

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY

IN THE MATTER OF AN ORDINANCE )	ORDINANCE NO. 2024-208
AMENDING THE LINN COUNTY )	(Amending the Plan Map and Zoning Map)
COMPREHENSIVE PLAN MAP )	(Planning and Building Department)
AND ZONING MAP; AND AMENDING )	(BC19-0002)
<u>ORDINANCE 2021-397</u> )	

**WHEREAS**, Ronald and Virginia Henthorne (Applicants) filed applications requesting that the Board of County Commissioners for Linn County (Board) approve a Comprehensive Plan (*Plan*) map amendment to amend a *Plan* map designation from Farm/Forest to Non-Resource, and a Zoning map amendment to amend a Zoning map designation from Farm/Forest (F/F) to Non-Resource Five Acre Minimum (NR-5);

**WHEREAS**, Following public review, on September 21, 2021, the Board of County Commissioners for Linn County (Board) adopted Resolution and Order No. 2021-396 and Ordinance No. 2021-397, approving the applications; and

**WHEREAS**, The decision of the Board of County Commissioners in this matter was appealed to the Land Use Board of Appeals (LUBA);

**WHEREAS**, LUBA issued its Final Opinion and Order in LUBA Nos. 2022-003/004 on September 26, 2022 remanding the Board’s decision; and

**WHEREAS**; On June 21, 2023, the Applicants, through their representative, submitted a request to initiate remand proceedings based on the remand ordered by LUBA in 2022-003/004; *and*

**WHEREAS**, On August 29, 2023, the Board held a duly noticed hearing on remand to identify the issues on remand, accept testimony regarding the issues on remand, voted to hold the record open for additional written evidence or argument, and continued the hearing to September 12, 2023 for deliberation and decision; and

**WHEREAS**, The Board held the record open for seven days to receive written evidence or argument from any party, an additional seven days for written responses to new evidence or argument, and an additional seven days for the applicant to submit written rebuttal to any written evidence or argument, and at the September 12, 2023 hearing, the Board accepted the submitted testimony, argument, and evidence into the record;

**WHEREAS**, After considering all testimony and evidence previously submitted, the Board reached a consensus that the proposed applications be approved on remand, with conditions; and

**WHEREAS**, The Board, having read the proposed Ordinance; and

**WHEREAS**, The findings in support of this Ordinance are attached to *Resolution and Order No. 2024-207* as *Exhibit 2* (BC19-0002 2023 Remand Decision Criteria, Findings and Conclusions on Remand), and are adopted herein by reference; and now therefore, be it

*Ordained by the Linn County Board of Commissioners, That:*

**Section 1. Comprehensive Plan Map Amendment.** The Linn County *Comprehensive Plan* map, at LCC 900.900, be amended to designate the 108.59-acre parcel, as identified in *Exhibit 1*, as “Non Resource” land.

**Section 2. Zoning Map Amendment.** The Linn County Code (LCC) Chapter 920, Appendix 1: Zoning map [re LCC 920.010(B)] be amended to designate the 108.59-acre parcel, as identified in *Exhibit 1*, as “Non-Resource Five Acre Minimum (NR-5)” zoned land, subject to the following conditions:

1.) If the property is subdivided, use of the property shall be limited to a residential subdivision and its accessory uses. If the property is partitioned, use shall be limited to residential and accessory uses. A maximum of 10 lots and 10 dwellings shall be allowed on the subject property and dwellings must be sited in compliance with LCC 903.510(B)(7) through (10).

2.) The subsequent subdivision or partition application(s) for the subject property shall substantially comply with the Applicant’s draft Wildlife Management Plan submitted into the record of this proceeding at LUBA Record 426-427.

3.) Any approval of a residential subdivision or residential partition shall impose at least the following conditions of approval:

a.) Above-ground residential improvements on each lot or parcel (hereinafter "lot" for ease of reference) will be contained within no more than 1-acre of each parcel.

b.) Land uses shall be limited to residential (including residential accessory uses) and wildlife habitat uses. No farming, grazing or commercial forestry shall be allowed outside the one-acre residential footprint of each lot.

c.) Fencing will be wildlife friendly which means that it shall consist of either: post and pole or buck and pole design; electric fencing without the use of barbed wire; or 4-wire fencing with the top and bottom wires consisting of smooth, barbless wire, a minimum of 20-inch clearance between ground level and the bottom wire, the top wire no higher than 42 inches, and a minimum of 12 inches between the top smooth wire and the highest strand of barbed wire. Woven wire 8-foot fencing, without barbed wire, may be used within the 1-acre residential improvement area to protect gardens and pets from wildlife disturbance.

d.) Domestic dogs will be restricted to within electronic fences, kennels or on leash.

e.) The shooting of firearms or discharge of fireworks shall be prohibited.

f.) Operation of landscaping equipment shall be restricted to the period of one (1) hour after sunrise to one (1) hour before sunset.

g.) The use of common trails shall be restricted to the period of one (1) hour after sunrise to one (1) hour before sunset.

h.) Nighttime exterior illumination shall be downward projecting as to not project light or produce glare beyond the 1-acre residential improvement area of the lot or parcel and shall be activated by motion sensor with a shutoff feature when not in use.

**Section 5. Savings Clause.** Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

**Section 6. Severability.** Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

**Section 7. Effective Date.** To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

**Section 18. Codification.** Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

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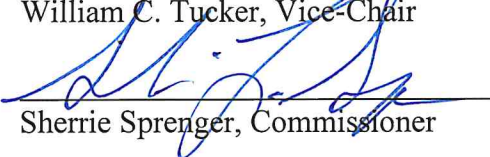
Public reading held December 17, 2024.

Adopted and passed December 17, 2024.


The effective date of this Ordinance shall be December 17, 2024.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

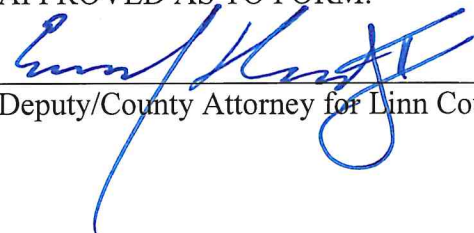
Signed December 17, 2024

		Voting	
		For	Against
Marcie Richey, Linn County Clerk Recording Secretary	 _____ Roger Nyquist, Chair	X	_____
By _____	 _____ William C. Tucker, Vice-Chair	X	_____
	 _____ Sherrie Sprenger, Commissioner	_____	X

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Alyssa Boles, Planning Manager  
Linn County Planning and Building

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy/County Attorney for Linn County