

CITY COUNCIL MEETING
OF LINN VALLEY, KANSAS
OCTOBER 23, 2023 - 7:00 PM
AGENDA

CALL MEETING TO ORDER

REVIEW AGENDA

1. APPROVAL: OCTOBER 9, 2023, AND OCTOBER 14, 2023 MINUTES
2. CITIZEN PARTICIPATION
This section is for citizens to make a statement or share something with your elected officials. Each speaker will have three minutes to do so. Please speak at the podium, sign in, and state your name and address. This is not a discussion period, and the Council cannot respond to questions, comments, or remarks during this time.
3. ZONING ORDINANCE
4. MOWING CONTRACT RENEWAL
5. 2022 AUDIT
6. LINN VALLEY 25TH ANNIVERSARY PLANS UPDATE
7. OLD BUSINESS
8. NEW BUSINESS
9. ADJOURN

MEETING OF THE CITY COUNCIL
OF LINN VALLEY, KANSAS
October 9, 2023
7:00 pm

Mayor Cindy Smith called the regular meeting to order at 7:04 pm. Present were Councilmembers Lewis Donelson, Robert Suppenbach, Michael Hemphill, John Weers and Brenda Muncy.

No changes to the agenda.

MEETING MINUTES

Councilman Hemphill motioned to accept the September 25, 2023 meeting minutes as written. The motion was seconded by Councilman Suppenbach and carried 5-0.

BUILDING INSPECTOR

Mayor Smith requested council hire Steve German as part time city building inspector. Councilman Weers made a motion to hire Steve German as city Building Inspector as a part-time employee at \$20.00/hour beginning October 10. The motion was seconded and carried 5-0. City Clerk Karen Siffring swore in Steve German as city building inspector.

CITIZEN PARTICIPATION

Mike Hiron of Linn Valley would like to work with the city to redefine lot lines on his properties. Mr. Hiron met with City Attorney James Brun.

SEWER REPORT

September 2023 report from Page Enterprise: ten locates, changed out two grinder pumps, and repaired two grinder pump pits. Councilman Donelson reported the need to replace missing sewer caps/valves, electrical box keys that have been cut, and broken lids on grinder pumps. A few pumps have been changed out multiple times at the same properties. Donelson would like the council to decide who pays for repairs and replacements. The topic has been added to the project list.

WATER PROJECT

Councilman Donelson announced the water tower continues to grow during this construction period. Workers will be on a schedule of eight days on and six days off.

A town hall to present updates, information and Q&A on the water project, wastewater project and the special sales tax will be held Saturday, October 14, 2023 at City Hall from 10:00 am – noon. Paul Owing from BG Consultants will be at the meeting.

WASTEWATER PROJECT

Councilman Donelson said we are getting close to deployment date.

BUILDING AND CODES REPORT

A total of 129 permit applications were approved through September of 2023. Eight building permit inspections were completed in September 2023 with 186 inspections year-to-date. January – September 2022 inspections were 428.

PUBLIC SAFETY REPORT

Public Safety Director Corey Murrison reported ten medical calls and one brush fire in Linn Valley, and three medical calls and a brush fire in Miami County. Other activity reported: one arrest for aggravated assault, five citations for criminal damage of the front gate, and hosting five hours of training with LaCygne. Director Murrison and Officer Brett Jenkins attended training in Iola.

CITY CLERK'S FINANCIAL REPORT

City Clerk Karen Siffring reported General Fund income of \$57,407.79 and expenses of \$48,484.75 in September 2023.

Balances for the city's accounts and funds on September 30, 2023:

Operating Fund: \$286,797.18
-Restricted Mayor's Christmas Tree Fund* \$1,029.57
-Restricted Parks & Recreation Fund* \$2,850.59
-Restricted Capital Improvement* \$23,890.70
-Restricted Special Equipment* \$29,695.29

*Restricted funds included in the Operating Fund total.

Balances of other city funds on September 30, 2023:

Street & Highway Fund: \$142,085.88
Sewer Utilities: \$482,672.20
Sewer Reserve Fund: \$70,455.16
ARPA: \$6,067.95
Temporary Notes (Water Project): \$1,856,435.45
Temporary Notes (Wastewater Project): \$5,264,512.19

Councilman Suppenbach motioned to approved vouchers in the amount of \$141,750.54. The motion, seconded by Councilman Hemphill, carried 5-0.

PLANNING COMMISSION RESOLUTION

Council reviewed Resolution 02-2023 submitted by the Linn Valley Planning and Zoning Commission amending sections of the zoning ordinance. After discussion, Councilman Hemphill made a motion to adopt Ordinance #242 with changes as discussed. Councilman Weers seconded the motion and the motion carried 5-0.

MAYOR'S REPORT

Mayor Smith reported having met with Olsson Studio as potential Planning and Zoning consultants. Councilman Donelson will be contacting them about the contract and bring information back to the council at the next meeting.

Mayor Smith read and signed a Proclamation declaring November 2023 as the 25th Anniversary of Linn Valley. She announced plans are being made for a celebration and recognizing individuals who were part of the City's history.

OLD BUSINESS

No old business.

NEW BUSINESS

Councilman Donelson reported on his attendance of the Annual League of Kansas Municipalities Conference. The trade show portion was a great opportunity to meet people from other cities in the state, to network, and to learn. He recommended other councilmember consider attending next year's event.

Councilman Suppenbach requested the meeting packet be published on the city website prior to the meeting. The council agreed.

ADJOURN

Councilman Suppenbach made a motion to adjourn. The motion was seconded by Councilman Hemphill and carried 5-0. The meeting adjourned at 8:03 pm.

Submitted by
Karen Siffring, City Clerk

DRAFT

TOWN HALL
SPECIAL MEETING OF THE CITY COUNCIL
OF LINN VALLEY, KANSAS
OCTOBER 14, 2023
10:00 am

Mayor Cindy Smith called the special meeting of the city council to order at 10:00 am.

Agenda: Town Hall for Water Project and Wastewater Project.

Councilmembers present at the meeting were Lewis Donelson, Robert Suppenbach, John Weers, Michael Hemphill, and Brenda Muncy. Guests were Project Engineers Paul Owings and Wess Weishaar of BG Consultants.

Mayor Smith reminded everyone of the one percent special purpose sales tax question that will be on the ballot this year. The special sales tax will last for 10 years and funds will be used for a fire truck and public safety equipment. Jeremy Hansen, a Linn Valley fire fighter, spoke about the need for a new fire truck to replace the 1998 model, and the necessity of reliable equipment for the department.

Mr. Owings noted the water tower is under construction. The tower will be painted in May or June of 2024. Waterlines will run from LaCygne to the water tower and from the tower throughout the city with approximately thirty miles of waterlines. Prior to bidding and construction on lines, permits must be acquired, and approval obtained from state agencies. There will be 636 houses connected with a possibility of alternates. A list of the lots will be available at the next town hall.

Mr. Weishaar provided information on the wastewater project to construct new lagoons. The preliminary design is expected to be completed in early 2024. Permits and state agency approvals will be needed. After approvals and final plans, the project will be bid out. Completion is expected in late 2025. The lift station will be re-located to city property.

ADJOURN

Council Member Suppenbach made a motion to adjourn. The motion was seconded by Council Member Weers and passed 5-0. The meeting adjourned at 11:30 am.

Submitted by Karen Siffring, City Clerk

ORDINANCE NO. 252

AN ORDINANCE AMENDING VARIOUS SECTIONS AND ARTICLE 12 IN THE ZONING
ORDINANCE OF THE CITY OF LINN VALLEY, KANSAS

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LINN
VALLEY, KANSAS:

SECTION 1. Section 3.1 of the Zoning Ordinance is hereby amended to read as follows:

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. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, or other agreement between parties.

- B.** Overlapping or Contradictory Regulations: Where these zoning regulations impose a greater restriction upon the use of structures or premises or upon height of structures, or require larger open spaces, lot areas, setbacks and so forth than are imposed or required by other rules, regulations, or by easements, or agreements, the provisions of these zoning regulations shall govern.
- C.** 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 2. Section 3.3 of the Zoning Ordinance is hereby amended to read as follows:

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, 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, camping trailers, recreational vehicles and related equipment, temporarily located on a lot or lots for the purpose of providing temporary shelter; but 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. **Child Day Care Center:** A childcare facility that does not occur in residential home in which care and educational activities are provided for no less than 13 and no more than 20 children two weeks to 16 years of age for more than three hours and less than 24 hours per day including daytime, evening, and night-time care, or which provides before and after school care for school-age children. A facility may have fewer than thirteen (13) children and be licensed as a center if the program and building meet childcare center regulations (subject to K.A.R. Sections 28 & 65).
17. **Child Day Care Home:** A childcare facility that occurs within a residential home in which care is provided for a maximum of ten children under 16 years of age and includes children under 11 years of age related to the provider. The total number of children in care at any one time is based on the ages of the children in care as per State of Kansas requirements.
18. **City:** City of Linn Valley, Kansas
19. **Clerk:** City Clerk of the City of Linn Valley, Kansas.
20. **Council:** City Council of the City of Linn Valley, Kansas.
21. **Commission:** Planning Commission of the City of Linn Valley, Kansas.

22. **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.
23. **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.
24. **Cul-de Sac:** A street having one end open to traffic and being permanently terminated by a traffic turn-a-round.
25. **Dwelling:** A building or portion thereof designed exclusively for residential occupancy but does not include motels or hotels.
26. **Dwelling – One Family:** A detached building arranged, intended, or designed for residential occupancy by one family.
27. **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.
28. **Exception:** Permission, with the Board of Zoning Appeals review and approval, to do what is specifically listed in the Ordinance as a possible Exception.
29. **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.
30. **Fence:** A free standing protective, confining or decorative structure separate from any building and not including a living plant material
31. **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.
32. **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.
33. **Front Lot Line:** Any lot line(s) which abut(s) a street.
34. **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).

35. **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).
36. **Group Homes:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with disability, which is either physical or mental impairment as defined by K.S.A. 12-736, who need not be related by blood or marriage and not to exceed two (2) staff members who need not be related by blood or married to each other or to the residents of the home. Such dwelling must be licensed as a Group Home by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment (KDHE) but not including facilities for the care and treatment of alcohol or narcotic addiction.
37. **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.
38. **Living Area:** Area within a residential structure utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes, including closets, pantries and hallways.
39. **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.
40. **Lot, Corner:** A lot abutting upon two or three streets at their intersection.
41. **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.
42. **Lot Depth:** The mean horizontal distance from the front street line to the rear line of a lot.
43. **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.
44. **Lot Frontage:** The length of the front lot line or the combined length of all front lot lines where there is more than one.
45. **Lot, Interior:** A lot whose side lines do not abut upon a street.
46. **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.
47. **Lot, Net Area of:** Area of lot exclusive of street right-of-way.

- 48. Lot, Through:** An interior lot having frontages on two streets, as distinguished from a corner lot.
- 49. 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.
- 50. 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.
- 51. 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.
- 52. Mobile Home:** A manufactured structure designed to be used as a residence and constructed of one (1) or more sections and when assembled or installed contains a minimum of nine hundred fifty (950) square feet of total living area. A mobile home shall be installed in accordance with the requirements of K.S.A. 58-4217, et. Seq. and shall be connected to the required utilities including plumbing (water and sanitation), heating, air conditioning and electrical systems. For purposes of these Regulations, a mobile home shall be considered to be a single-family residence provided the unit is affixed to a foundation system as specified by the manufacturer and further complies with the U.S. Department of Housing and Urban Development (HUD) Federal Manufactured Home Construction and Safety Standards; Title 24 Code of Federal Regulations (CFR) part 3280 and all changes approved and adopted by HUD.
- 53. 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.
- 54. 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.
- 55. 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.
- 56. Nursing Homes, Rest Homes, Convalescent Homes, and Hospices:** Any building operated by an institution or agency licensed by the State of Kansas for the reception, board,

care or treatments of three (3) or more unrelated individuals and staff residents, but not including facilities for the care and treatment of mental illness or alcohol/narcotic addiction.

57. **Off-Street Loading Space:** Space located outside of streets for standing of trucks and for loading and unloading them.
58. **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.
59. **Pedestrian Way:** A right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
60. **Permanent Dwelling:** A self-contained unit or structure designed or intended for occupancy, that accommodates one or more households as a permanent residence.
61. **Planning Commission:** The City of Linn Valley Planning Commission appointed by the City Council with the powers and jurisdiction as provided by State Statutes.
62. **Plat:** A map, plan or layout of a City, Township, Section or Subdivision indicating the location and boundaries or individual properties.
63. **Platted Lot:** A lot as shown on a plat filed in the Office of the Register of Deeds of Linn County.
64. **Property Line:** See Lot Line.
65. **Rear Lot Line:** Any lot line which is neither a front lot line nor a side lot line.
66. **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).
67. **Recreation Vehicle:** A motorized or non-motorized vehicle or vehicular structure built on a single chassis. Recreational vehicles may have cooking, eating, sleeping, and bathroom areas. Also known as “RV”, “camper”, “camper trailer”, “sleeping trailer”, “caravan”, “teardrop trailer”, “pop-up camper”, or “fifth-wheel”.
68. **Religious Institution:** A building such as a church, mosque, synagogue, etc. where people assemble for the purposes of religious activities including, but not limited to, worship, prayer, matrimonial and funerary services, music, sermons, and commemoration. While the principal use is religious worship, the building may include accessory uses in the main structure or in separate buildings such as Sunday School rooms, childcare facilities, assembly rooms, kitchens, recreational facilities, and libraries.
69. **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.)
70. **Residence:** A structure or portion thereof, which is designed and used for living quarters, including a condominium, modular home, residential-design manufactured home and, for

purposes of this ordinance, a mobile home shall be considered a residence provided the unit complies with U.S. Department of Housing and Urban Development (HUD) Manufactured Construction and Safety Standards. Any residence shall be connected to the required utilities including water, sanitation, electrical and heating and air conditioning and placed on a permanent foundation system. A residence shall not include recreational vehicles, travel trailers, tents or other vehicles not designed and constructed for permanent residential use.

- 71. Retirement Home, Boarding Home:** Any dwelling unit, where for compensation and pre-arrangements for specific periods of time, that is occupied by not more than ten (10) adult persons, not related by blood or marriage, and not to exceed two (2) additional staff members.
- 72. 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.
- 73. Short-term Residential Rental Property:** See Section 12.9 for definitions and regulations regarding short-term residential rental property.
- 74. 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.
- 75. 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).
- 76. 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.
- 77. 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.
- 78. 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.
- 79. Street:** An improved right-of-way which provides the principal route of access to abutting property for vehicular and pedestrian usage.
- 80. 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.
- 81. Street Line:** The dividing line between the street and the abutting property.

82. **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.
83. **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.
84. **Subdivider:** A person, firm or corporation undertaking the subdivision or re-subdividing of a tract of land or of a parcel of land.
85. **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.
86. **Temporary Dwelling:** A self-contained unit or structure designed or intended for occupancy, that accommodates one or more households as a residence for a period of 14 days or less at one time and occupied fewer than 60 days in any year.
87. **Temporary Use:** A use or activity conducted on real property or in a structure other than the principal permanent use identified in the zoning district wherein the use or activity is located.
88. **Tent:** A portable, collapsible, temporary shelter constructed of fabric, canvas or other similar material stretched over or secured to a supporting frame and used for outdoor camping and storage.
89. **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.
90. **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.
91. **Wall:** A continuous, physical, exterior extension of a building which is architecturally compatible with the building.
92. **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.
93. **Yard:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the lot line and the building line.
94. **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.
95. **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.

- 96. **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.
- 97. **Zoning Administrator:** The person or persons authorized and empowered by the City Council to administer the requirements of these Zoning Regulations.
- 98. **Zoning Area:** the area zoned as set out in the official Zoning Map filed or record.
- 99. **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.

SECTION 3. Section 6.1 of the Zoning Ordinance is hereby amended to read as follows:

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. Public parks, playgrounds, and recreational areas
 - 4. Camping and/or recreational activities.
 - 5. Group Homes
 - 6. Religious Institutions
- 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. All permanent living structures (double-wide, modular homes, prefabricated or conventional built homes) shall contain 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 registered with 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 or camping trailer may be stored or parked on a lot such that it can be seen from any point off the site at ground level, but a recreational vehicle or camping trailer may be parked outside of an enclosed structure on that lot between May 1 and September 30.
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 hometown and lot number or address.
6. Doublewide Manufactured homes shall have full perimeter skirting consisting of a footing with concrete block or reinforced concrete foundation wall, which may, at the owner's discretion, be covered with stone or brick veneer.
7. Property owner is responsible for installation of a drainage culvert made of High-Density Polyethylene Pipe (HDPE) or Corrugated Metal Pipe (CMP) at the intersection of driveways with public or private roads within the City. The property owner is responsible to ascertain that the culvert is of a size adequate for the flow in the particular location and will be responsible for any damage to streets or other property resulting from damming or diversion of flow of water due to improper size or installation of the culvert.

SECTION 4. Section 7.1 of the Zoning Ordinance is hereby amended to read as follows:

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
 3. Camping, parks, playgrounds, and recreational areas/facilities
- 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 with the exception of recreational vehicles that are used as a permanent dwelling.
 - 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 registered with 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 motor vehicle without a current state registration or non-operative motor vehicle shall be stored or parked outside of an enclosed structure 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 hometown and lot number or address.
 - 6. If a permanent residence is on a lot, no recreational vehicle or camping trailer may be stored or parked on that lot such that it can be seen from any point off the site at ground level, but a recreational vehicle or camping trailer may be parked outside of an enclosed structure on that lot between May 1 and September 30. Lots that do not have an existing primary family residence may host a maximum of (1) recreational vehicle used as a permanent or temporary dwelling, on the lot with no time limit.
 - 7. Single and Doublewide Manufactured homes shall have full perimeter skirting consisting of a footing with concrete block or reinforced concrete foundation wall, which may, at the owner's discretion, be covered with stone or brick veneer.
 - 8. Property owner is responsible for installation of a drainage culvert made of High-Density Polyethylene Pipe (HDPE) or Corrugated Metal Pipe (CMP) at the intersection of driveways with public or private roads within the City. The property owner is responsible to ascertain that the culvert is of a size adequate for the flow in the particular location and will be responsible for any damage to streets or other property resulting from damming or diversion of flow of water due to improper size or installation of the culvert.

SECTION 5. Section 12.4 of the Zoning Ordinance is hereby amended to read as follows:

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

Private garages, carports, overhangs, or any combination thereof, not to exceed one thousand five hundred (1,500) square feet in area. For all permitted accessory uses, the maximum building height shall be twenty (20) feet, as measured from the ridgeline. 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. Child Day Care Centers, when used as an accessory to a primary use, are exempt from the maximum size requirements of accessory structures.

SECTION 6. Section 12.5 of the Zoning Ordinance is hereby amended to read as follows:

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. Child Day Care Centers are a permitted accessory use for religious, educational, and public community buildings only and shall meet any additional restrictions for daycare use in their respective zoning district.

SECTION 7. Section 12.8 of the Zoning Ordinance is hereby amended to read as follows:

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.
7. All child day care homes must obtain a special use permit as per Article 16 of the zoning regulations, valid for a maximum of five (5) years from the date of approval. The special use permit may be revoked at any point by the Governing Body if it is determined that the childcare business is in violation of State or City regulations.

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.

SECTION 8. Article 12 of the Zoning Ordinance is hereby amended to include Section 12.9 as follows:

SECTION 12.9: Short-Term Residential Rental Property

Short-term residential rental property shall be permitted in any legally existing residence subject to the following restrictions:

- A. Definitions. The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:
 1. “Accessory Dwelling Unit” shall mean a Dwelling Unit that is located on the same Lot as, but is incidental to a Principal Use, where the Principal Use is a Dwelling Unit.

2. "Dwelling Unit" shall mean one room, or a suite of two or more rooms, designed for or used for living and sleeping purposes and having only one kitchen. Recreational vehicles (RVs) and campers are included under this definition.
3. "Non-owner Occupied" shall mean any Dwelling Unit in which the Owner resides less than 183 days per calendar year.
4. "Owner" shall mean the individual or individual(s), natural or corporate, in possession of lawful title to real property.
5. "Owner Occupied" shall mean any Dwelling Unit in which the Owner resides for more than 182 days per calendar year.
6. "Premises" shall mean a Lot or contiguous Lots under common ownership, together with all buildings, structures, and appurtenances existing thereon.
7. "Rent" shall mean, for the purposes of this Article, to provide or to offer for possession or occupancy a Dwelling Unit, or any portion thereof, for a Short-term basis, to a Transient Guest for consideration, pursuant to a written, oral, or implied agreement.
8. "Short-term" shall mean a period of time that is less than thirty (30) days in length.
9. "Short-term Residential Rental Property" shall mean any Premises having one or more Dwelling Units, or portions thereof, that are Rented, on a Short-term basis, to one or more Transient Guests.
10. "Transient Guest" shall mean any person who occupies a Dwelling Unit, or portion thereof, on a Short-term basis, other than the Owner, the Owner's immediate family (related by blood, marriage, or adoption), or any person residing with the Owner on Short-term Residential Rental Property.

B. Short-term rentals permitted, restrictions.

1. The use of any Dwelling Unit, or portion thereof, on Owner Occupied Short-term Residential Rental Property is permitted within the City as a Transient Accommodation use within all housing types. Each Owner Occupied Short-term Residential Rental Property must, at all times, comply with all provisions of this Article, including the occupancy limits established for the zoning district in which it is located.
2. The use of any Dwelling Unit, or portion thereof, on Non-owner Occupied Short-term Residential Rental Property is permitted within the City as a Transient accommodation use within all housing types. Each Non-owner Occupied Short-term Residential Rental Property must be issued a Special Use Permit under Article 16 of the Zoning Regulations, as amended, and must also, at all times, comply with all provisions of this Article, including the occupancy limits established for the zoning district in which it is located.

3. It shall be unlawful for any Owner or Person to use an Accessory Dwelling Unit as Short-term Residential Rental Property.
- C. Exemptions. The provisions of this Article shall not apply to the following:
1. Bed and Breakfasts
 2. Campgrounds
 3. Hotels or motels
 4. Any short-term residential rental property fully operational prior to the Effective Date of this Article as per Section 20.2. These properties shall hence be considered nonconforming and subject to the conditions of Article 15 of the zoning regulations.

SECTION 9. Section 16.3 of the Zoning Ordinance is hereby amended to read as follows:

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 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.
- 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 10. Section 17.3 of the Zoning Ordinance is hereby amended to read as follows:

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.
- 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 11. Section 18.3 of the Zoning Ordinance is hereby amended to read as follows:

SECTION 18.3: Building Permit: Issuance

The City shall, in accordance with the provisions herein contained, issue a permit or permits for the proposed activities to be accomplished.

SECTION 12. The previously existing Sections 3.1, 3.3, 6.1, 7.1, 12.4, 12.5, 12.8, 12.9, 16.3, 17.3, and 18.3 of the Linn Valley Zoning Code are hereby repealed.

SECTION 13. This ordinance shall take effect and be in full force from and after its adoption by the governing body of the city and publication of summary in the official newspaper and publication of the entire ordinance on the official city website, www.linnvalleyks.com.

PASSED AND ADOPTED by the governing body of the City of Linn Valley, Kansas on this 23th day of October 2023.

Cindy Smith, Mayor

ATTEST

Karen Siffring, City Clerk