller than one (1) inch = 200 feet.
- B. Date and North Arrow
- C. Names, addresses and phone numbers of the applicant, owner and designer of the Plan.
- D. Legal description of the property.
- E. Names of surrounding streets/roads.
- F. Existing and proposed contours at no greater than two (2) foot intervals.
- G. Boundaries of the area included in the development plan, including dimensions and references to section corners, quarter section corners or recorded plats.
- H. Names of adjoining property owners.
- I. Location of any existing water lines, sewer lines and other utilities including size of facilities if applicable.
- J. The location and dimensions of existing structures or permanent buildings and natural features such as ponds, lakes, drainages and any land area subject to the Floodplain.
- K. Location, number and size of proposed lots.
- L. Location, number and size of all proposed buildings or structures.
- M. Location and number of parking spaces to be provided.

- N. General location, arrangement and purpose of any open space, recreational or other common areas proposed.
- O. General location, dimensions and improvement standards for roads, vehicular access dries, pedestrian trails, sidewalks or walkways proposed.
- P. Location, height and general materials to be used for walls, fences and landscaping.
- Q. Preliminary sketches of building elevations depicting the general style, size and exterior materials of the buildings proposed in sufficient detail to indicate the relative compatibility of the proposed development with the character of the surrounding community.
- R. Indication of the proposed schedule, sequence and location of each development phase if the project is to be developed in phases.

SECTION 11.7: Final Development Plan Approval: Prior to the issuance of any building permits for construction on land within a Planned Unit Development District, a Final Development Plan shall be submitted and approved as provided in the following:

- A. The applicant for a Planned Unit Development District shall file a Final Development Plan for at least the first phase within one (1) year after approval of the Preliminary Development Plan and rezoning by the City Council. Failure to do so shall cause the approval of the Preliminary Development Plan to become null and void, unless a time extension is applied for and approved by the Planning Commission and granted by the City Council. A request for a time extension must be submitted at least fourteen (14) days prior to expiration date of the Preliminary Development Plan and may be extended for a period of twelve (12) months.
- B. Where a zoning change to include the Planned Unit Development District was approved based on the Preliminary Development Plan and the time frame has expired, the Planning Commission shall review the Planned Unit Development District and initiate an action to change the zoning back to the previous zoning classification or such other zoning district as may be determined to be consistent with the Comprehensive Plan.

A Final Development Plan must be submitted at least thirty (30) days prior to the Planning Commission meeting at which the application is requested to be considered. The Final Development Plan shall conform to all requirements and conditions placed on the approval of the Preliminary Development Plan, and the Planning Commission must find that the Final Development Plan substantially complies with the Preliminary Development Plan and all conditions of approval.

Upon approval of the Final Development Plan by the Planning Commission, the applicant shall be authorized to apply for the building permits and such other permits as may be required for the proposed development.

If the Planning Commission, or upon appeal the City Council, find that the Final Development Plan is not in substantial compliance with the Preliminary Development Plan and conditions of approval, the Planning Commission, or City Council, shall take one of the following actions:

1. Specify what changes to the Final Development Plan are necessary to bring it into compliance with the Preliminary Development Plan and conditions of approval and grant conditional approval subject to verification of the Zoning Administrator that all required changes have been satisfied; or
 2. Disapprove the Final Development Plan and advised the applicant of the reasons for the disapproval.
- C. Where a Final Development Plan has been denied, a revised Final Development Plan may be submitted provided such submittal complies with the times frames set forth above.

ARTICLE 12

SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 12.1: Supplementary District Regulations Purpose: The Regulations set forth in this Article shall apply to all Zoning District.

SECTION 12.2: Yard Restrictions: Structural overhangs shall not encroach upon front, side or rear yard setbacks except:

- A. Window Projections: Bay, bow or other projecting windows may project into the required front yard, not to exceed three (3) feet. These projections will not touch the ground or be greater in height than one (1) story.
- B. Miscellaneous Projections: Eaves, cornices, spoutings, chimneys, brackets, trellises and other similar projections that are for purely ornamental purposes, may project into the required front or side yards, not to exceed three (3) feet. Only chimneys may touch the ground.
- C. Holding Tanks: Water and Sewage holding tanks may be placed in the back ten (10) feet of the twenty-five (25) feet front yard set back.

SECTION 12.3: Exceptions to Yard Restrictions: The Board of Zoning Appeals may grant exceptions to the yard restrictions established in this Ordinance as provided in A and B below:

- A. To allow structures within the required front yard, as high, but not higher than the tallest adjacent structure, and/or to allow structures in the required yard, the same distance from the front property line as the adjacent structure that is the farthest from the front property line, when one of the following conditions exist;
 - 1. The applicant's existing structure is on an interior lot between two (2) existing non-conforming structures (meaning both are closer to the front property line than twenty-five (25) feet) or;
 - 2. If the applicant's existing structure is on a corner lot adjacent to a non-conforming structure or;
 - 3. If the applicant is building on a vacant lot that is between two (2) existing non-conforming structures, or;
 - 4. The vacant lot is a corner lot adjacent to a non-conforming structure.
 - 5. As used in this subparagraph 3. A structure shall be defined to include only enclosed permanent living areas of buildings and shall not include such items as porches, decks, garages, carports, stairs, ramps, trellises or any other man-made construction.
- B. To allow structures within the required side and/or rear yards of a lot that abut(s) a parcel of land that could not be developed as a future homesite or other use, if one of the following conditions exist concerning the abutting parcel of land;

1. It is a dedicated parkland,
2. It is a dedicated accessway,

AND if all of the following conditions are met:

3. The district's requirements regulating building height and lot coverage are not exceeded.
4. The encroachment into a required side yard does not extend closer than five (5) feet from the side property line,
5. The encroachment into the required rear yard does not extend closer than five (5) feet from the rear property line,
6. The encroachment into the required yard can not be greater than 50% of the width of the dedicated land when another lot abuts the opposite side of the dedicated land. If there is no lot on the opposite side, the Board of Zoning Appeals may grant a distance that they deem reasonable.

SECTION 12.4: Accessory Structures: No accessory structure shall be erected within the front, area, including but not limited to, porches, vestibules, balconies, walled patios, hot tubs, propane tanks, garages, sheds, play houses and athletic areas. No detached accessory structure shall be erected closer than five (5) feet to any other structure on the lot and can not be located in front of the dwelling. Accessory structures shall have compatible materials and shall be consistent with the architectural style of the principle structure.

SECTION 12.5: Accessory Uses: Accessory uses shall be permitted only where such use is customarily incidental to and clearly subordinate to the principal use, and where the accessory use is located on the same lot as the principal use. In no case shall a business or commercial use be permitted as an accessory use in a residential district unless it is permitted as a home occupation.

The maximum size of any accessory structure shall be thirty (30) feet in width and fifty (50) feet in length, with maximum side-wall height of sixteen (16) feet and a maximum overall height, including roof, of twenty (20) feet. The front of any metal accessory structure shall have a veneer facing of wood, brick or rock or a metal wainscoting of a contrasting color, from a finished grade level to a height of four (4) feet.

SECTION 12.6: Fences: Fences shall be constructed in accordance with the following requirements and any other applicable Codes and Ordinances:

- A. No fence shall be constructed without first obtaining a building permit from the City.
- B. No fence shall be constructed which will constitute a traffic or safety hazard due to its location, design or materials.
- C. No privacy fence shall be constructed within any required front yard setback, however fences may be constructed in any side or rear yard.
- D. No fence shall be constructed which will materially damage the adjacent property by obstructing view, shutting out sunlight or hindering ventilation.

- E. No fence shall be greater than six (6) feet in height.
- F. Swimming pools, wading pools, hot tubs and similar structures shall have an appropriate constraint enclosing the pool or hot tub..
- G. Fences shall be constructed of wood, wrought iron, plastic or masonry materials with posts and other structural details located “inside” the fence, where possible. Chain-link or other similar materials shall be permitted only where there is a clearly demonstrated need or where any negative visual impact is minimal. In any event, fences shall not obscure a user’s view of a street.

SECTION 12.7: Temporary Uses: The City Council, after a public hearing and recommendation by the Planning Commission, may issue a Special Use Permit for temporary uses not otherwise permitted by these regulations. Such permit shall specify the use permitted, the location, the maximum duration and any conditions of approval. No Special Use Permit shall be granted unless the temporary use is consistent with the general welfare of the City and does not lessen the enjoyment or usefulness of adjacent property.

SECTION 12.8: Home Occupations: Home occupations shall be permitted in any legally existing residence subject to the following restrictions:

- A. Restrictions and Limitations:
 - 1. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than twenty-five (25%) percent of the floor area of any one floor of the dwelling unit shall be utilized for a home occupation.
 - 2. All materials or equipment used in the home occupation shall be stored within an enclosed structure.
 - 3. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence.
 - 4. No sign shall be permitted, unless required by state statutes, and if so required shall not exceed two (2) feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half (1/2) the distance of the front yard, unless otherwise required by state statutes.
 - 5. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
 - 6. The off-street parking regulations set forth in Article 13 shall apply to home occupations. In no event shall fewer than two (2) off-street parking spaces be required.
- B. Prohibited Home Occupations: Permitted home occupations shall not, in any event, include the following:
 - 1. Retail sales of antiques.
 - 2. Funeral services.
 - 3. Retail or wholesale of groceries.
 - 4. Retail sales of second-hand merchandise.

5. Tourist homes.
6. Equipment rental.
7. Automobile and other motor vehicles repair services.
8. Professional offices for physicians, osteopaths, chiropractors, ophthalmologists, dentists and other related health care facilities.

ARTICLE 13

PARKING AND LOADING REQUIREMENTS

SECTION 13.1: Parking and Loading Requirements Purpose: It is the intent and purpose of this Article to establish minimum requirements as to the number, design and construction for off-street parking and loading spaces. These Zoning Regulations are intended to ensure that all uses of land within the incorporated City shall have adequate off-street parking for such use.

SECTION 13.2: Applicability: Off-street parking and loading space, as required in this article, shall be provided for all new buildings or additions thereto. Off-street parking and loading space shall be required for any existing building or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking spaces previously required shall not be used to satisfy required off-street parking for any new structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article.

SECTION 13.3: General Provisions:

- A. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses.
- B. Repair Service: No motor vehicle repair work or services of any kind shall be permitted in association with any off-street parking facilities.
- C. Computation: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half (1/2) or less may be disregarded and a fraction in excess of one-half (1/2) shall be counted as one parking space.

SECTION 13.4: Layout and Design Requirements:

- A. Area: A required off-street parking space shall be at least eight feet six inches (8'-6") in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, and columns.
- B. Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- C. Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

- D. Paving: All off-street parking spaces and access-ways shall be paved with asphalt or concrete.

SECTION 13.5: Parking Requirements: Off-street parking spaces shall be provided as follows:

- A. R-1 Residential Uses: Four spaces per dwelling unit which includes spaces on driveway and in garage, with all weather rock, chip and seal, concrete, asphalt or asphaltic concrete.
- B. R-2 Residential Uses: Two spaces per dwelling unit which includes spaces on driveway and in garage, with all weather rock, chip and seal, concrete, asphalt or asphaltic concrete.
- C. Retail stores, Offices, Mini-Storage, Storage Buildings and Industrial uses: One space for each 200 square feet of gross floor area, with all weather rock, chip and seal, concrete, asphalt or asphaltic concrete.
- D. Restaurants, Clubs, Churches, Recreational Facilities and Places of Assembly: One (1) space for every three (3) people based on maximum design capacity of the building or facility, with all weather rock, chip and seal, concrete, asphalt or asphaltic concrete
- E. All Commercial and Industrial drive-ways used as means of Ingress or Egress shall be paved with all weather rock, chip and seal, concrete, asphalt or asphaltic concrete.

ARTICLE 14

SIGN REGULATIONS

SECTION 14.1: Sign Regulations Applicability: No land or building or structure shall be used for sign purposes except as specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of this regulation, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a building permit. All signs shall be constructed in such a manner and of such materials that they shall be safe and substantial.

SECTION 14.2: Classification of Signs:

- A. Permitted Functional Types:
1. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such signs may also present a greeting or similar message.
 2. Business Sign: A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, to which it is affixed.
 3. Construction Sign: A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place. Signs erected on R-1 and R-2 Residential lots shall be limited to two (2) square feet.
 4. Identification Sign: A sign giving the name and address of a building, business, development or establishment. Such sign may be wholly or partly devoted to a readily-recognized symbol.
 5. Name Plat Sign: A sign giving the name and address of the owner or occupant of a building or premises on which it is located and, where applicable, a professional status.
 6. Real Estate Sign: A sign pertaining to the sale or lease of all or part of a lot or tract of land on which the sign is located, or to the sale or lease of all or a part of one or more structures on which the sign is located.
- B. Permitted Structural types:
1. Awning, Canopy or Marquee Sign: a sign that is mounted on, painted on, or attached to an awning, canopy or marquee. No such sign shall project above, below or beyond the awning, canopy or marquee.

2. Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal buildings or structure on the property, where the bottom edge of the sign is less than six (6) feet above the ground level.
3. Pole Sign: Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property, where the bottom edge of the sign is six (6) feet or more above the ground level.
4. Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.
5. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building.

SECTION 14.3: General Standards:

- A. Gross Area of Sign: Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is used as a sign, then the area of both sides shall be computed and shall count as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this regulation.
- B. Sign Heights: Sign height shall be measured from the ground elevation at the base of the sign to the highest point of the sign. No sign shall exceed the height limitation of the district in which it is located.
- C. Accessway or Window: No sign shall block any required accessway or window.
- D. Signs on Trees or Utility Poles: No sign shall be attached to a tree or utility pole whether on public or private property.
- E. Traffic Safety:
 1. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic sign, signal or device, or where it may interfere with, mislead, or confuse traffic.
 2. Any sign located within three (3) feet of a driveway or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level; however, no sign shall be placed so as to project over any public right-of-way.
- F. Lineal Street Frontage: In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one (1) street, the lineal street frontage shall be the sum of all street frontages.

SECTION 14.4: Exemption: The following signs shall be exempt from the requirements of this article, except for the provisions of Section 3 above:

- A. Flags or emblems of a governmental or of a political, civic, philanthropic, educational or religious organization, displayed on private property.
- B. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at rail road crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping etc.
- C. Memorial signs and tablets displayed on private property.
- D. Small signs, not exceeding two (2) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and other similar signs.
- E. Small signs, not exceeding two (2) square feet in area, which identifies the lot owner, owners home town and lot number are permitted on R-1 and R-2 residential lots. These signs are allowed as a convenience for identification purposes for the lot owner and emergency services vehicles.

SECTION 14.5: District Regulations: The number, type and size of signs permitted per lot in each district shall be as follows:

- A. Residential Districts “R-1” and “R-2”: No signs shall be permitted other than those exempted above or required by state or federal law.
- B. Park and Open Space District “P-1”: Bulletin board and identification signs are permitted as canopy, ground or walls signs provided that the total sign area shall not exceed one (1) square foot per four (4) lineal feet of street frontage and that no single sign shall exceed forty (40) square feet.
- C. Restricted Commercial District “C-1”: All functional and structural sign types are permitted provided that the total sign area does not exceed one (1) square foot per four (4) lineal feet of street frontage and that no single sign shall exceed sixty (60) square feet.
- D. Light Industrial District “I-1”: All functional and structural sign types are permitted provided that the total sign area does not exceed one (1) square foot per four (4) lineal feet of street frontage and that no sign shall exceed one hundred (100) square feet.

ARTICLE 15

NON CONFORMITIES

SECTION 15.1: NON-CONFORMITIES: General: Non-conformities are of three (3) types: Non-conforming lots of record; Non-conforming structures and Non-conforming uses.

- A. Non-conforming lot or record: An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
- B. Non-conforming Structure: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. Non-conforming Uses: 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.

SECTION 15.2: Non-conforming Lot of Record: The City may issue a building permit for any non-conforming lot of record when:

- A. Said lot is shown by the 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 any zoning regulations; and
- B. Said lot has remained in ownership separate and individual from adjoining tracts or land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations; and
- C. Said lot can meet all yard regulations for the district in which it is located.

SECTION 15.3: Non-conforming Structures:

- A. Authority to Continue: Any structure existing prior to the effective date of this Ordinance that is devoted to a use which is permitted in the zoning district in which it is located, but which structure does not comply with the applicable height, lot coverage and yard setback requirements, is hereby deemed to be legally non-conforming and may be continued, so long as it remains otherwise lawful.

- B. Repair or Alteration: Any legally non-conforming structures, subject to existing height, lot coverage and yard setback requirements, may be maintained, repaired and altered, provided that no such repairs or alterations shall be made which change the nature of the structure or which create any additional non-conformity or increase the degrees of the existing legal non-conformity of any part of such structure. For the purpose of this section, the term “nature of the structure” is defined as the manner in which such structure is constructed and/or used as of the effective date of this Ordinance.

- C. Damage or Destruction: In the event that any legally non-conforming structure is damaged, it may be restored to its prior size and shape. No repairs or restoration shall be made unless a building permit is obtained and restoration is begun within one (1) year after the date of such damage and is thereafter diligently pursued to completion. If the damaged building or structure is not restored or repaired within one (1) year from the date the building permit was issued, the City shall initiate actions for the completion of the building or structure or the removal if necessary.

No legally non-conforming structure which has been damaged by any casualty, act of God or public enemy, to the extent of more than fifty percent (50%) of the appraised value of the building and land upon which it is located, shall be restored unless authorized by the Board of Zoning Appeals, except in conformity with all requirements of the City’s Zoning Regulations.

- D. Moving: No legally non-conforming structure shall be moved in whole or in part for any distance whatsoever, to any other location on the same 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 15.4: Non-conforming Uses:

- A. Authority to Continue: Any lawfully existing non-conforming use of part or all of a structure of any lawfully existing non-conforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued so long as otherwise lawful.

- B. Ordinary Repair and Maintenance:
 - 1. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use.
 - 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it’s restoration to a safe condition.

- C. Extension: A non-conforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities shall include, but not be limited to:
1. Extension of such use to any structure or land area other than that occupied by such non-conforming use on the effective date of these regulations or on the effective date of subsequent amendments hereto that cause such use to become non-conforming.
 2. Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such non-conforming use on the effective date of these regulations or on the effective date of subsequent amendments thereto that cause such use to become non-conforming; provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. Enlargement: No structure that is devoted in whole or in part to a non-conforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. Damages or Destruction: In the event that any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its appraised value, such structure shall not be restored unless such structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is begun within one (1) year after the date of such partial destruction and is diligently pursued to completion. If the damaged or destroyed building or structure is not repaired or restored within one (1) year from the date the building permit was issued, the city shall give notice to the property owners that the non-conforming use if considered to be abandoned and shall not be resumed or re-established unless such use is in compliance with all of the provisions of the Zoning Ordinance.
- F. Moving: No structure that is devoted in whole or in part to a non-conforming use and no non-conforming 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 regulations of the zoning district in which it is located after being so moved.
- G. Abandonment or Discontinuance: When a non-conforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use of occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

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- H. Non-conforming Accessory Uses: No use which is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.

ARTICLE 16

SPECIAL USE PERMITS

SECTION 16.1: Special Use Permit: Purpose: The City of Linn Valley recognizes that certain uses or activities may be desirable or necessary to be located within the community, but that these uses or activities may not be totally compatible with other uses and activities permitted within that zoning district unless limited or specifically restricted in their use or activity. Whenever a zoning district has identified such uses or activities, a Special Use Permit shall be required.

SECTION 16.2: Application for Special Use Permit: An application for a Special Use Permit may be initiated by a property owner or agent representing a property owner to the Zoning Administrator Office. Application shall include the following:

- A. Filing fee as established by the City Council.
- B. Legal description of the property.
- C. Names of all property owners having a legal interest in the property.
- D. Description of the proposed activity.
- E. Composite site plan showing the major details of the proposed development, including the location of all structures, fences, driveways, utilities, drainages, slopes, parking, landscaping and other physical features.
- F. A statement from the utility services regarding their capabilities to serve the development.
- G. If private on-site sanitation is proposed, a description of the sanitation system, including size and location of the proposed facility.

SECTION 16.3: Approval Procedures:

- A. All applications for a Special Use Permit shall be submitted to the Planning Commission for recommendation and report, and no Special Use Permit shall be approved without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.
- B. Public Notice of such hearing shall be published by the City Clerk not less than twenty (20) days prior to the date of said hearing in the official city newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. Proof of publication

of such notice shall be filed with the Planning Commission in advance of said hearing.

- C. Notice shall be sent by mail at least twenty (20) days prior to the scheduled Planning Commission meeting, to all property owners within one thousand (1,000) feet of the boundaries of the land being considered for the Special Use Permit where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a City. Said written notice shall include the requirements as set forth in Article 19. Property owners notified of the public hearing shall have the opportunity to be heard or submit a protest petition as provided in K.S.A. 12-757 (e) to be filed in the office of the City Clerk and to be considered by the City Council in considering the proposed Special Use Permit. In addition, notice shall be sent to the Linn Valley Lakes Property Owners Association (POA) for any Special Use Permit application on properties located within the boundaries of the Property Owners Association.
- D. All such Special Use Permit applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued.
- E. In considering any application for a Special Use Permit, the Planning Commission shall give consideration that the proposed use is in conformance with the Comprehensive Plan, complies with other adopted standards, is in the interest of the public health, safety and general welfare and the following additional factors:
 - 1. The character of the neighborhood
 - 2. The zoning and uses of nearby properties
 - 3. The suitability of the subject property to the proposed use.
 - 4. Mitigation measures to minimize impacts to surrounding properties or services.
- F. After conclusion of the public hearing the Planning Commission shall recommend approval, conditional approval or denial of the Special Use Permit. The recommendation of the Planning Commission shall be considered by the City Council at the next regular meeting after receiving the recommendation of the Planning Commission.
- G. After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the City Council may adopt such recommendation by Ordinance, override the Planning Commission's recommendation by a majority vote of the membership of the City Council, or return such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
- H. If the City Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended

recommendation. Upon receipt of such recommendation, the City Council by a simple majority, may adopt, may revise or amend and adopt such recommendation by Ordinance or it may deny the Special Use Permit application.

- I. If the Planning Commission fails to deliver a recommendation to the City Council following the Planning Commission's next regular meeting, after receipt of the City Council, shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- J. In approving a Special Use Permit, the City Council may require such reasonable conditions as deemed necessary to mitigate impacts to the community, maintain the character of the neighborhood and to protect the public health, safety and general welfare.
- K. Regardless of whether or not the Planning Commission recommends approval, conditional approval or denial of a Special Use Permit, if a protest petition signed by the owners of at least twenty percent (20%) of the total area (less public streets and ways) located within two hundred (200) feet of the boundaries of the proposed Special Use Permit is filed with the City Clerk within fourteen (14) days after the date of the conclusion of the Planning Commission hearing, the resolution approving the Special Use Permit shall not be passed and adopted except by a $\frac{3}{4}$ vote of all of the City Council.

SECTION 16.4: Denial of an Application: Whenever the application for a Special Use Permit has been denied by the City Council, the same application or one substantially similar, shall not be reconsidered for the property within a period of one (1) year from the date of denial unless the Planning Commission finds that there has been a substantial change of circumstances from those existing when the previous application was considered.

SECTION 16.5: Continuance, Expiration, Revocation or Modification of Special Use Permit:

- A. Any approved Special Use Permit shall be allowed to continue, unless specifically limited in time as a condition of its approval, and provided that **all** conditions attached to the permit by the City Council are complied with.
- B. All Special Use Permits shall automatically expire, be considered abandoned and become invalid by operation of law when:
 - 1. A definite time frame has been established as a condition by the City Council and that time frame has elapsed.
 - 2. An approved Special Use Permit has not been initiated or utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of authorization. The authorization date shall be the date that the permit is approved by Ordinance of the City Council.
 - 3. An approved Special Use Permit wherein the authorized activity, service or use has ceased, except for rock quarries, for three hundred and sixty-five (365) continuous days, for any reason.

4. Special Use Permits subject to termination due to the provision of paragraphs 2 and 3 above, may file a written petition with the Planning Commission at least thirty (30) days prior to the expiration date requesting an extension of time to begin to reinstitute activity, service or use. The application shall state specific reasons for such an extension and shall include all reports from appropriate City agencies. The City Council may grant an extension if it is found that circumstances beyond the normal control of the holder of the permit resulted in a cessation of the activity, service or use for three hundred sixty-five (365) consecutive days or the holder(s) were unable to initiate the Special Use Permit.
- C. Any Special Use Permit authorized in accordance with these provisions may be revoked or modified when the Planning Commission finds, after a public hearing, that the following exist:
1. There has been a failure to comply with the conditions established for that Special Use Permit.
 2. That the Special Use Permit has substantially expanded or deviated from its original use and intent. Original use and intent shall be interpreted as being the actual use(s) specifically authorized in the Special Use Permit application. If the Planning Commission finds that there has been no change or that the change is minimal, the original Special Use Permit will remain in effect.
 3. That the Special Use Permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas Statutes.
- D. Action to modify or revoke a Special Use Permit may be initiated by the Planning Commission. Upon receipt of a complaint that the Special Use Permit is not in compliance with the approved conditions the Planning Commission shall hold a public hearing to consider the modifications or revocation of the Special Use Permit. Such hearing shall be in the same manner as provided in Section 16.2.B et seq.
- E. The decision of the Planning Commission to modify or revoke shall be submitted to the County Council for final consideration.

ARTICLE 17

BOARD OF ZONING APPEALS

SECTION 17.1: Board of Zoning Appeals: Formation: A Board of Zoning Appeals is hereby created in accordance with K.S.A. 12-759 governing such creation. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws or Ordinances. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. 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 immediately and shall be a public record.

SECTION 17.2: Powers and Jurisdictions: The Board shall have the following powers and jurisdictions:

- A. Appeals: To hear and decide appeals where it is alleged there is an error to any order, requirement, decision or determination made by the Zoning Administrator.
 - 1. Appeals to the Board may be submitted by the person aggrieved or by any officer of the city of Linn Valley or by any governmental agency or body affected by any decision or action of the Zoning Administrator or Building Official. Such appeal shall be filed within a reasonable time, as shall be prescribed by general rule of the Board and shall be submitted to the City Clerk together with a statement specifying the grounds for the appeal. The City Clerk shall transmit to said Board all papers constituting the record for which the action or decision is being appealed.
 - 2. An Appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or Building Official certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the Certificate, a stay would, in his opinion cause imminent peril to life or property.

- B. Variances: The Board of Zoning Appeals may authorize in specific cases a Variance from the specific terms of these regulations where, due to a special condition, a literal enforcement of the provisions of these regulations will result in unnecessary hardship. Such Variance shall not permit any use not permitted by the Zoning Regulations in such district.
 - 1. 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 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, the strict application of the terms of the zoning regulations

actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.

2. A request for a Variance may be granted, upon a finding by 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.
 - a. The Variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district;
 - b. The granting of the permit for the Variance will not adversely affect the rights of adjacent property owners or residents;
 - c. The strict application of the provisions of the Zoning Regulations of which the Variance is requested will constitute unnecessary hardship upon the property owners represented in the application;
 - d. The Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. The granting of the Variance desired will not be opposed to the general spirit and intent of the Zoning Regulations.

C. Exception: The Board of Zoning Appeals may grant Exceptions to the provisions of this Ordinance as provided in Article 12, Section 12.3:

1. In no event shall Exceptions to the provisions of the Ordinance be granted where the Exception contemplated is not specifically listed as an Exception in Section 12.3 of this Ordinance.
2. Further, the Board shall not grant an Exception when the conditions of this Exception are not found to be present in this Ordinance.

When determining whether to grant an Exception, the Board should consider:

- a. How substantial the Exception requested is in relation to the zoning requirement;
- b. Whether a substantial change will be produced in the character of the neighborhood;
- c. Whether the difficulty can be obviated by some method feasible for the applicant to pursue other than an Exception;
- d. Whether, in the view of the manner in which the difficulty arose, the interest of justice will be served by allowing the Exception; and
- e. Whether the Exception would grant a privilege not commonly granted in the district.

SECTION 17.3: Notice/Hearing: The procedure for requesting a hearing before the Board shall be as follows:

- A. All applications to the Board shall be in writing on forms provided by the City Clerk.

- B. 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 City 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 to the Linn Valley Lakes Property Owners Association for all applications within the boundaries of the P.O.A.

- C. An application shall be accompanied by a filing fee as established by Ordinance. A separate filing fee shall be required for each request.

SECTION 17.4: Application: Applications shall include the following:

- A. Appeals:
 - 1. An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator or Building Official.
 - 2. A copy of the order, requirement, decision or determination of the Zoning Administrator or Building Official in which the applicant believes to be in error.
 - 3. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
 - 4. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

- B. Variances:
 - 1. 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 which it is believed that his application will meet each of the five (5) conditions as set out in Section 17.2.2.b of this Article.
 - 2. 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.

- C. Exceptions:
 - 1. A clear and accurate, written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
 - 2. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

SECTION 17.5: Performance: In making any decision varying or modifying any provisions of the Zoning Ordinance, the Board may impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.

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 improvement as determined by the Board, and shall be enforceable by or payable to the City of Linn Valley in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, 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.

SECTION 17.6: Appeals of the Board's Decision: Any person, persons, official, department or departments of government jointly or separately aggrieved by any order or decision of the Board may bring an action in the District Court to determine the legality of such order or decision within thirty (30) days after the date that the decision of the Board has been rendered.

ARTICLE 18

BUILDING PERMITS

SECTION 18.1: Building Permit: Authority: No building or structure shall be constructed, altered or remodeled nor shall any work be commenced upon any lands zoned within the incorporated area of the City of Linn Valley unless the owner, contractor or duly authorized agent shall have first applied for and received a building permit, as provided in this Zoning Ordinance. For purposes of this Ordinance, the terms “altered” or “remodeled” shall refer to an increase in the overall size of a structured and/or to any modification affecting any load bearing wall or supporting structure.

SECTION 18.2: Conformance with Zoning Regulations: No building permit shall be issued for any building or structure unless the same is in conformity with all the provisions of this Zoning Ordinance and, where applicable, the Subdivision Regulations of the City and the Officially Adopted Building Codes.

SECTION 18.3: Building Permit: Issuance: It shall be the responsibility of the City to issue building permits. However, parcels located within the boundaries of the Linn Valley P.O.A. will require approval from the ACC prior to issuing the building permit.

ARTICLE 19

ADOPTION AND AMENDMENT PROCEDURE

SECTION 19.1: Adoption and Amendments of Zoning Districts and Regulations: As provided in K.S.A. 12-756, in order to adopt any zoning district or regulation, the City must establish a Planning Commission to review and recommend to the Governing Body the nature and number of zoning districts, the boundaries of the districts and appropriate regulations deemed necessary to be enforced therein. The City of Linn Valley, Kansas has created a Planning Commission pursuant to the provisions and requirements set forth in K.S.A. 12-744.

SECTION 19.2: General Authority and Procedure: The City Council may, from time to time, amend, supplement or change, by Ordinance, the boundaries of the districts or the regulations herein established. The Ordinance shall become effective upon publication thereof in the official City newspaper.

- A. A proposal for an amendment or change in zoning may be initiated by the City Council, the Planning Commission and, if the proposed amendment is not a general revision of the existing Ordinance and affects specific property, upon application of the owner of the property affected or the owner's duly authorized agent.
- B. An application for an amendment or change in zoning initiated by a property owner, shall be made to the Planning Commission upon appropriate forms available from the City Clerk. Such application shall be made at least thirty (30) days prior to a regularly scheduled Planning Commission meeting.
- C. All proposed amendments to the Zoning Ordinance or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a public hearing before the Planning Commission.
- D. A fee, in the amount adopted by Ordinance of the City Council, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice. No fee shall be required if the zoning change is requested by the Planning Commission or the City Council.
- E. When the owner of the property affected initiates an amendment to the Ordinance or the district boundaries, an application for such amendment shall be obtained from the City Clerk. Said application shall be completed in its entirety and filed with the City Clerk so that a public hearing date can be established. All such applications shall first be submitted to the Planning Commission for recommendation and report.

- F. If a proposed amendment is not a general revision of existing Ordinances and will affect specific property, the application shall be accompanied by an ownership list with the names and addresses of owners of all property located within two hundred (200) feet of the boundaries of the property for which the zoning amendment is requested or one thousand (1,000) feet if the affected property is adjacent to the unincorporated boundary.

SECTION 19.3: Public Hearing Before Planning Commission: All proposed amendment or change shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.

- A. Public Notice of such hearing shall be published by the City Clerk not less than twenty (20) days prior to the date of said hearing in the official City newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning regulation and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.
- B. If the proposed amendment is not a general revision to the Zoning Ordinance and would affect surrounding properties, a separate written notice shall be sent by mail, at least twenty (20) days prior to the scheduled Planning Commission meeting. Property owners notified of the public hearing shall have the opportunity to be heard or to submit a protest petition as provided in K.S.A. 12-757(f) to be filed in the office of the City Clerk, and to be considered by the City Council in considering the proposed rezoning.
- C. All such rezoning applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued. At such hearing, the Planning Commission shall make findings of fact to determine whether the application is found to be compatible with the following:
 - 1. Character of the neighborhood.
 - 2. Consistency with the Comprehensive Plan of the City of Linn Valley.
 - 3. Adequacy of public utilities and other needed public services.
 - 4. Suitability of the uses to which the property has been restricted under its existing zoning.
 - 5. Length of time property has remained vacant as zoned.
 - 6. Compatibility of the proposed district classification with nearby properties.
 - 7. The extent to which the zoning amendment may detrimentally affect nearby property.

8. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.
9. Recommendation of professional staff.

SECTION 19.4: Table of Lesser Change: 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 what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the least intense zoning district to the most intense zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser intensity, as determined by the Table of Lesser Change. Where a Planned Unit Development Overlay District has been combined with any basic zoning district, such combination shall be deemed to be a lesser zoning district for purposes of this table.

A-1	Agricultural District
R-1	Single Family Residential
R-2	Single Family Residential – Multi Purpose/Camping Lots
P-1	Park and Open Space
C-1	Restricted Commercial
I-1	Light Industrial
PUD	Planned Unit Development

SECTION 19.5: Action by Planning Commission and City Council:

- A. Planning Commission Actions: For action on zoning amendments, a quorum of the Planning Commission shall be more than one half (1/2) of all voting members. A vote for an amendment by a majority of the Planning Commission members present and voting at the hearing shall constitute a “recommendation for approval”, and a vote against an amendment by a majority of the Planning Commission present and voting shall constitute a “recommendation of disapproval”. If the Planning Commission fails to make recommendation on a rezoning request, the Planning Commission shall be deemed to have made a “recommendation for disapproval”.
- B. City Council Actions: After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the City Council may adopt such recommendation by Ordinance, override the Planning Commission’s recommendation by a two-thirds (2/3) majority vote of the membership of the City Council, or return such recommendation to the Planning Commission with a statement specifying the basis for the City Council’s failure to approve or disapprove.

- C. If the City Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon receipt of such recommendation, the City Council, by a simple majority, may adopt, may revise or amend and adopt such recommendation by Ordinance, or it may deny the zoning amendment.

- D. If the Planning Commission fails to deliver a recommendation to the City Council following the Planning Commission's next regular meeting after receipt of the City Council's report, the City Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

SECTION 19.6: Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending Ordinance of the City Council shall define the change of boundary as amended, shall order the zoning district to be changed to reflect the amendment and shall amend the Official City Zoning Map accordingly.

SECTION 19.7: Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission's hearing, a petition signed by the owners of twenty percent (20%) or more of any property proposed to be rezoned, or by owners of twenty percent (20%) or more of the total area required to be notified by this Article of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the office of the City Clerk, the amendment shall not be passed except by a three-fourths (3/4) vote of all the members of the City Council.

SECTION 19.8: Limitations on Reapplication for Amendments: Whenever an application has been made under this Article and the application has been denied by the City Council, such application, or one substantially similar, shall not be considered sooner than one (1) year after the previous denial.

ARTICLE 20

PENALTY

SECTION 20.1: Penalties for Violations; Actions for Enforcement:

- A. Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of the City of Linn Valley Kansas Zoning Ordinance shall be guilty of a Class “B” Misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both. Each day shall be considered a separate and continuing Violation.
- B. The City Council or any person, the value or use of whose property is or may be affected by such Violations, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce this Zoning Ordinance and to abate nuisances maintained in Violation thereof.
- C. 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 Ordinance, the City Council, in addition to other remedies, may institute an 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 building or land.
- D. As provided in K.S.A. 12-761, any person, company, corporation, institution, municipality or agency who violates any provision of the City of Linn Valley Zoning Ordinance shall be guilty of a Class “B” Misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both. Each day shall be considered a separate Violation.

SECTION 20.2: Effective Date: This Zoning Ordinance takes full force and effect upon publication of the adopting Ordinance as provided in K.S.A. 12-756(b).