

1

TITLE, INTENT, AND RULES

1.1 Title

- 1.1.1 These regulations, including the Regulating Plans and Subdivision Regulations herein, shall be known and cited as the "Lyon County Zoning Regulations," "LC Zoning Regulations," "these zoning regulations," "these regulations."

1.2 Purpose and Intent

- 1.2.1 These zoning regulations, adopted pursuant to Kansas law, are enacted for the purposes and intent of:
- a. promoting and serving the public health, safety, comfort, and general welfare of the citizens of Lyon County;
 - b. obtaining the objectives of the Comprehensive Plan (PlanELC);
 - c. preserving and improving connectivity through a connected grid of streets that reflect travel demands;
 - d. preserving ecologically sensitive areas;
 - e. enhancing the use of rural land for agricultural purposes;
 - f. creating a variety of Parcel Types sensitive to the peculiarities of the various permitted standards and uses designed to increase the capability of the community as a whole;
 - g. regulating building height and the percentage of lots that may be occupied by buildings and other structures to preserve access to natural light; and
 - h. providing adequate public notice on subsequent changes to these regulations and future developments, as well as an opportunity for interested parties to be heard.

1.3 Jurisdiction

- 1.3.1 These regulations shall apply to all land located within unincorporated Lyon County, Kansas.

1.4 Authority

- 1.4.1 The K.S.A 12-741 *et seq.* Planning and Zoning Enabling Act is enabling legislation for the enactment of planning and zoning laws and regulations by cities and counties for the protection of the public health, safety, and welfare, and is not intended to prevent the enactment or enforcement of additional laws and regulations on the same subject which are not in conflict with the provisions of that act.
- 1.4.2 These zoning regulations are adopted under the authority granted by K.S.A. 12-741 *et seq.* and by Article 12, Section 5 of the Kansas Constitution grants of Home Rule power for counties.

1.5 Rules

- 1.5.1 In the construction of these regulations, the provision and rules of this section shall be 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. Unless otherwise specified, all distances shall be measured horizontally.
- h. The abbreviation "LC" refers to Lyon County.
- i. The abbreviation "ZA" refers to Zoning Administrator.

1.5.2 Any word or phrase defined in Section 10 of these Zoning Regulations 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.

1.6 Interpretation

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

1.7 Separability

- 1.7.1 It is hereby declared to be the intention of the County that the provisions of these regulations are separable, in accordance with the following rules:
 - a. If any court of competent jurisdiction shall adjudge any provisions of these regulations to be

invalid, such judgment shall not affect any other provisions of these regulations.

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

1.8 Exemptions

- 1.8.1 *Existing Structures.* K.S.A. 12-758 mandates that these regulations "shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than fifty (50%) percent of its assessed valuation by fire, explosion, an act of God or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage but shall apply to any alteration of a building to provide for a change in such use of any building or land after the effective date of any such zoning regulation."
- 1.8.2 *Agricultural Land.* K.S.A. 12-767 mandates, "Except for floodplain regulations in areas designated as a floodplain, regulations adopted pursuant to [the county planning and zoning enabling act] shall not apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings thereon for such purposes so long as such land and buildings erected thereon are used for agricultural purposes and not otherwise."
- 1.8.3 *Exemption Determination.* (For Properties less than forty (40) acres) The regulations rely on the Kansas Attorney General (96-86 Op. Att'y Gen. 11, 1996), which summarized the "agricultural purpose" test as follows: "The agricultural use shall be substantial enough to indicate that the owner is not masking a residential use of the property with an agricultural pretense as a ruse to gain exemption from zoning regulations." The ZA is hereby granted the authority to determine whether facts support an agricultural use exemption is warranted in accordance with the criteria specified in this section. Upon such determination, the ZA shall issue a letter stating the facts supporting or denying the exemption, and the Department shall maintain a record of such exemption. Any person not in agreement with the Administrator's determination may appeal the decision to the LCPAB.
- 1.8.4 *Forty (40+) Acre Exemption.*
Parcels consisting of forty (40) or more acres will automatically be considered Agricultural without the need for an exemption determination.

1.9 Guiding Principles for the Lyon County Zoning Regulations

- 1.9.1 The LC Zoning Regulations are designed to guide future growth as envisioned by Plan ELC, a Joint Comprehensive Plan for the City of Emporia and Lyon County adopted in 2017. The Regulating Plan within the LC Zoning Regulations takes into account each jurisdiction's previous Zoning and Land Use Maps, topographic characteristics, natural resources sensitivity, the availability of existing and proposed infrastructure, and the needs of the anticipated population and employment growth. These regulations also serve as a reference in making capital investment decisions and in advancing the following guiding principles of Plan ELC:
 - a. preserving agricultural landscapes;
 - b. linking parks to people;
 - c. connecting communities;
 - d. supporting infill development;

- e. logically distributing commercial and industrial development; and
- f. providing decent and affordable housing.

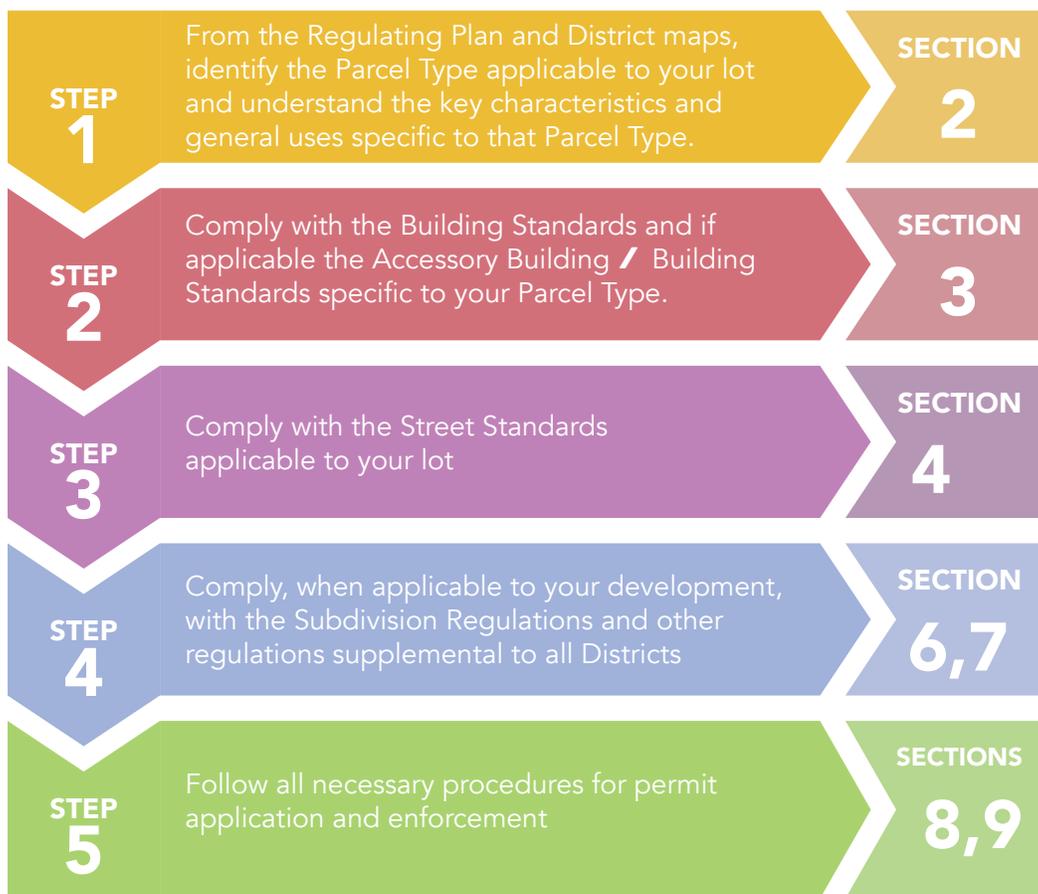
1.9.2

The naming conventions/terminology used in the LC Zoning Regulations are "use-neutral," and instead reflect the physical or locational identity of a place. For instance, instead of "residential zone," an area is simply referred to as the "Lyon County District." While moving away from using land-use designation as the single most important determinant of growth patterns, it is not to say that LC Zoning Regulations disregard land use. In many cases, the physical form of a place or building can greatly influence the type or scale of a given use. Therefore, within its framework, a place-based approach carefully considers a range of uses in order to maximize compatibility with the intended physical form and characteristics of an area. This strategy also allows for a more simplified list of permitted uses and conditionally permitted uses.

1.10 How to Use the LC Zoning Regulations

1.10.1 The LC Zoning Regulations are regulations, not mere guidelines, that is adopted by Lyon County to replace the existing Emporia-Lyon County Metropolitan Planning Area Zoning Regulations adopted in 2000 and amendments thereto, and Lyon County Zoning and Subdivision Regulations adopted in 2003, updated in 2011 and the zoning maps of the Metropolitan Planning Area and the County. Standards and regulations are presented visually in the Building Standards, which consist of diagrams and three-dimensional massing of each building form, accompanied by supplemental text. These standards are keyed to the Regulating Plans at the Lyon County scale. A Regulating Plan is a zoning map which sets out the use of a property as well as the appropriate form and scale for development.

The diagram below illustrates the basic steps to follow in using the LC Zoning Regulations. It serves as a general guideline. Necessary procedures for permit application are described more fully in Section 8 (Administration and Procedures).



This page intentionally left blank.