

ARTICLE 2

RULES, INTERPRETATIONS AND DEFINITIONS

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SECTION 2-1 RULES AND INTERPRETATIONS

2-101.

a. Rules.

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
 - (a) Words used in the present tense shall include the future.
 - (b) Words in the singular number include the plural number, and words in the plural number include the singular number.
 - (c) The words Ause,@ Aused,@ Aoccupy@ or Aoccupied@ as applied to any land or building shall be construed to include the words Aintended,@ Aarranged@ or Adesigned@ to be used or occupied.
 - (d) The word Ashall@ is mandatory.
 - (e) The word Amay@ is permissive.
 - (f) The word Aperson@ 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 AN/A@ means not applicable.

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

Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A Legal holiday@ includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate city office not later than 5:00 p.m. on the last day of the period as computed.

b. Interpretations.

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

SECTION 2-2 SEPARABILITY

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

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

SECTION 2-3 DEFINITIONS

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

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

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, barbecue ovens, air conditioners, fireplaces and satellite dishes.

Agriculture. The use of a tract of land for the growing of crops, pasturage, nursery, dairying, animal and poultry husbandry and the sale of such products on the premises that are produced on the premises. Agriculture shall also include the structures, except residences, necessary for carrying out the farming operation but shall not include feed lots as defined by state statute. Agriculture shall not include use of land for recreational purposes, suburban residential acreage, rural home sites or farm sites or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain crops and/or livestock.

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 in width in residential districts and twenty-four (24) feet in width in commercial and industrial districts.

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

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

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

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

Apartment. See Dwelling, multiple.

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

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

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

Basement. That portion of a building having more than one-half of its height below grade.

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

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

Board of Zoning Appeals. The City of LaCygne Board of Zoning Appeals.

Boarding house. See Lodging house.

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

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

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

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

Building line. The building line is equivalent to the building setback line.

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

Building, public. A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.

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

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

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

Canopy or marquee. A roof-like structure of a permanent nature which projects from the wall of a building and overhangs public walkways and/or the public right-of-way.

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

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

Child care facilities. See Day care facilities.

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

City. The city of LaCygne, Kansas.

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

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

Comprehensive plan. The currently adopted Comprehensive Plan for the City of LaCygne.

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

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

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

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

Day care facilities. Definitions for those of the following facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE) and the Kansas Department of Social and Rehabilitation Services (SRS). Standards for such definitions may be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

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

f. **Preschool.** A day-care facility in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool which:

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

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

Detached. A building that does not have a wall, roof or other structural member in common with or in contact with another building.

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

Disability. Shall mean, with respect to a person:

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

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

Distance. Horizontal distances unless otherwise designated.

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

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

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

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

Dwelling. A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

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

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

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

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

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

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

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

Event Venue. A place for a mass gathering of people where they can meet for business and personal events.

Exception. A use which is not permitted outright within a district, but is only allowed as an exception granted by the Board of Zoning Appeals when such exception is specifically authorized in these regulations.

Family. One or more persons related by blood, marriage or adoption, or pursuant to legal guardianship; living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

Fence. A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials resting on or partially buried in the ground and rising above ground level.

Flood Plain. Land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.

Floor area. For the purpose of applying the requirements of off-street loading and parking based on floor area, floor area shall mean the floor area used or intended to be used by tenants, or for the service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used for nonpublic purposes such as storage, incidental repair, processing or packaging of merchandise, restrooms, utilities, kitchens, fitting or dressing rooms.

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

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

Garage, private. An accessory building to residential uses designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is an accessory.

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

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

Governing body. The LaCygne City Council and Mayor.

Grade. Adjacent ground elevation that is the lowest point of elevation of the finished surface of the ground, pavement or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Group boarding home for adults. A residential dwelling unit for persons, 18 years of age or over, not constituting a family as defined in this section provided however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of a group home as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered a group boarding home for adults.

Group boarding home for minors. A residential dwelling unit for persons under 18 years of age who do not constitute a family as defined in this section, who for various reasons cannot reside in their natural home and where 24-hour adult care, supervision and consultation exists under license of the Kansas Secretary of the Department of Health and Environment or the Secretary of the Department of Social and Rehabilitation Services; provided, however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of a group home as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered to be a group boarding home for minors.

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

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

Home occupation. An accessory occupational use conducted within a dwelling unit or a detached accessory building on the same or adjoining lots under the jurisdiction or ownership by the occupants thereof, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. (Amend Ord 1347, Dec 2006)

Hospital. A building or structure used for inpatient care and providing health care for sick or injured persons.

Hotel. A building or structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient

guests and in which four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin, motel or other type of lodging unit.

Improvements. Any structure, grading, street surface, curbs and gutters, sidewalks, bike-ways, cross-walks, water mains, sanitary sewers, storm sewers, drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

Inoperable motor vehicle. A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency, or is not currently licensed.

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

Institution of higher learning. A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing and recreation and athletics-related facilities which are constructed on campus shall be considered accessory buildings.

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

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

Junk yard. See Salvage yard.

Kennel. Any place, area, building or structure where dogs (including those under one year of age) and other domesticated animals are boarded, housed, cared for, fed, or trained by other than the owner, or where more than six (6) domesticated animals, 16 weeks of age or older, are kept for purposes of breeding, raising or as pets.

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

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

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

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

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

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

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

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

Lot. A parcel or tract of land (legally described or platted) which is on record in the office of the Linn County Register of Deeds. For the purposes of these regulations, a lot shall have a frontage upon a public street right-of-way.

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

Lot, corner. A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front upon that street on which it has its least dimension. A corner tract made up of more than one platted lot shall conform to all requirements established for a corner or other lot and shall be deemed to front upon that street on which one or more of such platted lots, which would individually not be classified as corner lots, front.

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

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

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

Lot, interior. A lot whose side line or lines do not abut upon any street.

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

Lot of record. A lot which is a part of a subdivision, which has been recorded in the office of the Register of Deeds of Linn County or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Linn County, prior to _____, 19____.

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

Lot, zoning. A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

Manufactured home. A structure which is constructed in accordance with the federal Manufactured Home Construction and Safety Standards (HUD, June 15, 1976) and designed to be used as a dwelling, is built on a permanent chassis and is designed for use with or without a permanent foundation. See also Residential design manufactured home.

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

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

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

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

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

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

Medical, dental or health clinic. Any building designed for use by more than one person lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrist, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

Mobile Food Vehicle. Means a vehicle-mounted, vehicle-towed or vehicle-carried food service establishment or mobile kitchen that engages in the sale and preparation of food or beverages to the general public.

Mobile home. Mobile home means a factory-built structure or structures more than eight (8) feet in width or more than thirty-six (36) feet in length, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase Awithout a permanent foundation@ indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved from time to time at the convenience of the owner. For purposes of these regulations a mobile home is not a manufactured home.

Modular home. A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.

Motel. See Hotel.

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

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

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

Nonconforming lot of record. 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 subdivision regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

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

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

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

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

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

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

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

Permanent wall foundation. An exterior wall designed to resist frost action. The wall must be continuous around the perimeter of the structure, but may have such openings as required by the Building Code of the City of LaCygne. The wall must be designed as a footing and foundation wall and constructed in accordance with the adopted Building Code of the City of LaCygne. A foundation wall must extend at least six (6) inches above the finish grade.

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

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

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

Planning Commission. The City of LaCygne Planning Commission.

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

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

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

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

- a. Telephone service.
- b. Electricity.
- c. Natural gas.
- d. Water or stormwater.
- e. Cable television.
- f. Any other business so affecting the public interest as to be subject to supervision or regulation by a governmental agency.

Rehabilitation home. A residential building which is used by an organized group licensed or regulated by the State of Kansas to supervise the rehabilitation of the individual occupants. Sometimes such homes are known as halfway houses for the rehabilitation of wayward juveniles, drug or alcohol addicts or former offenders.

Residential design manufactured home. A manufactured home on a permanent foundation which has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes.

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

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

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

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

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

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

Salvage yard. A building or premise where junk, waste, inoperable motor vehicles or discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling.

Satellite dish antenna. A device or instrument, designed or used for the reception of television or other electronic communications signals broadcast or relayed from an earth satellite. It may be a solid, open mesh or bar configured structure, typically 8-12 feet in diameter, in the shape of a shallow dish or parabola.

Sea Land Container. A sea-land container is a unit, usually constructed of steel, which is customarily used for storing construction tools and supplies at a construction site. Such units are also known as cargo boxes and are also used for transporting cargo on water (by loading such units on board ships) and on land (by loading such units on railroad cars on semi-trailers). Such units are also usually designed to be capable of stacking one (1) on top of another. Such units are usually designed with one (1) or more access doors and are also usually accessible through the top. Standard sizes of such units are eight (8) feet high and eight (8) feet wide, with lengths varying from ten (10) feet up to forty (40) feet.

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

Setback. A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right-of-way.

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

Sign. See Article 27 for definitions relevant to signs.

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

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

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

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

Street network.

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

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

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

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

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

Subdivision regulations. The City of LaCygne Subdivision Regulations, as adopted by the City Governing Body and as amended from time to time.

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

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

Trailer Box. A trailer box is a unit that is made to fit on a trailer with or without a front axle. It is commonly used to move freight or other goods. Such units are usually designed with one (1) or more access doors. Standard sizes of such units are eight (8) feet high and eight (8) feet wide, with lengths varying from ten (10) feet up to sixty (60) feet.

Truck Box. A truck box is a unit that is made to fit on a truck frame with one (1) or more rear axles. It is commonly used to move freight or other goods. Such units are usually designed with one (1) or more access doors. Standard sizes of such units are eight (8) feet high and eight (8) feet wide, with lengths varying from eight (8) feet up to thirty (30) feet.

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

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

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

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

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

Yard, rear. A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. Where no rear lot line exists, a line parallel to the front line shall be drawn, ten (10) feet in length between the side lot lines, and the required rear yard shall be measured from this line.

Yard, side. A yard between the main building and the side lot line, extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally, at ninety (90) degrees with the side lot line, from the nearest point of the side lot line toward the nearest part of the main building.

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

Zoning administrator. The person or persons authorized and empowered by the City Governing Body to administer the requirements of these zoning regulations.

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

Zoning Map. The official zoning map adopted by the City pursuant to K.S.A. 12-753.

Zoning regulations. The term zoning regulations or this or these regulations shall mean the requirements set forth in these regulations.

