Call to Order

Public Comment: Five Minute Limit per Speaker
This comment period is for the public to address topics on today’s agenda.

Minutes
Discuss and decide on meeting minutes.


Update on Linn County’s response to COVID-19.

COVID-19 Budget Update.

Public Hearing and first consideration on an ordinance amending the Code of Ordinances, Linn County, Iowa by amending provisions regarding the expansion of legal nonconforming structures in Chapter 107, Unified Development Code.

Public hearing and first consideration for rezoning case JR19-0001, request to rezone property located in the 5000 block of Honey Grove Road, SE SW 682-6, from AG (Agricultural) district to RR2 (Rural Residential 2 Acre) district, approximately 28.82 acres, Joseph & Leslie Sadecky, property owners.

Public Hearing and first consideration on an ordinance establishing a new Chapter 104 of the Linn County Code of Ordinances, the Marion Municipal Airport Land Use and Height Overlay Zoning.

Public hearing and first consideration for Case JR19-0004, request of the Linn County Planning & Development Department, petitioner, to adopt the Marion Municipal Airport Land Use & Height Overlay Zoning Map.

Discuss proposed 28E Agreement between Linn County and the City of Marion for Marion Municipal Airport Land Use and Height Overlay Zoning.

Discuss and decide on a resolution supporting the USDOT BUILD Grant application for the Tower Terrace Road Corridor Improvements Project.

Public Comment: Five Minute Limit per Speaker
This is an opportunity for the public to address the board on any subject pertaining to board business.
Payroll Authorizations
Discuss and decide on Employment Change Roster (payroll authorizations).

Claims
Discuss and decide on claims.

Correspondence

Legislative Update

Appointments

Adjournment

To adhere to social distancing requirements, Linn County employees and the public may participate in this meeting as follows:
   1) Conference call—telephone number 866-576-7975, access code 218839#
   2) Email questions or comments prior to or during the meeting to: bd-supervisors@linncounty.org

For questions about meeting accessibility or to request accommodations to attend or to participate in a meeting due to a disability, please contact the Board of Supervisors office at 319-892-5000 or at bd-supervisors@linncounty.org.
COUNTY OF LINN

PROCLAMATION

NATIONAL NURSES WEEK

MAY 6-12, 2020

WHEREAS, the nearly 3.1 million nurses in the United States comprise our nation's largest health care profession;

WHEREAS, the depth and breadth of the registered nursing profession meets the different and emerging health care needs of the American population in a wide range of settings;

WHEREAS, a renewed emphasis on primary and preventive health care will require the better utilization of all of our nation's registered nursing resources;

WHEREAS, more qualified registered nurses will be needed in the future to meet the increasingly complex needs of health care consumers in this community;

WHEREAS, the cost-effective, safe and quality health care services provided by registered nurses will be an ever more important component of the U.S. health care delivery system in the future;

NOW THEREFORE, BE IT RESOLVED, the Board of Supervisors have declared the week of May 6-12, 2020 as National Nurses Week in Linn County, Iowa.

Linn County Board of Supervisors

Chairperson
COUNTY OF LINN

PROCLAMATION

NATIONAL POLICE WEEK

MAY 10 – 16, 2020

WHEREAS, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Linn County Sheriff's Office;

WHEREAS, there have been 58,866 assaults against law enforcement officers in 2018, resulting in approximately 16,677 injuries;

WHEREAS, since the first recorded death in 1786, more than 22,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty;

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.;

WHEREAS, 307 new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 135 officers killed in 2019 and 172 officers killed in previous years;

WHEREAS, May 15 is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half-staff;

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors formally designates May 10-16, 2020 as National Police Week in Linn County, Iowa, and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

Linn County Board of Supervisors

Chairperson
CASE # JA20-0001
EXECUTIVE SUMMARY
UDC TEXT AMENDMENT
RE: NONCONFORMING STRUCTURES
STAFF CONTACT: CHARLIE NICHOLS

OWNER/APPLICANT INFORMATION

APPLICANT: LINN COUNTY PLANNING & DEVELOPMENT DEPARTMENT
MAILING ADDRESS: 935 2ND ST SW, CEDAR RAPIDS, IA 52404

REQUEST

Linn County Planning and Development staff are requesting that specific language regarding Special Exceptions for alterations of nonconforming structures be removed. The changes impact the following ordinance sections: Article III, Section 107-48, subsection 4 and Article IV, Section 107-74, subsection (c)(1).

OUTSTANDING ISSUES AND STANDARDS FOR APPROVAL

The Linn County Unified Development Code on nonconforming structures is worded in a way that suggests a Special Exception from the Board of Adjustment is required to structurally alter a nonconforming structure in a way that does not increase or extend its nonconformity. Staff believes requiring a Special Exception in this case is contrary to the intent of the code, and that administrative approval should be acceptable for structural additions to nonconforming structures that neither increase nor extend their nonconformity.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Unified Development Code text amendment.
PZC APPROVAL

4/20/20

STAFF REPORT

CHAPTER 107 UNIFIED DEVELOPMENT CODE (UDC)
NONCONFORMING STRUCTURES
TEXT AMENDMENTS

Planning and Zoning Commission recommended approval: APRIL 20, 2020
Board of Supervisors First Consideration: MAY 4, 2020
Board of Supervisors Second Consideration: MAY 6, 2020
Board of Supervisors Third Consideration: MAY 13, 2020

CASE: J209-0001
REQUEST: Chapter 107 Unified Development Code Text Amendments
PETITIONER: Planning and Development
STAFF CONTACT: CHARLIE NICHOLS

Overview:

Staff is proposing amending Article III, Section 107-48, subsection and Article IV, Section 107-74 subsection (c)(1) of the Linn County Unified Development Code to make it clear that a Special Exception is not needed to structurally alter an existing legal-nonconforming structure as long as the alteration does not increase or extend its nonconformity. Current language suggests a special exception is needed in this circumstance, and staff believes this is contrary to the intent of the code.

Proposed UDC Amendments: This part of the report details the actual text amendment language. Language that is added to the section will be displayed as underlined text and deleted language will be represented as strikethrough text.

Article III, Section 107-48, subsection 4:

(4) Alteration of a nonconforming structure. A nonconforming structure may be structurally altered or enlarged, provided it is structurally altered or enlarged in a way that will not increase or extend its nonconformity, and provided either subsections (a) or (b) of this section applies, and any related special exception is approved by the board of adjustment.

Article IV, Section 107-74, subsection (c)(1):

(c) Standards for granting special exceptions. No variation to the application of the provisions of this chapter shall be made unless and until the board of adjustment shall be satisfied that all of the following criteria are met:

(1) Strict compliance with the restrictions governing setback, frontage, height, or other bulk provisions of this chapter would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question or is from a yard requirement to permit an addition to an existing legal nonconforming building, and such addition extends no further into the required yard than the existing building;
Planning & Zoning Commission Approval on April 20, 2020

Carson        Absent
Eilers        Aye
Landa         Aye
Maxwell       Absent
Wagner        Aye
Bellon        Aye
Gatewood      Aye
## Owner Information:
- **Owner:** Joseph & Leslie Sadecky
- **Address:** 5115 Honey Grove Rd., Ely, IA 52227
- **Phone:** 319-848-4713

## Applicant Information:
- **Applicant:** Same

## Surveying Co.:
- **Scott Survey, Inc.**

## Engineer:
- **Stephen Scott**

## Property Information:
- **Property Address or Address Range (block):** 5000 Block, Honey Grove Road
- **Brief legal(s) (Sec./Twp./Range):** Parcel B, P.O.S. No. 982, SE SW 6-82-6
- **GPN(s):** 18063 76002 00800

## Rural Land Use Map Designation:
- **RRD2**

## Current Zoning:
- **A9**

## Proposed Zoning:
- **R2**

---

A written report shall be submitted with this application, per Article 4, Section 4.2 (vii) of the Unified Development Code (see attached pages of this application). A formal pre-application meeting is required prior to submitting this application.

---

The undersigned is/are the owner(s) of the described property on this application, located in the unincorporated area of Linn County, Iowa, assuring that the information provided herein is true and correct. I hereby give my consent for the office of Linn County Planning and Development to conduct a site visit and photograph the subject property.

This development is subject to and shall be required, as a condition of final development approval, to comply with all Unified Development Code policies, requirements, and standards that are in effect at the time of final development approval.

---

**Owner:** Joseph A. Sadecky

**Applicant:** Joseph A. Sadecky

**Date:** 3-12-2020

**Case #:** JR20-0001

**Receipt#:**
CASE # JR20-0001
EXECUTIVE SUMMARY
REZONING
STAFF CONTACT: STEPHANIE LIENTZ

OWNER/APPLICANT INFORMATION

OWNER/APPLICANT: Joseph & Leslie Sadecyk
MAILING ADDRESS: 5115 Honey Grove Rd
                 Ely, IA 52227
PROPERTY ADDRESS: 5000 Block of Honey Grove Rd

REQUEST

The applicant is proposing to rezone the 28.82 acre subject property from the AG (Agricultural) zoning district to the RR2 (Rural Residential 2-Acre) zoning district. The subject property is located within the RRD2 (Rural Residential Development Area 2-Acre) on the Linn County Rural Land Use Map.

A 1-lot final plat case (JF20-0003) is running concurrently with this case.

OUTSTANDING ISSUES AND STANDARDS FOR APPROVAL

This proposal meets the standards for approval per Article IV, Section 107-72 of the Linn County Unified Development Code (UDC). The parcel meets LESA requirements, and earned a LESA score of 122.0 (the minimum threshold needed to pass in RRDA areas is 110). The subject property does not currently meet the MLS requirement of being ¼ of a mile from county maintained hard surfaced road. The applicant has an agreement with the Linn County Secondary Road department to hard surface Honey Grove Road up to the point where it is ¼-mile from the subject property, and has placed money in escrow to cover these future costs. A building permit can be issued prior to the completion of the surfacing work due to the escrow account.

STAFF RECOMMENDATION

Staff recommends approval subject to the conditions of the staff report.
STAFF REPORT
REZONING
JR20-0001
Planning and Zoning Commission Meeting: APRIL 20, 2020
Board of Supervisors First Consideration: MAY 4, 2020

PROPERTY INFORMATION:

MAP DESIGNATION: RRD2 (Rural Residential Development 2-Acre Area)

CURRENT ZONING: AG
(Agricultural)

PROPOSED ZONING: RR2 (Rural Residential 2-Acre)

SURROUNDING LAND USES AND ZONING
- North – Agricultural, timber, 3 single-family dwellings; AG
- South – Residential, 4 single-family dwellings; RR2
- East – Agricultural, timber; AG
- West – Residential, 3 single-family dwellings; RR1

PLAT SIZE: 28.82 acres

FORMAL PRE-APPLICATION MEETING:
The surveyor met with staff on February 26, 2020.

MLS AND LESA REQUIREMENTS:
Minor subdivisions that create additional buildable lots are subject to Minimum Levels of Service (MLS) requirements per Article IV, Section 107-72, § (3)(b). The MLS standards for RRDA (Rural Residential Development Area) are outlined in Appendix A of the Linn County Unified Development Code (UDC). The subject property does not currently meet the MLS requirement of being located within ¼ of a mile from county maintained hard surfaced road. However, the applicant has an agreement with the Linn County Secondary Road department to hard surface Honey Grove Road up to the point where it is ¼-mile from the subject property, and will place money into an escrow account to cover these costs in the future. Therefore, the MLS requirements are considered to be met by the proposed subdivision.

Minor subdivisions that create additional buildable lots are subject to Land Evaluation Site Assessment (LESA) requirements per Article IV, Section 107-70, § (1)(h) of the UDC. The minimum LESA threshold score that parcels
must meet to be eligible for subdivision within an area designated as RRDA on the Rural Land Use Map is 110 points. The subject parcel received a score of 122.0, which exceeds the minimum required threshold score.

**FINDINGS OF FACT:**

1. Joseph & Leslie Sadecky are the owners of the subject property, which is generally described as Parcel B of Plat of Survey No. 982, and contains approximately 28.82 acres.

2. The property is currently zoned AG (Agricultural).

3. The property is designated as RRD2 (Rural Residential 2-Acre Development Area) on the Rural Land Use Map.

4. A development application was received on March 13, 2020 to rezone the subject property from AG to RR2 (Rural Residential 2-Acre) for the purpose of building one single-family dwelling.

5. The property is currently undeveloped, and is considered to be a non-buildable Outlot, which was the remainder of a parent parcel after a Residential Parcel Split case (PS-04-03) was recorded.

6. In accordance with Article IV, Section 107-69, Standards for Review, of the UDC, the proposed development is subject to the following requirements, including but not limited to:
   a. Minimum Levels of Service (MLS) standards for public improvements and services as contained in Appendix A of the UDC;
   b. Animal feeding operations separation distance requirements as contained in Appendix C of the UDC; and
   c. Land Evaluation and Site Assessment (LESA) System criteria for lands designated RRDA (Rural Residential Development Area) as contained in Article IV, Section 107-70, of the UDC.

7. In accordance with Article IV, Section 107-70, of the UDC, no proposed development affected by the UDC shall be approved in the RRDA (Rural Residential Development Area) plan designation unless the proposed development has received at least 110 points under the LESA System.

8. The award of the minimum number of required points is considered the initial requirement for development approval. Other factors for consideration of development approval are contained in Article IV, Section 107-69, § (5), Additional Standards for Review, of the UDC.

9. The LESA evaluation for the proposed development resulted in a score of 122.0 out of 275 possible points.

**CONCLUSIONS OF LAW:**

**Animal feeding operations separation distance requirements.** At the time of application, any proposed development that is located near an Iowa Department of Natural Resources (IDNR) permitted animal feeding operation shall be separated by the distance required for the type of structure as provided for in Appendix C of the UDC.

**Analysis:** The nearest IDNR permitted animal feeding operation lagoon, manure storage facility or confinement building is approximately 11.0 miles from the proposed development area as measured from aerial photography.

**Conclusion:** The requirements of Appendix C of the UDC Code appear to be met by the proposed development.

**Land evaluation and site assessment.** All requirements of Article IV, Section 107-70, of the UDC shall be met as a condition of approval.

**Analysis:** The LESA score for the subject property is 122.0 out of 275 possible points. A copy of the LESA Summary Sheet is attached and made part of this report.
Conclusion: The proposed development meets the required LESA threshold score.

Article IV, Section 107-69, § (5), Additional Standards for Review of the UDC states that any proposed development must be consistent with the Comprehensive Plan, the purposes and intent of the UDC and the supplemental policies, requirements and standards of the UDC, including but not limited to:

a. The proposed development is not detrimental to existing agricultural uses.
   Analysis: Approximately 6.25 acres of the subject property is currently involved in hay production, and this agricultural operation may cease with the transfer of the land to another property owner. The combined average weighted CSR value for the subject property is approximately 42.61.

   The land use designation of the subject property is RRD2 (Rural Residential 2-Acre Development Area) on the Linn County Rural Land Use Map. Per the Linn County Comprehensive Plan and the Unified Development Code, Rural Residential Development Areas are intended to allow for the logical expansion of low-density, rural character residential development, provided that MLS and LESA requirements are met for a proposed subdivision. As previously discussed, MLS and LESA requirements are met by this proposal.

   Conclusion: Based on the above analysis, and the proposed development is not detrimental to existing agricultural uses.

b. The proposed development will be served by adequate public facilities and services as set forth in a development agreement.

Analysis:

<table>
<thead>
<tr>
<th></th>
<th>MINIMUM LEVEL OF SERVICES FOR RRDA – Residential (Traditional)</th>
</tr>
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<tbody>
<tr>
<td>PUBLIC FACILITY</td>
<td>MLS STANDARD</td>
</tr>
<tr>
<td>WATER</td>
<td>Individual Well</td>
</tr>
<tr>
<td>WASTEWATER</td>
<td>On-Site</td>
</tr>
<tr>
<td>TRANSPORTATION</td>
<td>Class A County Road Within ¼-Mile of a Hard Surface Road</td>
</tr>
<tr>
<td>FIRE PROTECTION</td>
<td>Within 5-Mile Radius of Fire Station</td>
</tr>
</tbody>
</table>

Conclusion: All minimum levels of service will be met.

c. The proposed development will not degrade significant environmental, ecological or natural resources.

Analysis: No threatened and endangered species, unique natural areas, or floodplain were identified on the subject property. There are some wetlands on the property; however, development is prohibited per NRCS conditions on the related final plat (JF20-0003) staff report.

Conclusion: Based on the above analysis, the proposed development will not degrade significant environmental, ecological or natural resources.

d. The proposed development achieves densities and uses in agricultural areas, critical natural resource areas, rural residential development areas and urban service areas as designated in the Comprehensive Plan.

Analysis: Table 3, Land Use Map Designations and Allowable Densities in the 2013 Linn County Comprehensive Plan indicates that the density of developments on parcels with a Land Use Designation of “Rural Residential Development Area (2-Acre Areas)” is 1 unit per 2 acres.

Conclusion: The proposed development achieves the recommended densities as designated on the Rural Land Use Map.
e. The proposed development is consistent with the goals, objectives and strategies of the Comprehensive Plan.

Table 1 below lists all of the Goals found within each of the seven (7) Plan Elements in the Linn County Comprehensive Plan and determines if the proposal supports, does not support, or is neutral to each individual Goal based on a review of the Objectives and Strategies found in the plan. Any Goals that are of significant consequence to Staff’s recommendation are discussed in greater detail below.

**Analysis:** The proposal is supported by a number of Goals and Objectives in the following Comprehensive Plan Elements: Hazard Planning, Resource Protection, Sustainable Development, and Transportation. The LESA scoring system was utilized in order to direct development away from areas best suited to agriculture and into areas with the existing infrastructure and capacity to support the type of development being proposed.

**Conclusion:** The proposal is generally in conformance with the Linn County Comprehensive Plan and therefore this criterion appears to be met.

<table>
<thead>
<tr>
<th>ELEMENTS</th>
<th>GOALS</th>
<th>Proposal Supports</th>
<th>Proposal Does Not Support</th>
<th>N/A</th>
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</thead>
<tbody>
<tr>
<td>Alternative and Renewable Energy</td>
<td>Goal 1: Encourage and support the development and use of alternative and renewable energy sources.</td>
<td></td>
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<td>Goal 2: Encourage and support energy efficiency strategies.</td>
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<tr>
<td></td>
<td>Goal 3: Identify and mitigate barriers to the development of local alternative and renewable energy resources and increased energy efficiency strategies.</td>
<td></td>
<td>X</td>
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<tr>
<td>Economic Development and Employment Opportunities</td>
<td>Goal 1: Encourage a diverse agricultural economy, including local foods and commodity-based agriculture.</td>
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<td>X</td>
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<td>Goal 2: Seek opportunities to diversify and expand the local employment base by providing a supportive environment for existing and new businesses, as well as entrepreneurial activities.</td>
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<td>Goal 3: Support and encourage a well-educated, highly skilled, and diverse workforce prepared for an increasingly competitive global marketplace.</td>
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<td>Goal 4: Recognize that future economic success in the county depends on implementing sustainable business practices that protect our natural environmental systems.</td>
<td></td>
<td>X</td>
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<tr>
<td>Hazard Planning</td>
<td>Goal 1: Identify and implement strategies to prevent the occurrence of human-made hazards.</td>
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<td>X</td>
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<td>Goal 2: Reduce the risk of the loss of life, property, and economic activity as a result of the occurrence of natural and human-made hazards.</td>
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<td>X</td>
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<td>Goal 3: Increase the capacity of local government and residents to respond to the occurrence of natural and human-made hazards.</td>
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<td>X</td>
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</tr>
<tr>
<td></td>
<td>Goal 4: Increase the capacity of local government and residents to recover from the occurrence of natural and human-made hazards.</td>
<td></td>
<td>X</td>
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</tbody>
</table>
### Livable Communities
- Goal 1: Protect and enhance the health and safety of all Linn County residents.  
- Goal 2: Maximize resilience through the production and purchase of local and regional products, and the protection of local resources.  
- Goal 3: Enhance connectivity and opportunities for all through improvements in transportation, education, and communication.  
- Goal 4: Plan for demographic trends and changes.  
- Goal 5: Value the county's unique and special places.

### Resource Protection
- Goal 1: Support initiatives designed to prevent soil erosion, improve soil quality, and educate the public on the importance of healthy soils in both urban and rural environments.  
- Goal 2: Encourage the long-term viability of agriculture.  
- Goal 3: Strive to maintain high-quality water resources.  
- Goal 4: Address drainage and stormwater management as a regional issue and foster multi-jurisdictional cooperation.  
- Goal 5: Support initiatives designed to protect or improve local water quality.  
- Goal 6: Conserve and enhance natural resources, open space, and wildlife habitat throughout the county.  
- Goal 7: Balance accessibility to local mineral resources with public safety considerations and competing resource protection goals.

### Sustainable Development
- Goal 1: Maximize the use of existing gray infrastructure and adopt innovative green infrastructure techniques.  
- Goal 2: Proactively address climate change through prevention and adaptation.  
- Goal 3: Incorporate enhanced stormwater management and erosion control practices into county development standards.  
- Goal 4: Encourage green building practices for new construction and major remodels, and consider code amendments that encourage or do not inhibit sustainable development practices.  
- Goal 5: Reduce landfilled waste and support clean, efficient, economical, and environmentally sound management of solid waste.

### Transportation
- Goal 1: Ensure land use decisions are coordinated with city, county, and regional transportation plans.  
- Goal 2: Encourage alternatives to auto-dependent travel when making transportation, land use, and infrastructure decisions.  
- Goal 3: Consider environmental, cultural, and historic resources in planning future transportation corridors, and in the physical design of transportation infrastructure.  
- Goal 4: Encourage a transportation system that improves the mobility, accessibility, connectivity, and safety for all residents.  
- Goal 5: Promote comprehensive strategies to reduce dependency on unsustainable fuel sources and increase fuel efficiency.

### Alternatives:
The following alternatives may be considered:
1. Recommend approval of the proposal subject to conditions.  
2. Recommend denial of the proposal.  
3. Refer the proposal back to the applicant for additional review / information.

### Staff Recommendation:
Staff recommends Alternative 1, recommend approval of the proposal subject to conditions of the staff report.
IT IS THE RESPONSIBILITY OF THE APPLICANT TO COMPLETE ALL CONDITIONS, AS OUTLINED IN THIS STAFF REPORT, PRIOR TO FINAL APPROVAL OF THE CASE. IF YOU HAVE QUESTIONS REGARDING A CONDITION, CONTACT THE DEPARTMENT UNDER WHICH THAT CONDITION IS LISTED. THE CONTACTS' NAMES AND PHONE NUMBERS ARE LISTED BELOW. ITEMS IN THE COMMENTS SECTION ARE NOT A REQUIREMENT TO BE MET PRIOR TO APPROVAL. THEY ARE INTENDED TO INCREASE YOUR KNOWLEDGE AND AWARENESS OF ISSUES THAT MAY POSSIBLY EXIST ON THE PROPERTY.

LINN COUNTY SECONDARY ROAD DEPARTMENT, 892 6400
BRAD KETELS, COUNTY ENGINEER, Brad.Ketels@linncounty.org
JON RESLER, ASSISTANT COUNTY ENGINEER, Jon.Resler@linncounty.org

1. No conditions to be met.

IOWA DEPARTMENT OF TRANSPORTATION
JOEL KEIM, ENGINEERING OPERATIONS TECHNICIAN, 730-1533
Joel.Keim@dot.iowa.gov

1. Not within the jurisdiction of the Iowa Department of Transportation.

LINN COUNTY PUBLIC HEALTH DEPARTMENT
SUE ELLEN HOSCH, ENVIRONMENTAL SPECIALIST, 892-6033
SueEllen.Hosch@linncounty.org

1. No conditions to be met.

Comments:

1. Prior to construction, a septic permit is required for each lot at which time a site survey will be conducted to determine the most suitable system. A percolation test will be required as part of the permitting process. If soil conditions are altered during development and construction, the septic area may be affected. Heavy equipment (large trucks, trailers, and all construction traffic) will compact soils and may void a previously approved on-site septic absorption site. This may change any of the statements attached to this plat regarding the septic system. A non-conventional system may be necessary due to soil compaction, addition of fill material, or alteration of site.

NATURAL RESOURCES CONSERVATION SERVICE
JON GALLAGHER, LINN COUNTY SOIL CONSERVATIONIST
JOHN BRUENE, DISTRICT CONSERVATIONIST, 377-5960 x3
Jon.Gallagher@ia.nacdnet.net

1. No conditions to be met.

LINN COUNTY CONSERVATION DEPARTMENT
DANIEL GIBBINS, 892-6450
Daniel.Gibbins@linncounty.org

1. No conditions to be met.
1. No conditions to be met.

LINN COUNTY PLANNING AND DEVELOPMENT - ZONING DIVISION
STEPHANIE LIENTZ, SENIOR PLANNER, 892-5130
Stephanie.Lientz@linncounty.org

1. Various revisions to the site plan and final plat.

2. Prior to close of the Board of Supervisors’ public hearing, the owner must sign an “Acceptance of Conditions” form. The “Acceptance of Conditions” form states that the owner understands and agrees to comply with the agreed upon conditions as negotiated or required by the Board of Supervisors. It is strongly recommended that the owner meet with the Planning and Development staff to review the conditions of the rezoning.

3. Prior to approval of the final plat, the landowner shall sign an “Agricultural Land Use Notification” form that has been provided by the Zoning Administrator. The landowner shall insure that such notification shall be attached to the deed and shall become a separate entry on the abstract of title for all the property that is subject of the permit or development as per Article V, Section 107-91, § (h) of the Unified Development Code.

4. Rezoning will be finalized when the plat bound copies are ready to be approved by the Linn County Board of Supervisors, including a development agreement as appropriate.

5. As a result of the LESA evaluation, it has been determined that there is a presence of archeological or historical sites within the quarter section of land that this development is located within. If artifacts are discovered during development, all excavation/development activities will cease until such time as the Office of the State Archaeologist determines that activity may recommence.

6. Final plat bound copies must be approved on or before APRIL 20, 2021 or this rezoning will become null and void.

Planning & Zoning Commission Approval on April 20, 2020

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carson</td>
<td>Absent</td>
</tr>
<tr>
<td>Ellers</td>
<td>Aye</td>
</tr>
<tr>
<td>Landa</td>
<td>Aye</td>
</tr>
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<td>Aye</td>
</tr>
</tbody>
</table>
Marion Municipal Airport
Land Use & Height Overlay Zoning

Public Hearing & 1st Consideration

New Zoning Chapter 104
&
Zoning Map Amendment
Background

- Iowa Code Chapter 329 empowers local governments to enact airport protection zoning to regulate land uses and height of structures or other obstructions
  - Section 329.4, *Extraterritorial airport hazard areas*, provides City with authority to demand adoption of airport overlay zoning for unincorporated area

- October 3, 2019: City of Marion adopted Marion Municipal Airport Land Use & Height Overlay Zoning (Ord. 19-24)
Background

- October 14, 2019, the City requested the Board of Supervisors to consider adoption of airport protection overlay zoning for the unincorporated area
- October 21, 2019, the City requested the Linn County Planning & Zoning Commission to consider adoption of airport protection overlay zoning for the unincorporated area
November 18, 2019: Planning & Zoning Commission postponed action to allow additional opportunity to provide information to affected property owners

Two open houses have been held
- December 9, 2019
- December 16, 2019

December 16, 2019: Planning & Zoning Commission recommended approval (4-2)

January 6, 2020: BOS holds public hearing; tables 1st consideration
Background

- A 28E Agreement between the City of Marion and Linn County has been written to provide the administrative structure for the overlay zoning
Case JA19-0008

TEXT AMENDMENTS: NEW UDC CHAPTER 104
JA19-0008 Code of Ordinances Text Amendments

• Rename existing Chapter 103 to *Eastern Iowa Airport Zoning*

• Adopt new Chapter 104, *Marion Municipal Airport Land Use and Height Overlay Zoning*
Chapter 104: Marion Municipal Airport Land Use & Height Overlay Zoning

- Proposed overlay zoning districts are:
  - Zone A: Runway Protection Zone (RPZ)
  - Zone B: Approach Zone
  - Zone C: Transitional Surface
  - Zone D: Horizontal Surface
  - Zone E: Conical Surface

- Height and use restrictions based on location within overlay zones

- Table 3, Airport Land Use Table identifies uses as Compatible (C), Additional Review (AR), or Not Compatible (NC)
# Chapter 104: Marion Municipal Airport Land Use & Height Overlay Zoning

Table 3: Airport Land Use Table (example)

<table>
<thead>
<tr>
<th>Land Uses</th>
<th>Zone</th>
<th>Zone</th>
<th>Zone</th>
<th>Zone</th>
<th>Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Activities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detached Single Family Dwelling (i.e. farm dwelling, detached single family house, manufactured/modular/mobile homes if converted to real property and taxed)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Two Family Uses (i.e. two principal dwelling units within one building on the same parcel)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Multi-Family Uses (i.e. three or more principal dwelling units within a single building on the same parcel, apartments such as condominium, elder, assisted living, townhouse-style)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Group Living Uses (i.e. assisted living, group care facilities, nursing and convalescent homes, independent group living)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Manufactured Housing Parks</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

C = Compatible  AR = Additional Review Required  NC = Not Compatible
Case JR19-0004

NEW OVERLAY ZONING DISTRICTS: MAP AMENDMENT
Standards for Review

- Conformance to Animal Feeding Operation (AFO) separation requirements, LESA System, Minimum Level of Services requirements
- The proposed development is not detrimental to agricultural uses
- The proposed development will not degrade significant environmental, ecological or natural resources
- The proposed development achieves densities and uses on the Land Use Map designations
- The proposed development is consistent with the goals, objectives and strategies of the Comprehensive Plan
Alternatives & Recommendation

The following alternatives may be considered:

1. Approve 1st consideration of the text amendments and overlay zoning subject to conditions.
2. Disapprove on 1st consideration the text amendments and overlay zoning.
3. Refer the proposals back for additional review or information.

Staff Recommendation: Staff recommends Alternative 1, recommend approval of 1st consideration, subject to conditions of the staff report (28E Agreement).

PZC Recommendation: Recommend approval (4-2)
STAFF REPORT
CHAPTER 104 LINN COUNTY CODE OF ORDINANCES
TEXT AMENDMENTS

Planning and Zoning Commission Meeting: **DECEMBER 16, 2019**
Board of Supervisors First Consideration: **JANUARY 6 MAY 4, 2020**
Board of Supervisors Second Consideration: **JANUARY 8 MAY 6, 2020**
Board of Supervisors Third Consideration: **JANUARY 15 MAY 13, 2020**

**CASE:** JA19-0008  **PETITIONER:** Planning and Development
**REQUEST:** Chapter 104 Linn County Code of Ordinances Text Amendments  **STAFF CONTACT:** LES BECK

**Overview:**
The City of Marion recently adopted Ordinance 19-24, to enact the Marion Municipal Airport Land Use and Height Overlay Zoning. The purpose of the city’s Ordinance is to regulate land uses and the height of structures, objects, and growth of natural vegetation within the vicinity of the Marion Municipal Airport and the projected growth of the airport. The overlay zoning includes land beyond the corporate limits of the City of Marion.

Iowa Code section 329.4, Extraterritorial airport hazard areas, empowers local governments to zone height and land use restrictions around airports, including land beyond the limits of the city owning the airport. While this power is optional for Linn County as applied to the unincorporated land within the overlay zone, the City may demand adoption with recourse through district court, should the County fail to adopt the airport protection overlay zoning.

A 28E Agreement between the City of Marion and Linn County regarding the administration of the overlay zoning will be adopted concurrently with the Marion Municipal Airport Land Use and Height Overlay Zoning Ordinance.

The proposed ordinance language is attached.

**Alternatives:**
The Commission has the following alternatives:

1. Recommend to the Board of Supervisors approval of the proposed Marion Municipal Airport Land Use & Height Overlay Zoning regulations;
2. Recommend to the Board of Supervisors denial of the proposed Marion Municipal Airport Land Use & Height Overlay Zoning regulations;
3. Refer the proposed regulations back to staff for additional review.

**Recommendation:**
Staff recommends Alternative 1, recommend to the Board of Supervisors approval of the proposed Marion Municipal Airport Land Use & Height Overlay Zoning regulations

**Planning & Zoning Commission meeting December 16, 2019:**
Motion by Grenis, second by Bellon, to recommend approval of the proposed amendment, Case JA19-0008, subject to the conditions of the staff report. Roll call vote:

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eilers</td>
<td>Aye</td>
</tr>
<tr>
<td>Landa</td>
<td>Aye</td>
</tr>
<tr>
<td>Grenis</td>
<td>Aye</td>
</tr>
<tr>
<td>Bellon</td>
<td>Aye</td>
</tr>
</tbody>
</table>
Gatewood   Absent
Maxwell     Nay
Carson      Nay

Board of Supervisors meeting January 6, 2020:
Motion by Oleson, second by Walker, to table first consideration of the proposed amendment, Case JA19-0008. Motion carried unanimously.
ORDINANCE ______

AN ORDINANCE AMENDING THE LINN COUNTY CODE OF ORDINANCES

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF LINN COUNTY, IOWA:

Section 1. That Chapter 103 be amended as follows:

Chapter 103 – Airport Zoning be renamed to Eastern Iowa Airport Zoning.

Sec. 103-1. – Short Title shall be amended to read:

These regulations shall be known and may be cited as the “Eastern Iowa Airport Zoning Regulations”.

Section 2. That Chapter 104, Marion Municipal Airport Land Use and Height Overlay Zoning, be created as follows:

Sec. 104-1. – Short Title.

This ordinance shall be known and may be cited as the Marion Municipal Airport Land Use and Height Overlay Zoning, and it is referred to as the “Ordinance” within the following sections.

Sec. 104-2. – General.

The Marion Municipal Airport Land Use and Height Overlay Zoning is created by the City of Marion and Linn County as a result of the adoption of this Chapter. This ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses, within the vicinity of the Marion Municipal Airport and the projected growth of the airport as detailed in the Airport Layout Plan as amended from time to time. The creation of appropriate overlay zoning and establishing the boundaries of the individual zones, as well as providing for changes in the restrictions and boundaries of such a district is vested in this ordinance. The Marion Municipal Airport Land Use and Height Overlay Zoning Map is incorporated into and made part of this ordinance. The ordinance also provides for the enforcement of the ordinance, the establishment of the Airport Board of Adjustment, and the imposition of penalties related to the implementation of the ordinance.

Sec. 104-3. - Authority. Iowa Code § 329.3 Airport Zoning empowers local municipalities to zone airports including height and land use restrictions.

Sec. 104-4 - Statement of Intent and Purpose.

A. The Marion Municipal Airport is acknowledged as an essential public facility to the State of Iowa and the local community.

B. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding individuals and businesses served by the Marion Municipal Airport.

C. It is the responsibility of the City of Marion and Linn County to ensure that there shall be no creation or establishment of a hazard that endangers public health, safety, welfare, and impacts an individual’s quality of life or prevents the safe movement of aircraft at the Marion Municipal Airport.

D. For the protection of the public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.

E. The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of police power.
Sec. 104-5. - Applicability. This ordinance encompasses a general area around the Marion Municipal Airport. Specific dimensions associated with the zoning boundary are shown in the Marion Municipal Airport Land Use and Height Overlay Zoning Map.

Sec. 104-6. – Definitions.

A. Airport. (FAA FAR Sec. 152.3) Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition. The Marion Municipal Airport is owned by the City of Marion, Iowa.

B. Airport Elevation. (FAA AC 150/5190-4A) The highest point on an airport's usable landing area measured in feet from sea level.

C. Airport Hazard. (FAA FAR Sec. 152.3} Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstruct the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.

D. Airport Layout Plan (ALP). (FAA FAR Sec. 152.3) The plan of an airport showing the layout of existing and proposed airport facilities.

E. Airport Overlay Zones. A zone intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and FAA Advisory Circular 150/5300-13 defined Runway Protection Zones have been combined to create five airport zones. The five specific zones create a comprehensive area focused on maintaining compatible land use around airports.

1) Zone A [Runway Protection Zone] - is intended to provide a clear area that is free of above ground obstructions and structures. This zone is closest to the individual runway ends.

2) Zone B [Approach Surface] - is a critical overlay surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway.

3) Zone C [Transitional Surface] - includes those areas that are parallel to the runway pavement and extend from the edge of the primary surface.

4) Zone D [Horizontal Surface] - is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.

5) Zone E [Conical Surface] - is the outermost zone of the overlay areas and has the least number of land use restriction considerations. Zone E begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.

F. Airport Zoning Permit. Airport zoning permit allowing new development or alteration or expansion of a nonconforming use.

G. Airspace. The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.

H. Airport Land Use and Height Overlay Zoning Map. The Marion Municipal Airport Land Use and Height Overlay Zoning Map is compiled from the criteria in FAR Part 77, "Objects Affecting Navigable Airspace." It shows the area affected by the Marion Municipal Airport Land Use and Height Overlay Zoning, and includes the layout of runways, airport boundaries, elevations of Overlay Zones. Applicable height limitation areas are shown in detail.

I. Approach Slope. (FAR Part 77) The ratio of horizontal to vertical distance indicating the degree of inclination of the Approach Surface. The ratio is 34:1 for all runways extended from the primary surface a distance of 10,000 feet.

J. Approach Surface. (FAA AC 150/5190-4A) A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
K. Compatibility. The degree to which land uses or types of development can coexist or integrate.

L. Easement. (FAA AC 5020-1) The legal right of one party to use a portion of the total rights in real estate owned by another party. This may include the right of passage over, on, or below property, certain air rights above the property, including view rights; and the rights to any specified from of development or activity, as well as any other legal rights in the property that may be specified in the easement document.

M. Federal Aviation Administration (FAA). A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promoting the development of a national system of airports.

N. Federal Aviation Administration Advisory Circular (FAA AC). Advisory circular (AC) refers to a type of publication offered by the Federal Aviation Administration (FAA) to provide guidance for compliance with operational standards.

O. Federal Aviation Regulations (FAR). (FAA FAR) Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.
   1) FAR Part 36. (FAA FAR Sec. 36.1) Regulation establishing noise standards for civil aviation fleet.
   2) FAR Part 91. (FAA FAR Sec. 91.1) Regulation pertaining to air traffic and general operating rules, including operating noise limits.
   3) FAR Part 150. (FAA FAR Sec. 150.1) Regulation pertaining to airport noise compatibility planning.
   4) FAR Part 161. (FAA FAR Sec. 161.1) Regulation pertaining to notice and approval of airport noise and access restrictions.
   5) FAR Part 77. (FAA FAR Sec. 77.1) Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

P. General Aviation Airport. Any airport that is not an air carrier airport or a military facility.

Q. Height. Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the official Marion Municipal Airport Land Use and Height Overlay Zoning Map; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.

R. Imaginary Surfaces. (FAA FAR Part 77.25) Those areas established in relation to the airport and each runway consistent with FAR Part 77 in which any object extending above these imaginary surfaces, by definition, is an obstruction.

S. Transitional Surface. The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

T. Horizontal Surface. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

U. Conical Surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet.

V. Approach Surface. The approach surface is longitudinally centered on an extended runway centerline and extends outward and upward from the end of the runway primary surface.

W. Incompatible Land Use. (FAA FAR Sec. 150.7) The use of land which is normally incompatible with the aircraft and airport operations (such as, but not limited to, homes, schools, nursing homes, hospitals, and libraries).

X. Land Use Compatibility. The coexistence of land uses surrounding the airport with airport-related activities.
Y. Lighting and Marking of Hazards to Air Navigation. Installation of appropriate lighting fixtures, painted
markings or other devices to such objects or structures that constitute hazards to air navigation.
Z. Mitigation. The minimization, reduction, elimination or compensation for adverse environmental effects of a
proposed action.
AA. Noise Impact. A condition that exists when the noise levels that occur in an area exceed a level identified
as appropriate for the activities in that area.
BB. Noise Sensitive Area. (FAA AC 91-36D) Defined as an area where noise interferes with normal activities
associated with the area’s use. Examples of noise-sensitive areas include residential, educational, health,
and religious structures and sites, and parks, recreational areas (including areas with wilderness
characteristics), wildlife refuges, and cultural and historical sites where a quiet setting is a generally
recognized feature or attribute.
CC. Nonconforming Use. (FAA Web site) Any pre-existing structure, tree, or use of land that is inconsistent with
the provisions of the local land use or airport master plans.
DD. Object. (FAA AC 150/5300-13) Includes, but is not limited to above ground structures, navigational aids,
people, equipment, vehicles, natural growth, terrain, and parked aircraft.
EE. Obstruction. (FAA AC 150/5190-4A) Any structure, growth, or other object, including a mobile object, which
exceeds a limiting height, specific to its geographic location relative to the runway/airport.
FF. Overlay Zone. A mapped zone imposing requirements in addition to those of the underlying zoning district.
GG. Primary Surface. (FAA AC 15 0/5190-4A) A surface longitudinally centered on a runway. When the runway
has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that
runway; for military runways or when the runway has no specially prepared hard surface, or planned hard
surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth
in FAR Part 77. The elevation of any point on the primary surface is the same as the elevation of the nearest
point on the runway centerline.
HH. Primary Runway. (FAA AC 150/5325-4B) The runway used for the majority of airport operations. Large,
high-activity airports may operate two or more parallel primary runways.
II. Public Use Airport. (FAA AC 150/5190-6) Means either a publicly owned airport or a privately-owned airport
open for public use.
JJ. Runway Protection Zone (RPZ). (FAA AC 150/5300-13) An area off the runway end designed to enhance the
protection of people and property on the ground.
KK. Structure. Any object constructed or installed by humans, including, but without limitation, buildings,
towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting
the same.
LL. Variance. An authorization for the construction or maintenance of a building or structure, or for the
establishment or maintenance of a use of land that is prohibited by a zoning ordinance. A lawful exception
from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or
unnecessary hardships by the petitioner being required to comply with the regulations and standards from
which a variance is sought
MM. Visual Approach. An approach to an airport conducted with visual reference to the terrain.
NN. Visual Runway. (FAA AC 150/5300-13) A runway without an existing or planned straight-in instrument
approach procedure.
OO. Wildlife Hazards. Wildlife (birds, mammals, reptiles), including feral animals and uncontrolled
domesticated animals associated with aircraft strike problems, and capable of causing structural damage
to airport facilities or attractants to other wildlife that pose a strike hazard.
Sec. 104-7. - Airport Land Use and Height Overlay Zoning Map. The Marion Municipal Airport Land Use and Height Overlay Zoning Areas established by this ordinance are shown on the Marion Municipal Airport Land Use and Height Overlay Zoning Map attached as Exhibit A to Chapter 104. Such official Marion Municipal Airport Land Use and Height Overlay Zoning Map may be amended, and all notations, references, elevations, data, zone boundaries, and other information included in the maps are adopted as part of this Ordinance.

Sec. 104-8. - Airport Zoning Requirements. In accordance with Section 329.10, Iowa Code, there are three (3) principal airport zoning requirements supported by additional information contained within the following remaining sections of this ordinance. These basic zoning requirements state:

A. All airport zoning regulations adopted under this ordinance shall be reasonable and none shall impose any requirement or restriction that is not necessary to make effective the purposes of this ordinance.

B. Airport zoning regulations adopted under this ordinance may require the following:
   1) The removal, lowering, or other change or alteration of any structure or tree, or a change in use, non-conforming to the regulations when adopted or amended.
   2) A property owner to permit the City of Marion to install, operate, and maintain on the property markers and lights as necessary to indicate to operators of aircraft the presence of the airport hazard, when adopted or amended.

C. All such regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

Sec. 104-9. Removal of Obstructions. The City of Marion will be responsible for the initial removal of trees, structures, or other natural or man-made obstructions that are not conforming to the regulations of this ordinance when adopted or amended. Any subsequent alterations or removal of any natural or man-made obstructions to the Marion Municipal Airport or its airspace will be responsibility of the property owner.

Sec. 104-10. – Nonconformities

A. It is the intent of this ordinance to permit legal nonconforming buildings, structures, or natural resources to continue until they are removed but not to encourage their continuance, unless such nonconforming use is determined by the FAA to be a hazard within one of the airport zones and must be altered or changed in accordance with FAA regulations. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used to add other nonconforming structures prohibited elsewhere in the defined airport zones.

B. In accordance with Section 329.10, Iowa Code, and as stated above, any preexisting nonconforming structure, tree, or land use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted. With that stated, where a lawful building or structure exists prior to the effective date of adoption or amendment of this ordinance that cannot be built under the terms of this airport ordinance by reason of restrictions on height or land use compatibility, such structure may be continued so long as it remains otherwise lawful and in compliance with FAA regulations; subject to the following provisions:
1) No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity. Such structure may be enlarged or altered in a way that does not increase its nonconformity.

2) Should such nonconforming structure be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost, it shall be reconstructed only in conformity with the provisions of this airport ordinance.

3) Should any nonconforming structure be moved within the boundaries of any of the five (5) airport zones for any reason or for any distance whatever, it shall thereafter conform to the regulations of this airport zoning ordinance.

4) Discontinuance. In the event a nonconforming building, structure or use is discontinued for a period of one (1) year, the height or land use compatibility shall conform thereafter to the provisions of this airport zoning ordinance.

C. On any nonconforming building or structure, work may be done on ordinary repairs or replacement of non-bearing walls not exceeding seventy-five percent (75%) of the assessed value of the building, provided the cubic content of the building shall not be increased.

D. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

E. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, buildings or structures.

Sec. 104-11. - Establishment of Airport Overlay Zones.

A. FAR Part 77 Surfaces and the Runway Protection Zones have been combined to create five airport overlay zones. These five zones are designed to maintain compatible land uses around the Marion Municipal Airport. Specific dimensions for the individual zones for each runway end are noted in the following tables and text. The Marion Municipal Airport Land Use and Height Overlay Zoning Map should be consulted to determine the specific area of the impact associated with each zone.

1) Airport Overlay - Zone A: Runway Protection Zone (RPZ). Zone A is intended to provide a clear area that is free of above-ground obstructions and structures. This Zone is closest to the individual runway ends. The dimensional standards for Zone A are shown in Table 1.

<table>
<thead>
<tr>
<th>Approach Visibility</th>
<th>Approach Visibility Minimums</th>
<th>Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Length L feet</td>
</tr>
<tr>
<td>Visual and not lower than 1-Mile</td>
<td>Aircraft Approach Categories A &amp; B</td>
<td>1,000</td>
</tr>
</tbody>
</table>

The RPZ Dimensional standards are for the runway end with the specialized approach visibility minimums. The departure RPZ dimensional standards are equal to or less than the approach RPZ dimensional standards. When an RPZ begins other than 200 feet (60 m) beyond the runway end, separate approach and departure RPZs should be provided. Refer to FAA AC 150/5300-13 Change 11, Appendix 14 for approach and departure RPZs.

2) Airport Overlay - Zone B: Approach Surface. Zone B is a critical airport zoning surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft.
utilizing the runway. The following table illustrates the various sizes of Zone B based upon the specific runway criteria. A portion of Zone B is overlain by Zone A because the Approach Surface and RPZ overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ. This district is centered on the extended runway centerline and extend outward and upward from the end of the runway primary surface at a slope 34 horizontal to 1 vertical (34:1) for the ultimate Approach Surface. Table 2 illustrates the size of Zone B.

3) Airport Overlay - Zone C: Transitional Surface. Zone C provides an area, relatively free of obstructions, that are in closest proximity, laterally to the runway environs. Zone C includes those areas that are parallel to the runway pavement and extend 1,050 feet from the edge of the primary surface parallel to the runway and extended runway centerline until they reach the end of Zone A at a 90-degree angle and extend to intersect with Zone B. This Zone extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontal for one foot vertical (7:1) from the sides of the primary and approach surfaces. Table 2 illustrates the size of Zone C based upon the specific runway criteria.

a. The west side of Zone C shall extend from 125’ west of the runway centerline to 1091’ west of the runway centerline; the east side of Zone C shall extend from 250’ east of the runway centerline to 1,216’ east of the runway centerline.

4) Airport Overlay - Zone D: Horizontal Surface. This Zone follows horizontal surface plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. This Zone is elliptical in shape, the radius of which is 10,000 feet from the edge of the primary surface. Table 2 illustrates the size of Zone D based upon the specific runway criteria.

5) Airport Overlay - Zone E: Conical Surface. This Zone has the least number of land use restrictions. Zone E extends upward and outward from the periphery of the Horizontal Surface at a slope of 20 feet horizontal for one foot vertical (20:1) for a horizontal distance of 4,000 feet from Zone D. Table 2 illustrates the size of Zone E based upon the specific runway criteria.

<table>
<thead>
<tr>
<th>Item</th>
<th>Runway Dimensional Standards (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Runway 17</td>
</tr>
<tr>
<td>Primary Surface Width</td>
<td>500</td>
</tr>
<tr>
<td>Zone B – Inner Width</td>
<td>500</td>
</tr>
<tr>
<td>Zone B - end width</td>
<td>3,500</td>
</tr>
<tr>
<td>Zone B - Length</td>
<td>10,000</td>
</tr>
<tr>
<td>Zone C - width</td>
<td>1,050</td>
</tr>
<tr>
<td>Zone D - radius</td>
<td>10,000</td>
</tr>
<tr>
<td>Zone E - width</td>
<td>4,000</td>
</tr>
</tbody>
</table>

**Sec. 104-12. - Airport Overlay Zone Land Use Compatibility**

A. Underlying zoning district classifications shall dictate permitted, accessory and conditional land uses. Table 3 identifies land uses within the underlying zoning districts which are compatible, not compatible or require additional review:

1) Uses identified as COMPATIBLE shall be considered permitted uses and shall not require additional review.

2) Uses found to be NOT COMPATIBLE shall be considered prohibited uses and shall be precluded from development within the specific zones.

3) Uses found to require ADDITIONAL REVIEW shall be evaluated for general compatibility by the Airport Zoning Administrator for potential conflicting land uses or potential negative effects that may need to
be mitigated. If after review by the Airport Zoning Administrator all conditions have been addressed the Zoning Permit shall be issued. Consideration should be given to the following five areas when additional review is required:
  a. Noise sensitive related issues
  b. High concentrations of people
  c. Tall structures
  d. Visual obstructions
  e. Wildlife and bird attractants

Table 3: Airport Land Use Table

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<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Two Family Uses (i.e. two principal dwelling units within one building on the same parcel)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Multi-Family Uses (i.e. three or more principal dwelling units within a single building on the same parcel, apartments such as condominium, elder, assisted living, townhouse-style)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Group Living Uses (i.e. assisted living, group care facilities, nursing and convalescent homes, independent group living)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Manufactured Housing Parks</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Commercial Activities</td>
<td></td>
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<tr>
<td>General Office (i.e. professional office, financial business, government offices)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Sales-Oriented (i.e. appliances, convenience stores, bakeries, electronics, furniture, garden supplies, gas stations, groceries, hardware, malls, strip malls, videos)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Personal Service-Oriented (i.e. retail service-banking establishments, laundromats/dry cleaning, quick printing services, beauty/tanning salons, funeral homes)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Repair-Oriented (i.e. consumer goods-electronics, office equipment, appliances)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Hospitality-Oriented (hotels, motels, convention centers, meeting halls, event facilities)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Land Uses</td>
<td>Zone A</td>
<td>Zone B</td>
<td>Zone C</td>
<td>Zone D</td>
<td>Zone E</td>
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<tr>
<td>Outdoor Storage and Display-Oriented (i.e. outdoor storage-lumber yards, vehicles sales, landscape material and nursery product sales, farm supply and equipment sales)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td><strong>Industrial/Manufacturing Activities</strong></td>
<td></td>
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<tr>
<td>Industrial Service Uses (i.e. machine shops, tool repair, towing and vehicle storage, building supply yards, heating/plumbing/electrical contractors, exterminators, janitorial services, fuel oil distributors, solid fuel yards)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>General Manufacturing (i.e. manufacturing, compounding, assembling or treatment of most articles, materials, or merchandise)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Heavy Manufacturing (i.e. concrete and asphalt plants, meat packing plants, wet corn milling, manufacturing of animal feed, paper/paperboard mills, ethanol plants)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
</tr>
<tr>
<td>Mining and Extraction Uses</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
</tr>
<tr>
<td>Salvage Operations (i.e. firms that collect, store, and dismantle damaged or discarded vehicles, machinery, appliances, and building material)</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Warehouse and Freight Uses (i.e. major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
</tr>
<tr>
<td>Waste-Related Uses (i.e. recycling centers, sanitary landfills, waste transfer stations, composting, energy recovery plants, sanitary and water treatment facilities, sanitary collection/pumping facilities, hazardous waste collection sites)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
</tr>
<tr>
<td>Warehouse and Freight Uses (i.e. major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals)</td>
<td>NC</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Wholesale Sales Uses (i.e. sale, lease, or rental of products to retailers for industrial, institutional, or commercial business users)</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
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<tr>
<td><strong>Institutional Activities</strong></td>
<td></td>
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<tr>
<td>Basic Utility Uses (i.e. utility substation facilities, electrical substations, water and sewer lift stations, water towers)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>College and Universities (i.e. public or private colleges and universities, technical colleges, seminaries)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Land Uses</td>
<td>Zone A</td>
<td>Zone B</td>
<td>Zone C</td>
<td>Zone D</td>
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<tr>
<td>General Community Service (i.e. libraries, museums, transit centers,</td>
<td>NC</td>
<td>AR</td>
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<tr>
<td>park and ride facilities, senior/community/neighborhood centers,</td>
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<td>community service centers, police and fire stations)</td>
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<tr>
<td>Daycare Uses (i.e. childcare centers, adult daycare, preschools, after</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>school programs)</td>
<td></td>
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<tr>
<td>Detention Facilities (i.e. prisons, jails, probation centers, juvenile</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
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<tr>
<td>detention homes, halfway houses)</td>
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<tr>
<td>General Educational Facilities (i.e. public and private elementary,</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
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<tr>
<td>middle, junior, and senior high schools including religious, boarding,</td>
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<td>military schools,)</td>
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<tr>
<td>Specialized Education Facilities (i.e. specialized trade, business, or</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
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<tr>
<td>commercial courses, nondegree-granting schools)</td>
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<tr>
<td>Hospitals (i.e. hospitals, medical centers)</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Religious Assembly Uses (i.e. churches, temples, synagogues, mosques,</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>C</td>
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<tr>
<td>Masonic, eagles, moose, or elk lodges)</td>
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<tr>
<td>Infrastructure Activities</td>
<td></td>
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<tr>
<td>Communication Transmission Facility Uses (i.e. broadcast, wireless,</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
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<tr>
<td>point to point, emergency towers and antennae)</td>
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<tr>
<td>Parking Uses (i.e. ground lots, parking structures)</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Transportation Uses (i.e. highways, interstates, local and county</td>
<td>AR</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<tr>
<td>roads)</td>
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<tr>
<td>Utility Uses (i.e. solar power generation equipment, wind generators,</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
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<tr>
<td>wind farms)</td>
<td></td>
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<tr>
<td>Agricultural Activities</td>
<td></td>
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<tr>
<td>Plant-related (i.e. crop farming, vegetable, fruit, and tree, wholesale</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
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<tr>
<td>plant nurseries)</td>
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<tr>
<td>Animal-related (i.e. livestock operations, dairy farms, horse farms)</td>
<td>AR</td>
<td>C</td>
<td>AR</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Resident-related (i.e. single-family home, mobile home if converted to</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>real property and taxed)</td>
<td></td>
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<tr>
<td>Facility-related (i.e. fuel bulkstorage/pumping facility, grain</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>elevator, livestock/seed/grain sales)</td>
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<td>Water Bodies</td>
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<tr>
<td>Man-made resources (i.e. mining and extraction, standing bodies of water,</td>
<td>NC</td>
<td>AR</td>
<td>AR</td>
<td>C</td>
<td>C</td>
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<tr>
<td>wetlands)</td>
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<tr>
<td>Parks and Recreation Activities</td>
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<tr>
<td>Outdoor Amusement (i.e. theme parks, fairgrounds, racetracks, sports</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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<tr>
<td>arenas)</td>
<td></td>
<td></td>
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<tr>
<td>Indoor (i.e. physical fitness centers, health clubs, bowling alleys,</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>skating rinks, billiard halls, arcades, indoor theaters)</td>
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</tbody>
</table>
## Land Uses

<table>
<thead>
<tr>
<th>Land Uses</th>
<th>Zone A</th>
<th>Zone B</th>
<th>Zone C</th>
<th>Zone D</th>
<th>Zone E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Golf (i.e. golf driving ranges, outdoor miniature golf, 9+ hole courses)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Parks (i.e. aquatic, mini, private, sports, neighborhood, school, community)</td>
<td>NC</td>
<td>AR</td>
<td>NC</td>
<td>C</td>
<td>C</td>
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</table>

### Sec. 104-13. - Ordinance Administration.

**A.** As stated in Section 329.13, Iowa Code, all airport zoning regulations adopted under this ordinance shall provide for the administration and enforcement of such regulations by an administrative agency. For purposes of the Marion Municipal Airport Land Use and Height Overlay Zoning, the administration will be enforced by the Airport Zoning Administrator with consultation and cooperation from Linn County Planning and Development. However, in no case, shall such administrative agency be or include any member of the Airport Board of Adjustment. The duties of any administrative agency designated pursuant to the Iowa Code or this ordinance shall not include any of the powers herein delegated to the Airport Board of Adjustment. The Zoning Administrator for the City of Marion shall be recognized as the official Airport Zoning Administrator since the operation of the Marion Municipal Airport falls within the jurisdiction of the City. If needed, Linn County Planning and Development may be called upon from time to time to consult with and/or confer with the Airport Zoning Administrator about the Marion Municipal Airport Land Use and Height Overlay Zoning regulations.

**B.** Applications for permits and variances shall be made to the Airport Zoning Administrator or their designees upon forms furnished by the City of Marion. Applications for permits outside the corporate limit of the City of Marion but within the Airport Overlay Zone shall be made in accordance with the 28E Agreement adopted between the City of Marion and Linn County, or as thereafter amended. Applications for action by the Airport Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator should an applicant request review. Permit applications shall be either granted or denied by the Airport Zoning Administrator according to the regulations prescribed herein.

**C.** Airport Overlay Zoning Permits.

1) It shall be the duty of the applicant to provide the Airport Zoning Administrator or their designees with sufficient information to evaluate the proposed action.

2) The Airport Zoning Administrator or their designees shall evaluate the proposal in accordance with Sec. 104-12, based upon information provided by the applicant. The Airport Zoning Administrator or their designees shall approve the permit if after evaluation, the proposed project is found to be compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator or their designees shall deny the permit. Should the permit be denied, the applicant shall have the right to request a variance or an appeal as prescribed in this ordinance.

**D.** Hazard Markings and Lighting

1) Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any structure, object, natural vegetation, or terrain shall be required to install, operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazard markers and lights shall be installed, operated, and maintained at the expense of the property owner; unless other contractual arrangements have been made and approved by the Marion Municipal Airport Committee.

**E.** Height Limitations

1) No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or be
maintained within any Airport Overlay Zone established by this ordinance to a height in excess of the applicable height limitations set forth in this ordinance. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the Marion Municipal Airport Land Use and Height Overlay Map within the various airport overlay districts encompassed by this ordinance.

2) An FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate height impacts. However, it shall not be the sole source of review. In order to carry out the provisions of this chapter, there shall be created and established certain airport overlay zones which are depicted on the Marion Municipal Airport Land Use and Height Overlay Zoning Map. A parcel located in more than one Airport Overlay Zone shall be considered to be in the Airport Overlay Zone with the more restrictive height and use limitations. The various Airport Overlay Zones shall be established and defined as detailed in Table 2 above.

F. Airport Board of Adjustment
   1) Any person, property owner, or taxpayer impacted by any decision of this ordinance, may appeal to the Airport Board of Adjustment. According to Section 329.12, Code of Iowa, the governing body of any municipality seeking to exercise powers under Chapter 329, shall by ordinance provide for the appointment of an Airport Board of Adjustment, as provided in section 414.7 for a city, or as provided in section 335.10 for a county. The Airport Board of Adjustment has the same powers and duties, and its procedure and appeals are subject to the same provisions as established in sections 414.9 to 414.19 for a city, or sections 335.12 to 335.21 for a county.
      a. The Airport Board of Adjustment shall consist of two (2) members each from the City of Marion and Linn County, selected by the governing body thereof, and one (1) additional member to be selected by the Marion Municipal Airport Committee.
      b. The five (5) appointed members will select a chairperson amongst themselves. Airport Board of Adjustment members may be removed for cause by the appointing authorities (either City of Marion or Linn County) upon written charges and after a public hearing.
      c. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. The terms of the Airport Board of Adjustment members shall be for five (5) years, except when the Board is first created, one (1) of the members appointed by each participating governmental jurisdiction shall be appointed for a term of two years and one (1) for a term of four years.
      d. The concurring vote of a majority of the Airport Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulations adopted pursuant to this chapter or to effect any variance therefrom.

G. Variances
   1) In accordance with Section 329.11, Code of Iowa, any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use the person’s property in violation of Marion Municipal Airport Land Use and Height Overlay Zoning adopted under this ordinance, may apply to the Airport Board of Adjustment for a variance from such zoning regulations. Such variances shall be allowed where a literal application or enforcement of the regulations would result in an unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Airport Board of Adjustment may deem necessary to effectuate the purposes of this Ordinance.
H. Judicial Review
1) Any person or persons, jointly or severally, aggrieved, or any taxpayer, affected, by any decision of the Airport Board of Adjustment, may appeal to the Court of Record as provided in Iowa Code § 414.15.

I. Penalty
1) In accordance with the adopted 28E Agreement for Marion Municipal Airport Land Use and Height Overlay Zoning Administration, any person, firm, corporation, or agent in charge of such building or land who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement any of the provisions of this ordinance or any amendment thereof; or who shall build or alter any building in violation of this ordinance with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction and punishable by civil penalty as provided herein (Code of Iowa, Sec. 331.307[3]). Each day that a violation continues to exist constitutes a separate violation.
2) In accordance with the adopted 28E Agreement for Marion Municipal Airport Land Use and Height Overlay Zoning Administration, a municipal infraction for an airport zoning violation under this Chapter is punishable under the following civil penalties: (Code of Iowa, Sec. 331.307[1])

Sec. 104-14. - Conflicting Regulations.

A. In accordance with Section 329.8, Code of Iowa, where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Sec. 104-15. - Severability.

A. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Sec. 104-16. – Effective Date.

A. This ordinance shall be in effect from and after its adoption by the governing body and publication and posting as required by law, as provided for in Chapter 380.6 and 380.7, Iowa Code. (Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

Section 3: That all other chapters shall remain unchanged by this ordinance.

Section 4: That all ordinances and parts of ordinances in conflict with the same are hereby repealed.

Section 5. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Passed and approved this ____ day of May 2020

____________________________________________________
Chair, Linn County Board of Supervisors
ATTEST:
I, Joel D. Miller, Auditor, Linn County, Iowa hereby certify that at a meeting of the Board of Supervisors of said County, held on the above date, among other proceedings the above was adopted.

______________________________
Joel D. Miller, Auditor
**CASE # JR19-0004**  
**EXECUTIVE SUMMARY**  
**MARION MUNICIPAL AIRPORT LAND USE & HEIGHT OVERLAY ZONING**  
**STAFF CONTACT: LES BECK**  

<table>
<thead>
<tr>
<th>OWNER/APPLICANT INFORMATION</th>
</tr>
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<tbody>
<tr>
<td><strong>APPLICANT:</strong> Linn County Planning &amp; Development Department</td>
</tr>
<tr>
<td><strong>MAILING ADDRESS:</strong> 935 2nd St SW, Cedar Rapids, IA 52404</td>
</tr>
</tbody>
</table>

**REQUEST**

The City of Marion recently adopted Ordinance 19-24, to enact the Marion Municipal Airport Land Use and Height Overlay Zoning. The purpose of the city’s Ordinance is to regulate land uses and the height of structures, objects, and growth of natural vegetation within the vicinity of the Marion Municipal Airport and the projected growth of the airport. The overlay zoning includes land beyond the corporate limits of the City of Marion.

The following narrative is excerpted from the City of Marion’s Council Agenda Memo dated August 20, 2019.

The Marion Airport was a long-standing, privately run airport when the City of Marion purchased it in 2015 from the Waltons. In 2016, the City received a grant from the Iowa Department of Transportation (IDOT) to create an Airport Layout Plan (ALP) for the future growth of the Marion Municipal Airport. In 2017, the City Council adopted the Marion Airport Layout Plan and received an additional grant from the IDOT for services related to establishing Comprehensive Plan and Zoning regulations relating to the protection of the airspace surrounding the Marion Municipal Airport. Since the award of the planning grant, the City also received a grant from the IDOT to reconstruct the existing airport runway; however, the IDOT has made it clear that no reimbursement of funds will be made until the City adopts Comprehensive Plan and Zoning regulations to protect the investment (reconstruction) in the Marion Airport. In May of 2019, the Planning and Zoning Commission recommended a Comprehensive Plan and Land Use Map amendment for the Marion Airport, based off the approved ALP. In July 2019, the City Council approved a Comprehensive Plan and Land Use Map amendment for the north/south runway at a length of 4,000 feet, north of the existing Grant Wood Trail. The full extent of the adopted ALP remains unchanged at this time.
Iowa Code section 329.4, *Extraterritorial airport hazard areas*, empowers local governments to zone height and land use restrictions around airports, including land outside the limits of the city owning the airport. While this power is optional for Linn County as applied to the unincorporated land within the overlay zone, the City may demand adoption with recourse through district court, should the County fail to adopt the airport protection overlay zoning.

A 28E Agreement between the City of Marion and Linn County regarding the administration of the overlay zoning shall be adopted concurrently with the Marion Municipal Airport Land Use and Height Overlay Zoning Ordinance.

**STAFF RECOMMENDATION**

Staff recommends approval subject to the conditions of the staff report.
STAFF REPORT
REZONING
JR19-0004

Planning and Zoning Commission Meeting: November 18, 2019 (ACTION POSTPONED)
Planning and Zoning Commission Meeting: December 16, 2019
Board of Supervisors Public Hearing & First Consideration: January 6, 2020 (tentative)

PROPERTY INFORMATION:

MAP DESIGNATION: The current Linn County Land Use Plan Map designations will remain unchanged.

CURRENT ZONING: The current Linn County "base" zoning will remain unchanged.

PROPOSED OVERLAY ZONING: The proposed Airport Overlay Zoning Districts are:

- Zone A: Runway Protection Zone (RPZ)
- Zone B: Approach Zone
- Zone C: Transitional Surface
- Zone D: Horizontal Surface
- Zone E: Conical Surface

FINDINGS OF FACT:

1. Iowa Code Chapter 329, Airport Zoning, empowers municipalities to enact airport protection zoning to specify the permitted land uses, and regulate and restrict the height of structures, trees, or other obstructions within the overlay zones.

2. Iowa Code section 329.4, Extraterritorial airport hazard areas, provides the airport governing municipality (in this case the City of Marion) with the authority to demand adoption with recourse through district court, should the County fail to adopt the airport protection overlay zoning in the unincorporated area.

3. On September 5, 2019, the City of Marion adopted Ordinance 19-24, enacting Chapter 176.53, Marion Municipal Airport Land Use and Height Overlay Zoning, of the Marion Code of Ordinances. The proposed Overlay Zoning and Overlay Zoning Map is meant to:
   a) Establish a clear intent and purpose for the creation of zoning regulations relating to the Marion Airport;
   b) Establish definitions relating to the regulation of the Overlay Zoning;
   c) Establish 5 Zones within the Overlay that provide needed protections of the airport airspace;
d) Identify the regulation of nonconforming land uses or structures that may be created with the Overlay Zoning;
e) Identify how Compatible, Noncompatible, and Additional Review on land uses would occur, and;
f) Establish the Airport Board of Adjustment.

4. On October 14, 2019, Tom Treharne, City of Marion Community Development Director, appeared in front of the Linn County Board of Supervisors to discuss the Marion Municipal Airport Land Use and Height Overlay Zoning and to request consideration by the County of airport protection overlay zoning for the unincorporated area.

5. On October 21, 2019, Tom Treharne, City of Marion Community Development Director, appeared in front of the Linn County Planning & Zoning Commission to discuss the Marion Municipal Airport Land Use and Height Overlay Zoning and to request consideration by the County of airport protection overlay zoning for the unincorporated area.

6. The proposed zoning consists of “overlay” zones. The underlying zoning will remain unchanged, and will provide the first level of governance on permitted land uses and height limitations on structures. The overlay zones will place additional restrictions on land uses and heights of structures within the overlay zones. In a case of conflict between the two, the more strict regulations shall apply.

7. The Linn County Planning & Development Department is acting as the applicant in the requested adoption of the Marion Municipal Airport Land Use and Height Overlay Zoning Ordinance.

8. A 28E Agreement between Linn County and the City of Marion is being written to provide the administrative structure for the overlay zoning.

9. On November 18, 2019, the Linn County Planning & Zoning Commission postponed action for a month to allow for additional public input.

10. On November 27, 2019, a notice of upcoming open houses was mailed to affected property owners in unincorporated Linn County. The notice listed the dates and times of two open houses, a map of the proposed overlay zones, and a URL address to a copy of the draft overlay ordinance.

11. On December 9, 2019, an open house was held at the Marion City Hall. The purpose of the open house was to provide an opportunity for the public to ask questions and to learn specifics about the proposed overlay districts as applied to affected property.

12. On December 16, 2019, a second open house was held at the Linn County Public Service Center prior to the Planning & Zoning Commission meeting.

13. On December 16, 2019, the Planning & Zoning Commission recommended approval to the Board of Supervisors (4-2-1 absent).

14. On January 6, 2020, the Board of Supervisors held a public hearing on the proposed amendments. At the conclusion of the public hearing, the Board tabled the rezoning.

CONCLUSIONS OF LAW:

Animal feeding operations separation distance requirements, Land Evaluation and Site Assessment (LESA) point threshold requirements, and Minimum Level of Services (MLS) requirements. The Marion Municipal Airport Land Use and Height Overlay Zoning will place certain restrictions on land uses and heights of obstructions within the overlay zones. The underlying zoning will remain unchanged. There is no new development proposed as a part of this rezoning; therefore, the animal feeding operation separation requirements, the LESA point threshold requirements, and the MLS requirements are not applicable to the review.
Article IV, Section 107-69, § (5), Additional Standards for Review. This section of the UDC states that any proposed development must be consistent with the Comprehensive Plan, the purposes and intent of the UDC and the supplemental policies, requirements and standards of the UDC, including but not limited to:

a. The proposed development is not detrimental to existing agricultural uses.

   Analysis: Agricultural uses are permitted in every underlying zoning district except the MH Mobile Home District. Additionally, the State of Iowa has declared that farms should be able to operate relatively free from local restrictions. This “right to farm” is contained in the following sections from the Code of Iowa:

   **335.2 Farms exempt.** Except to the extent required to implement section 335.27, no ordinance adopted under this chapter applies to land, farmhouses, farm barns, farm outbuildings or other buildings or structures, which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used.

   **331.304.3.b Farms exempt.** A county building code shall not apply to farmhouses or other farm buildings, which are primarily adapted for use for agricultural purposes, while so used or under construction for that use.

   Linn County administers the farm exemption provisions of the Code of Iowa through the Agricultural Exemption Application review process. The 28E Agreement between Linn County and the City of Marion will include provisions for review of exemption applications for agricultural structures by the City. Notwithstanding the exemption provisions, any agricultural structure must comply with the overlay district height restrictions.

   The maximum height for principal structures, except for agricultural buildings (which are exempt from zoning), utilities, and communication towers or wind towers, within any of the underlying base zoning districts is 45’ (most districts are limited to 35’). Except for Zone A, Runway Protection Zone, and Zone B, Approach Zone, the overlay zoning restrictions should not adversely impact allowable development within the underlying base zoning districts.

   **Conclusion:** Based on the above analysis, the proposed overlay zoning is not detrimental to existing agricultural uses.

b. The proposed development will not degrade significant environmental, ecological or natural resources.

   Analysis: There is no new development proposed as a part of this rezoning. The underlying zoning will remain unchanged.

   **Conclusion:** Based on the above analysis, the proposed overlay zoning will not degrade significant environmental, ecological or natural resources.

c. The proposed development achieves densities and uses in agricultural areas, critical natural resource areas, rural residential development areas and urban service areas as designated in the Comprehensive Plan.

   Analysis: There is no new development proposed as a part of this rezoning. The underlying zoning will remain unchanged.

   **Conclusion:** The proposed overlay zoning will not impact the recommended densities as designated on the Rural Land Use Map.

d. The proposed development is consistent with the goals, objectives and strategies of the Comprehensive Plan.

   Table 1 below lists all of the Goals found within each of the seven (7) Plan Elements in the Linn County Comprehensive Plan and determines if the proposal supports, does not support, or is neutral to each individual Goal based on a review of the Objectives and Strategies found in the plan.
Conclusion: The proposal is generally in conformance with the Linn County Comprehensive Plan.

Table 1. Linn County Comprehensive Plan Goals

<table>
<thead>
<tr>
<th>ELEMENTS</th>
<th>GOALS</th>
<th>Proposal Supports</th>
<th>Proposal Does Not Support</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative and Renewable Energy</td>
<td>Goal 1: Encourage and support the development and use of alternative and renewable energy sources.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 2: Encourage and support energy efficiency strategies.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 3: Identify and mitigate barriers to the development of local alternative and renewable energy resources and increased energy efficiency strategies.</td>
<td></td>
<td>X¹</td>
<td></td>
</tr>
<tr>
<td>Economic Development and Employment Opportunities</td>
<td>Goal 1: Encourage a diverse agricultural economy, including local foods and commodity-based agriculture.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 2: Seek opportunities to diversify and expand the local employment base by providing a supportive environment for existing and new businesses, as well as entrepreneurial activities.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 3: Support and encourage a well-educated, highly skilled, and diverse workforce prepared for an increasingly competitive global marketplace.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 4: Recognize that future economic success in the county depends on implementing sustainable business practices that protect our natural environmental systems.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Hazard Planning</td>
<td>Goal 1: Identify and implement strategies to prevent the occurrence of human-made hazards.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 2: Reduce the risk of the loss of life, property, and economic activity as a result of the occurrence of natural and human-made hazards.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 3: Increase the capacity of local government and residents to respond to the occurrence of natural and human-made hazards.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 4: Increase the capacity of local government and residents to recover from the occurrence of natural and human-made hazards.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Livable Communities</td>
<td>Goal 1: Protect and enhance the health and safety of all Linn County residents.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 2: Maximize resilience through the production and purchase of local and regional products, and the protection of local resources.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 3: Enhance connectivity and opportunities for all through improvements in transportation, education, and communication.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 4: Plan for demographic trends and changes.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goal 5: Value the county’s unique and special places.</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

¹ The Linn County Wind Farm Siting Feasibility Study, conducted by the University of Iowa Office of Outreach and Engagement, placed a 20,000’ buffer around the Marion Municipal Airport as part of the compatibility analysis.
### Resource Protection

<table>
<thead>
<tr>
<th>Goal</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal 1</td>
<td>Support initiatives designed to prevent soil erosion, improve soil quality, and educate the public on the importance of healthy soils in both urban and rural environments.</td>
</tr>
<tr>
<td>Goal 2</td>
<td>Encourage the long-term viability of agriculture.</td>
</tr>
<tr>
<td>Goal 3</td>
<td>Strive to maintain high-quality water resources.</td>
</tr>
<tr>
<td>Goal 4</td>
<td>Address drainage and stormwater management as a regional issue and foster multi-jurisdictional cooperation.</td>
</tr>
<tr>
<td>Goal 5</td>
<td>Support initiatives designed to protect or improve local air quality.</td>
</tr>
<tr>
<td>Goal 6</td>
<td>Conserve and enhance natural resources, open space, and wildlife habitat throughout the county.</td>
</tr>
<tr>
<td>Goal 7</td>
<td>Balance accessibility to local mineral resources with public safety considerations and competing resource protection goals.</td>
</tr>
</tbody>
</table>

### Sustainable Development

<table>
<thead>
<tr>
<th>Goal</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal 1</td>
<td>Maximize the use of existing gray infrastructure and adopt innovative green infrastructure techniques.</td>
</tr>
<tr>
<td>Goal 2</td>
<td>Proactively address climate change through prevention and adaptation.</td>
</tr>
<tr>
<td>Goal 3</td>
<td>Incorporate enhanced stormwater management and erosion control practices into county development standards.</td>
</tr>
<tr>
<td>Goal 4</td>
<td>Encourage green building practices for new construction and major remodels, and consider code amendments that encourage or do not inhibit sustainable development practices.</td>
</tr>
<tr>
<td>Goal 5</td>
<td>Reduce landfilled waste and support clean, efficient, economical, and environmentally sound management of solid waste.</td>
</tr>
</tbody>
</table>

### Transportation

<table>
<thead>
<tr>
<th>Goal</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal 1</td>
<td>Ensure land use decisions are coordinated with city, county, and regional transportation plans.</td>
</tr>
<tr>
<td>Goal 2</td>
<td>Encourage alternatives to auto-dependent travel when making transportation, land use, and infrastructure decisions.</td>
</tr>
<tr>
<td>Goal 3</td>
<td>Consider environmental, cultural, and historic resources in planning future transportation corridors, and in the physical design of transportation infrastructure.</td>
</tr>
<tr>
<td>Goal 4</td>
<td>Encourage a transportation system that improves the mobility, accessibility, connectivity, and safety for all residents.</td>
</tr>
<tr>
<td>Goal 5</td>
<td>Promote comprehensive strategies to reduce dependency on non-sustainable fuel sources and increase fuel efficiency.</td>
</tr>
</tbody>
</table>

### ALTERNATIVES:

The following alternatives may be considered:

1. Recommend approval of the proposal subject to conditions.
2. Recommend denial of the proposal.
3. Refer the proposal back to the applicant for additional review / information.

### STAFF RECOMMENDATION:

Staff recommends Alternative 1 for the following reasons:

1. For the protection of the public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
2. The proposed overlay zoning conforms to pertinent standards for review as contained in the Linn County Unified Development Code.

IT IS THE RESPONSIBILITY OF THE APPLICANT TO COMPLETE ALL CONDITIONS, AS OUTLINED IN THIS STAFF REPORT, PRIOR TO FINAL APPROVAL OF THE CASE. IF YOU HAVE QUESTIONS REGARDING A CONDITION, CONTACT THE DEPARTMENT UNDER WHICH THAT CONDITION IS LISTED. THE CONTACTS’ NAMES AND PHONE NUMBERS ARE LISTED BELOW. ITEMS IN THE COMMENTS SECTION ARE NOT A REQUIREMENT TO BE
MET PRIOR TO APPROVAL. THEY ARE INTENDED TO INCREASE YOUR KNOWLEDGE AND AWARENESS OF ISSUES THAT MAY POSSIBLY EXIST ON THE PROPERTY.

LINN COUNTY SECONDARY ROAD DEPARTMENT, 892-6400
BRAD KETELS, COUNTY ENGINEER, Brad.Ketels@linncounty.org
JON RESLER, ASSISTANT COUNTY ENGINEER, Jon.Resler@linncounty.org

1. No conditions to be met.

IOWA DEPARTMENT OF TRANSPORTATION
JOEL KEIM, ENGINEERING OPERATIONS TECHNICIAN, 730-1533
Joel.Keim@dot.iowa.gov

1. If any work is to be done in the State of Iowa right-of-way, contact the IDOT for additional permits.

LINN COUNTY PUBLIC HEALTH DEPARTMENT
SUE ELLEN HOSCH, ENVIRONMENTAL SPECIALIST, 892-6033
SueEllen.Hosch@linncounty.org

1. No conditions to be met.

NATURAL RESOURCES CONSERVATION SERVICE
JON GALLAGHER, LINN COUNTY SOIL CONSERVATIONIST
JOHN BRUENE, DISTRICT CONSERVATIONIST, 377-5960 x3
Jon.Gallagher@ia.nacdnet.net

1. No conditions to be met.

LINN COUNTY CONSERVATION DEPARTMENT
DANIEL GIBBINS, 892-6450
Daniel.Gibbins@linncounty.org

1. No conditions to be met.

LINN COUNTY EMERGENCY MANAGEMENT
STEVE O’KONEK, 892-6500
Steve.OKonek@linncounty-ema.org

1. No conditions to be met.

LINN COUNTY PLANNING AND DEVELOPMENT
LES BECK, DIRECTOR, 892-5130
les.beck@linncounty.org

1. A 28E Agreement between the City of Marion and Linn County regarding the administration of the Marion Municipal Airport Land Use and Height Overlay Zoning shall be adopted concurrently with the Marion Municipal Airport Land Use and Height Overlay Zoning Ordinance.

November 18, 2019: Planning & Zoning Commission recommendation to postpone action on Case JR19-0004 until December, to provide for additional public input.

Maxwell Aye
Gatewood Absent
Carson Absent
December 16, 2019: Planning & Zoning Commission recommended approval of case JR19-0004

Gatewood  Absent
Bellon    Aye
Eilers    Aye
Carson    Nay
Grenis    Aye
Landa     Aye
Maxwell   Nay

January 6, 2020: Board of Supervisors tables first consideration.
Marion Airport Height Overlay Map

- **Primary Surface**
- **Zone A: RPZ**
- **Zone B: Approach (34:1)**
- **Zone C: Transitional Surface (7:1)**
- **Zone D: Horizontal Surface (150 ft)**
- **Zone E: Conical Surface (20:1)**

Legend:
- Primary Surface
- Zone A: RPZ
- Zone B: Approach (34:1)
- Zone C: Transitional Surface (7:1)
- Zone D: Horizontal Surface (150 ft)
- Zone E: Conical Surface (20:1)
THIS AGREEMENT is made and entered into by and between THE CITY OF MARION, IOWA, hereinafter referred to as “City” and LINN COUNTY, IOWA, hereinafter referred to as “County.” The AGREEMENT applies to land located in Linn County but outside the corporate limits of the City of Marion and within the Airport Land Use and Height Overlay Zone, hereinafter referred to as the “area of jurisdiction.”

ARTICLE I
PURPOSE

The purpose of this Agreement is to establish the joint jurisdictional review procedures related to proposed buildings and uses located within the area of jurisdiction.

ARTICLE II
DURATION

This Agreement shall commence on the date this agreement is filed with the Secretary of State and shall continue thereafter until it is terminated.

ARTICLE III
ROLES

The City shall act as administrator of this agreement for purposes of Iowa Code Section 28E.6(1)(a).

The County, specifically the Linn County Planning and Development Department shall act as the Building Official and Zoning Administrator for land located within the area of jurisdiction.

The City of Marion Community Development Department shall determine conformance to the Marion Municipal Airport Land Use and Height Overlay Zoning Ordinance for any application for Building, Zoning and/or Agricultural Exemption within the area of jurisdiction.

ARTICLE IV
RIGHTS AND DUTIES OF THE PARTIES
Applications for Building, Zoning and/or Agricultural Exemption within the area of jurisdiction shall be submitted to the office of Linn County Planning and Development for review and issuance, in accordance with adopted ordinances.

In the event an application request includes the following, said application shall be sent to City of Marion Community Development Department for review for conformance to the Marion Municipal Airport Land Use and Height Overlay Zone Ordinance:

- Application includes a change in zoning or establishment of a new, temporary and/or conditional use, or application for modification of an approved conditional use.
- Application includes a permit for a new structure or expansion (including increased height) to an existing structure in Zone A, B or C.
- Application includes a permit for a new structure or expansion (including increased height) to an existing structure in Zone D or E that exceeds 100 feet in height.
- Application for agricultural exemption established under Iowa Code 335.2 or 331.304.3.b

An application submitted to Linn County and determined to be complete shall be forwarded to the Marion Community Development Department for review. City Staff shall review the application and determine whether the request is in conformance with the Overlay Zone. It is anticipated that both City and County Staff will deliberate as needed in order to perform the review of applications. If the City determines the application is in conformance with the Overlay Zone, Linn County shall issue the permit or exemption. If the City determines the application is in violation of the Overlay Zone, City staff will confer with Linn County Planning staff as to the reasons and City/Linn County staff will set a time to meet with the applicant jointly to discuss the reasons for the determination. The applicant will have an opportunity to amend the application to bring it into conformance. Otherwise, the County shall deny the application. In the event an application is denied, the applicant will be provided the opportunity to seek a variance; however, it should be noted a use variance would not be allowed to be heard.

The City of Marion/Linn County would be responsible to establish and provide for the administration of the Airport Zoning Board of Adjustment consistent with the Airport Overlay Zone. Membership shall be consistent with the Airport Overlay Ordinance; once formed the Board shall adopt bylaws and deliberate consistent with the Airport Overlay Ordinance.

Applications submitted to the City of Marion shall be reviewed and City staff shall provide a written determination to the County within five business days of receipt of the application. Applications may be transmitted via email as a PDF document or in a different format if agreed upon by both parties. It is recognized that both the City and Linn County may
charge a fee for reviews subject to this Agreement; said fee would need to be established by resolution for each jurisdiction proposing to enact such a fee.

Amendments to the Airport Overlay Ordinance in either jurisdiction may occur from time to time. In the event either jurisdiction proposes to amend the Airport Overlay Zoning Ordinance, notice shall be given to the other jurisdiction at least 14 days in advance, including the opportunity for a meeting to discuss the proposed amendment and potential impacts.

ARTICLE V
FINANCING

The parties shall each cover any expenses incurred and shall be entitled to any fees collected in the discharge of their respective duties outlined above.

ARTICLE VI
INSURANCE AND INDEMNIFICATION

To the extent permitted by law, each party will indemnify and hold harmless the other party from and against any and all losses, costs, damages, claims, and expenses, including reasonable attorney’s fees and expenses, occasioned by or arising from the negligence or willful misconduct of itself and its agents, representatives, administrators, officers, and/or employees. Each party shall be responsible for the action or failure to take action by itself and its agents, representatives, administrators, officers, and/or employees. Neither party shall insure the actions of the other party.

ARTICLE VII
Termination

This agreement may be terminated by either party, upon thirty (30) days written notice.

ARTICLE VII
GOOD FAITH

The City, the County, their agents, officers, and employees agree to cooperate in good faith in fulfilling the terms of this Agreement. Unforeseen difficulties or questions will be resolved by negotiation between the County and the City, or their designees.

ARTICLE VIII
MODIFICATION

This Agreement shall not be modified except by written agreement signed by both parties.

ARTICLE IX

ENTIRE AGREEMENT

This Agreement is the entire agreement and constitutes the full understanding of the parties, and no terms, conditions, understandings, or agreements purporting to modify or vary the terms of this Agreement shall be binding unless made in writing and signed by both parties.

Further, this agreement constitutes a final written expression of all of the terms of this Agreement and is a complete and exclusive statement of those terms.

ARTICLE X

NOTICES

Any written notices as required in this Agreement shall be sent to the addresses of the respective parties as set out in this Agreement.

Notices for the County shall be delivered to:

Linn County Planning & Development
935 2nd St. SW
Cedar Rapids, IA 52404

Notices for the City shall be delivered to:

City of Marion
1225 6th Ave
Marion, IA 52302

ARTICLE XI

ADDITIONAL PROVISIONS RELATING TO IOWA CODE SECTION 28E.6

In accordance with Iowa Code Section 28E.6, the City and the County further state:

A. This Agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking of the County and the City for this project. As stated in
Article III above, the City shall act as administrator for purposes of Iowa Code Section 28E.6(1)(a).

B. No real or personal property shall be jointly acquired, held, or disposed of in the execution of this agreement. Each party shall acquire, hold, and dispose of real property as otherwise provided in this agreement.

C. Pursuant to Iowa Code Section 28E.8, the City shall file this Agreement with the Iowa Secretary of State in an electronic format and in a manner specified by the Secretary of State.

ARTICLE XI
THIRD-PARTY BENEFICIARIES

This Agreement is by and between the parties only. There are no third-party beneficiaries to this Agreement.

ARTICLE XII
EXECUTION

This Agreement may be executed in any number of counterparts as the case may be, each of which shall be deemed a duplicate original and which together shall constitute one and the same instrument. In addition, the parties agree that this Agreement may be executed by electronic, pdf or facsimile signatures by any party and such signature will be deemed binding for all purposes hereof without delivery of an original signature being thereafter required.

IN WITNESS THEREOF, the parties have caused this Agreement to be signed by their duly authorized officers.

THE CITY OF MARION by:

Nicolas AbouAssaly, Mayor

Date

ATTEST:
I, Rachel Bolender, City Clerk of the City of Marion, Iowa hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings the above was adopted.
BOARD OF SUPERVISORS
LINN COUNTY by:

________________________________________ __________________________
Ben Rogers, Chair             Date

________________________________________ __________________________
Brent Oleson, Vice-Chair        Date

________________________________________ __________________________
Stacey Walker, Supervisor       Date

ATTEST:
I, Joel Miller, Auditor, Linn County, Iowa hereby certify that at a meeting of the Board of
Supervisors of said County, held on the above date, among other proceedings the above was
adopted.

Linn County Auditor