



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, OCTOBER 11, 2022 6:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting
Meetings are televised everyday on Channel 2 at 6 p.m. and midnight and available for viewing on YouTube

CALL TO ORDER – Pledge of Allegiance Followed by Silent Meditation

PRESENTATIONS & PROCLAMATIONS:

1. Mayor's Award
2. Proclamations (pg. 02)
 - a. Domestic Violence Awareness Month
 - b. World Polio Day October 24, 2022
 - c. Military Retiree Appreciation Day October 29, 2022

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

3. Minutes from September 27, 2022 Regular Meeting **Action:** Motion (pg. 05)

Second Consideration Ordinances:

4. Second Consideration Ordinance No. 8196 Rezoning 2101 & 2013 Vilas Street from Low Density Single Family Residential to Medium Density Single Family Residential **Action:** Roll Call Vote (pg. 10)
5. Second Consideration Ordinance No. 8197 Adopt Text Amendments to the Code of Ordinances; Development Regulations of the City of Leavenworth **Action:** Roll Call Vote (pg. 13)

NEW BUSINESS:

Public Comment: *(i.e. Items not listed on the agenda or receipt of petitions)-Public comment is limited to 2-3 minutes and no action will be taken by the Commission on public comment items - Please state your name and address. A signup sheet will be provided in the commission chambers for anyone wishing to speak.*

Bids, Contracts and Agreements:

6. Consider Approval of 2023 Landfill Services Contract with Waste Management **Action:** Motion (pg. 81)

First Consideration Ordinance:

7. First Consideration Ordinance Amending the Code of Ordinances, Sections 22-25, 22-107 and 22-134; Amending the Licensing Period **Action:** Consensus (pg. 86)

Consent Agenda:

Claims for September 24, 2022, through October 7, 2022, in the amount of \$1,536,084.99; Net amount for Payroll #20 effective October 7, 2022 in the amount of \$352,978.77 (No Police and Fire Pension). **Action:** Motion

Other:

Adjournment

Action: Motion

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *One in every four women will experience domestic violence during her lifetime with approximately 15.5 million children exposed to domestic violence every year; and*
- WHEREAS,** *when a family member is abused, it can have long-term damaging effects on the victim that also leaves a mark on family, friends, and the community at large; and*
- WHEREAS,** *domestic violence is widespread and is devastating to society as a whole, and the problem crosses all economic, racial, gender, educational, religious, and societal barriers; and*
- WHEREAS,** *the crime of domestic violence violates an individual's privacy, dignity, security, and humanity due to the systematic use of physical, emotional, sexual, psychological, and economic control or abuse; and*
- WHEREAS,** *victims should have help to find the compassion, comfort, and healing they need, with access to medical and legal services, counseling, transitional housing so that they can escape the cycle of abuse and domestic abusers should be punished to the full extent of the law; and*
- WHEREAS,** *we encourage domestic violence victims and their families to seek assistance from the Alliance Against Family Violence Hotline (913-675-7217); and*
- WHEREAS,** *it is important to recognize the compassion and dedication of the individuals who provide services to victims of domestic violence; and*
- WHEREAS,** *the United States President, Congress and other agencies have expressed a commitment to eliminating domestic violence; and we must dedicated ourselves to protect vulnerable members of our society with local programs, state coalitions, national organizations, and other agencies to increase public awareness of domestic violence, and to eliminate it through prevention and education.*

NOW, THEREFORE, *I, Camalla M. Leonhard, Mayor of the City of Leavenworth, Kansas hereby proclaim the month of October 2022 as:*

Domestic Violence Awareness Month

and urge all the people of Leavenworth, Kansas to work towards the elimination of domestic violence.

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this 11th day of October in the year of two-thousand and twenty-two.*

Camalla M. Leonhard, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *Rotary International, founded on February 23, 1905 in Chicago, Illinois, USA, is the world's first and one of the largest non-profit service organizations; and*

WHEREAS, *Rotary is a global network consisting of over 1.4 million members in more than 46,000 clubs in 221 countries and geographical areas who unite as neighbors, friends, leaders, and problem-solvers to take action to create lasting change in communities across the globe; and*

WHEREAS, *the Rotary motto, Service Above Self, inspires members to provide humanitarian service, follow high ethical standards, and promote goodwill and peace in the world; and*

WHEREAS, *Rotary in 1985 launched PolioPlus and in 1988 helped establish the Global Polio Eradication Initiative, which today includes the World Health Organization, U.S. Centers for Disease Control and Prevention, UNICEF, the Bill & Melinda Gates Foundation, and Gavi, the Vaccine Alliance, to immunize the children of the world against polio; and*

WHEREAS, *polio cases have dropped by 99.9 percent since 1988 and the world stands on the threshold of eradicating the disease; and*

WHEREAS, *to date, Rotary has contributed more than US \$2.6 billion and countless volunteer hours to protecting nearly 3 billion children in 122 countries; and*

WHEREAS, *Rotary is working to raise an additional \$50 million per year, which would be leveraged for maximum impact by an additional \$100 million annually from the Bill & Melinda Gates Foundation; and*

WHEREAS, *these efforts are providing much-needed operational support, medical staff, laboratory equipment, and educational materials for health workers and parents; and*

WHEREAS, *in addition, Rotary has played a major role in decisions by donor governments to contribute more than \$10 billion to the effort; and*

WHEREAS, *there are 73 members of the Rotary Club of Leavenworth who sponsor service projects to address such critical issues as poverty, disease, hunger, illiteracy, and the environment in our local community and abroad; and*

WHEREAS, *Leavenworth Rotarians have committed their time, talent and treasure to continue support of PolioPlus until Polio is finally eradicated from the earth.*

NOW, THEREFORE, *I, Camalla M. Leonhard, Mayor of the City of Leavenworth, Kansas hereby proclaim October 24, 2022 as:*

World Polio Day

In Leavenworth, Kansas and encourage all citizens to participate in this observance.

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this 11th day of October in the year of two-thousand and twenty-two.*

Camalla M. Leonhard, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *Military Retirees have served our country faithfully in times of peace and war; and*

WHEREAS, *Military Retirees have made significant sacrifices in defense of our freedom and liberty; and*

WHEREAS, *a large number of Military Retirees and their families live, work, and play in the Leavenworth community; and*

WHEREAS, *the Fort Leavenworth Garrison will conduct a Retiree Appreciation Day on October 29, 2022.*

NOW, THEREFORE, *I, Camalla M. Leonhard, Mayor of the City of Leavenworth, Kansas do hereby join the Fort Leavenworth Garrison in recognizing the contributions, sacrifices, and loyalty of Military Retirees in our community by proclaiming October 29, 2022 as:*

Military Retiree Appreciation Day

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this 11th day of October in the year of two-thousand and twenty-two.*

Camalla M. Leonhard, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk



CITY OF LEAVENWORTH
100 N. 5th Street
Leavenworth, Kansas 66048

City Commission Regular Meeting
Commission Chambers
Tuesday, September 27, 2022 6:00 p.m.

CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Camalla Leonhard, Mayor Pro-Tem Jermaine Wilson and Commissioners Nancy Bauder, Edd Hingula and Griff Martin.

Staff members present: City Manager Paul Kramer, Assistant City Manager Penny Holler, Finance Director Roberta Beier, Fire Marshall Andy Brooks, Planning and Community Development Director Julie Hurley, Community Development Coordinator Julie McKeel, Police Chief Patrick Kitchens, Riverfront Community Center Manager Tammy Metzgar, City Attorney David E. Waters and City Clerk Sarah Bodensteiner.

Mayor Leonhard asked everyone to stand for the pledge of allegiance followed by silent meditation.

PROCLAMATIONS:

Fire Prevention Week – October 9-15 – Mayor Leonhard read the proclamation proclaiming October 9-15, 2022 as Fire Prevention Week. The proclamation was accepted by Fire Marshall Andy Brooks.

Fire Marshall Brooks:

- This year is the 100th year of Fire Prevention Week
- Wants to ensure all families have a home plan for fire escape
- Having functioning smoke detectors is very important

Mayor Leonhard invited Fire Safety Advocate Bella Whitlock 1108 S. Broadway to speak:

- Miss Leavenworth Teen Volunteer
- Fire safety is an important cause
- Educating young people about fire safety
- Raised over \$500 for smoke detectors to be donated to the Fire Department

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Wilson moved to accept the minutes from the September 13, 2022 regular meeting. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Leonhard declared the motion carried 5-0.

Second Consideration Ordinance:

Second Consideration Ordinance No. 8193 Adopt Standard Traffic Ordinance 49th Edition – Police Chief Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the September 13, 2022 meeting.

Commissioner Hingula:

- Asked a question if panhandling was being allowed in the streets

Chief Kitchens:

- Advised panhandling would not be allowed in the streets, which is why that section is being omitted from the Ordinance

Mayor Leonhard called the roll and Ordinance No. 8193 was unanimously approved.

Second Consideration Ordinance No. 8194 Adopt Uniform Public Offense Code 38th Edition – Police Chief Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the September 13, 2022 meeting.

Mayor Leonhard called the roll and Ordinance No. 8194 was unanimously approved.

Second Consideration Ordinance No. 8195 Adopt the 2022 Intersection Traffic Control Device Master Index – Police Chief Patrick Kitchens reviewed the Ordinance. There have been no changes since first introduced at the September 13, 2022 meeting.

Mayor Leonhard called the roll and Ordinance No. 8195 was unanimously approved.

Public Comment: *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*

Phil Connor 3122 Iowa Street:

- Discussed storm water erosion issues on his property
- 15% of property has been eroded
- Situation is getting worse
- Large elm has been impacted and the tree is tilting towards his home
- Has questions for the City Manager and requests a response within 30 days

General Items:

Consider Transient Merchant Permit Waiver Request for Military Collectors Show at Riverfront Community Center – City Clerk Sarah Bodensteiner presented for consideration an application for a waiver requested by Edward Trevor Brown for the use of the Riverfront Community Center on February 11, 2023 for a Military Collectors Show. The show has been held at the RFCC for several years. City Code prohibits Transient Merchant permits on city property, but does allow the Commission to grant waivers. All fees for use of the facility and permits would still apply should the waiver be granted.

Trevor Brown:

- Event was started by his father when he was at CGSC
- 300-400 people typically attend the event
- Many will stay in hotels in town

Commissioner Martin moved to grant the waiver as presented. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Leonhard declared the motion carried 5-0.

Consider Cereal Malt Beverage License for Petra's Imbiss Stube 427 Delaware Street – City Clerk Sarah Bodensteiner presented for consideration a request for an on premise Cereal Malt Beverage license for

Petra's Imbiss Stube located at 427 Delaware Street. The request has been reviewed and approved by the Police Department.

Commissioner Wilson moved to approve the issuance of a 2022 on premise consumption Cereal Malt Beverage license for Petra's Imbiss Stube at 427 Delaware Street as presented. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Leonhard declared the motion carried 5-0.

Resolutions:

Resolution B-2323 Community Development Block Grant Consolidated Annual Performance & Evaluation Report (CAPER) – Community Development Coordinator Julie McKeel presented for approval Resolution B-2323 approving the 2021-2022 CAPER for submission to the U.S. Department of Housing and Urban Development (HUD). Ms. McKeel provided a brief summary of the grant year to include the following:

- The CAPER is required to report goals, projections and how funds were spent
- This year's report is more in-depth than in years past due to new reporting requirements
- Assisted 14 homeowners with minor repairs
- Helped with the acquisition of 4 homes for first time home buyers
- Provided rent or utility assistance to 6 public service agencies who served over 9000 individuals
- Removed 4 unsafe or blighted structures and 3 accessory structures

Commissioner Bauder:

- Asked for an overview of the 1st time home ownership program that is offered through CDBG

Ms. McKeel:

- HUD requirements do apply
- Reviewed award amounts based on income
- Home must pass certain types of inspections as well
- Actively sharing the information with realtors and cold calling realtors in town so they are aware of the program

Commissioner Bauder moved to approve Resolution B-2323 approving the CAPER 2021-2022 for submission to the U.S. Department of Housing and Urban Development (HUD). Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Leonhard declared the motion carried 5-0.

First Consideration Ordinances:

First Consideration Ordinance Development Regulations Text Amendments – Planning & Community Development Director Julie Hurley presented for consideration an ordinance amending various sections of the Development Regulations of the City Code of Ordinances. The Planning Commission reviewed the proposed amendments at their September 12, 2022 meeting and voted unanimously to recommend approval. Ms. Hurley reviewed the articles that have amendments.

Commissioner Hingula:

- Asked if any residents attended the public hearing the Planning Commission held
- Would the sheds for sale on 20th and Spruce be considered tiny homes

Commissioner Wilson:

- Asked if there is an appetite in the community for tiny homes

Ms. Hurley:

- No residents attended the meeting held by the Planning Commission
- Those buildings would have to meet all of the requirements in order to be used as a dwelling
- People have asked about tiny homes, but we haven't seen too many as of yet

There was consensus by the Commission to place the ordinance on first consideration.

Consent Agenda:

Commissioner Martin moved to approve claims for September 10, 2022 through September 23, 2022, in the amount of \$702,313.12; Net amount for Payroll #19 effective September 23, 2022 in the amount of \$380,366.62 (Includes Police and Fire Pension in the amount of \$9,888.71). Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Leonhard declared the motion carried 5-0.

Other:

Police Chief Patrick Kitchens:

- Invited Commissioners and the public out on Saturday, October 8th to "Coffee with a Cop" at Karma Cakes to meet with officers and talk about the police department

City Manager Paul Kramer:

- Business Symposium has been announced and advertised for October 17th
- Multiple speakers and local business owners will be there to speak with the attendees
- Update on Countywide Transportation Plan meeting held Monday, September 26th
- Thanked all city crews who worked and set up/broke down the Camp Leavenworth event and County EMS staff for attending
- 6,863 people attended the event
- Will provide more detailed information in a few weeks

Commissioner Hingula:

- Mentioned a vehicular accident that caused serious damage to a residents personal property
- Encouraged young people to pay attention to the speed limits throughout town

Commissioner Wilson:

- Thanked the volunteers, city staff, participants and the Commission for Camp Leavenworth
- The event was a huge success
- So many memories were created
- Thankful the City was able to do something that served the families in our community

Commissioner Bauder:

- Echoed Commissioner Wilson's comments
- Glad to see the focus of the festival to be about fun and family

- Pleased with the handling of the festival
- Heard really positive comments from the community

Commissioner Martin:

- Enjoyed the 5k, participation was great
- Registration and fees were easy to understand and made it possible for families to participate

Mayor Leonhard:

- 250 people participated in the 5k
- Thanked Christine Fritchen for organizing the race
- Thanked the sponsors of the event for their support

Adjournment:

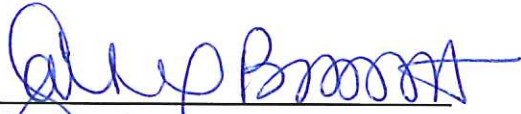
Commissioner Hingula moved to adjourn the meeting. Commissioner Martin seconded motion and the motion was unanimously approved and the meeting was adjourned.

Time Meeting Adjourned 6:43 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8196
REZONING 2101 AND 2013 VILAS STREET FROM LOW DENSITY SINGLE FAMILY RESIDENTIAL
TO MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL**

OCTOBER 11, 2022



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the August 23, 2022 City Commission regular meeting the City Commission reviewed and placed on first consideration:

**AN ORDINANCE AMENDING THE DEVELOPMENT REGULATIONS,
APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF
LEAVENWORTH, KANSAS BY REZONING 2101 AND 2013 VILAS
STREET FROM LOW DENSITY SINGLE FAMILY RESIDENTIAL (R1-25)
TO MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL (R1-9).**

There have been no other changes since first consideration.

Ordinance No. 8196 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8196

(Summary Published in the Leavenworth Times on October 14, 2022)

ORDINANCE NO. 8196

AN ORDINANCE AMENDING THE DEVELOPMENT REGULATIONS, APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS BY REZONING 2101 AND 2013 VILAS STREET FROM LOW DENSITY SINGLE FAMILY RESIDENTIAL (R1-25) TO MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL (R1-9).

WHEREAS, under the Development Regulations, Appendix A of the Code of Ordinances of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to amend, supplement or change existing zoning regulations within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Code of Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 1st day of August 2022 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas. The official date and time set as was published in the Leavenworth Times newspaper on the 14th day of June 2022 and notice of the public hearing was mailed to all property owners as required by K.S.A. 12-757(b); and

WHEREAS, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended denial of the request Rezoning of 2101 and 2013 Vilas Street, Leavenworth Kansas from Low Density Single Family Residential (R1-25) to Medium Density Single Family Residential (R1-9); and

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to rezone the property described herein.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1: That the following described property, to-wit, is hereby rezoned from Low Density Single Family Residential (R1-25) to Medium Density Single Family Residential (R1-9).

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 ADMINISTRATIVE PLAT WEST LIMIT ACRES, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS; THENCE N88°41'37"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 661.60 FEET; THENCE S00°50'04"E, A DISTANCE OF 298.88 FEET; THENCE S88°46'05"W, A DISTANCE OF 661.84 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE N00°47'08"W, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 298.02 FEET TO THE POINT OF BEGINNING. CONTAINING 4.54 ACRES MORE OR LESS.

And **more commonly referred to as 2101 and 2013 Vilas Street**, Leavenworth, Kansas

Section 2: That the “Zoning District Map” adopted under the Development Regulations, Appendix A of the Code of Ordinances of the City of Leavenworth, Kansas shall be and the same is hereby amended to conform to the rezoning as set forth in Section 1 above.

Section 3: That this Ordinance shall take effect and be in force from and after its passage, approval and summary publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

PASSED and APPROVED by the Governing Body on the 11th day of October 2022.

Camalla M. Leonhard, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8197
TEXT AMENDMENTS TO THE CODE OF ORDINANCES; DEVELOPMENT REGULATIONS OF THE
CITY OF LEAVENWORTH**

OCTOBER 11, 2022



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the September 27, 2022 City Commission regular meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE AMENDING VARIOUS SECTIONS OF APPENDIX A OF THE CODE OF ORDINANCES, DEVELOPMENT REGULATIONS, OF THE CITY OF LEAVENWORTH, KANSAS BY AMENDING AND PROVIDING ADDITIONAL AND SUBSTITUTE PROVISIONS.

There have been no changes to the ordinance since first introduced. Ordinance No. 8197 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8197

(Summary Publish in the Leavenworth Times on October 14, 2022)

ORDINANCE NO. 8197

AN ORDINANCE AMENDING VARIOUS SECTIONS OF APPENDIX A OF THE CODE OF ORDINANCES, DEVELOPMENT REGULATIONS, OF THE CITY OF LEAVENWORTH, KANSAS BY AMENDING AND PROVIDING ADDITIONAL AND SUBSTITUTE PROVISIONS.

WHEREAS, an ordinance of the City of Leavenworth, Kansas, Amending various sections of Appendix A; Development Regulations of the Code of Ordinances; repealing any and all other ordinances and parts of ordinances in conflict therewith.

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

Section 1. That the following amendments to sections 2.02, 4.02, 4.04, 5.03, 5.05, 8.11, 8.1211.01, 11.05, Article 12, and Appendix A of the Development Regulations; Appendix A of the City Code of Ordinances, City of Leavenworth, Kansas be and are hereby repealed and amended to read as follows:

Sec. 2.02. Platting.

- A. **Applicability:** Plat applications are required to establish or alter the legal boundaries of property, and may be the owners or agents of any property affected.
- B. **Platting Procedures:** Applications for platting shall be proposed on forms established by the Director of the Planning Department and filed with the City Clerk. Applications shall be processed according to the following specific procedures:
 - 1. **Types of Plats.** Plat applications are classified and processed as one of the following types:
 - a. Administrative Plats, which are routine applications for lot splits or lot combinations that do not alter development patterns or impact public services; or
 - b. Minor Subdivisions, which are platting of five or fewer new lots, including any remainder parcel, that do not alter development patterns or impact public services; or
 - c. Major Subdivisions, which larger subdivisions are with new ownership and development patterns that impact public services.
 - 2. **Pre-application Conference.** Prior to the filing of any plat, the applicant shall (preferably with 2 copies of a rough sketch plan of the proposed subdivision) contact the City staff to determine:
 - a. Classification of the plat.
 - b. Procedure for filing plats.
 - c. Availability of City sewers and water, and other major utilities, including a letter or similar proof of availability from any utility.
 - d. Comprehensive Land Use Plan requirements for major streets, land use, parks, schools and public open spaces.
 - e. Zoning requirements for the property in question and adjacent property.
 - f. Special setback requirements for arterial, collector and local streets.

3. *Administrative Plat.* Administrative plats shall be processed according to the following criteria and procedures.
 - a. **Criteria.** An application may be classified as an administrative plat if the Director determines that all of the following are met. Any application not classified as an administrative plat shall be processed as a minor or major subdivision.
 - (1) No new street or alley right-of-way, or other public dedication is needed.
 - (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) For a lot split, involves a single split of one lot resulting in two separate lots, or for a lot combination involves the combining of two separate lots into one lot.
 - (4) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (5) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
 - (6) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
 - (7) All property involved must have been previously platted.
 - (8) No property involved may have been part of a previously approved Administrative Plat. Any subsequent revisions to property lines must be processed as a Minor or Major Subdivision.
 - b. **Filing Requirement.** An administrative plat shall include all applicable information required for final plats.
 - c. **Review and Approval.** Upon review by the Director, Development Review Committee, or any affected departments or agencies, and within 60 days of filing, the Director shall approve any administrative plats that meet all requirements of these regulations, or deny the application and recommend any further processing as a major subdivision.
 - d. **Effect of Decision.** Approval of an administrative plat requires the applicant to record the plat with the Leavenworth Register of Deeds. Denial or recommendation of major subdivision shall be processed according to major subdivision review requirements.
 - e. **The Administrative Plat shall be recorded with the Register of Deeds within 18 months of approval by the Director. Plats which are not recorded within said time period shall be deemed null and void.**
4. *Minor Subdivision.* Minor subdivisions shall be processed according to the following criteria and procedures.

- a. Criteria. An application may be classified as minor subdivision if the Director determines that all of the following are met. Any application not classified as a minor subdivision shall be processed as a major subdivision.
 - (1) No new street or alley right-of-way, or other public dedication is needed.
 - (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) The application results in five or fewer new lots, including any remainder parcel.
 - (4) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (5) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
 - (6) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
- b. Filing Requirement. A minor subdivision shall include all applicable information required for final plats.
- c. Review and Approval. Within 60 days after submission of a plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the plat. If the Planning Commission approves the plat, the plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.
- d. The plat shall be recorded with the Register of Deeds within 18 months of approval by the Planning Commission. Plats which are not recorded within said time period shall be deemed null and void.

5. *Major Subdivision*

- a. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures.
 - (1) Development Review Committee. At least seven days prior to the Planning Commission review, the Development Review committee shall review the preliminary plat and submit their recommendation to the Planning Commission.
 - (2) Planning Commission Review. Within 60 days after the submission of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the plat. Action by the Planning Commission shall be conveyed to the applicant in writing within ten days after the official Planning Commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what

requirements shall be necessary to meet the approval of the Planning Commission.

(3) **Effect of Decision.** The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed an authorization to proceed with the preparation of the final plat. If the Planning Commission rejects or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the City Commission and the Planning Commission shall forward the proposed plat, together with their report, stating the reason or reasons for the action taken. The City Commission may make such finding and determinations as are deemed proper.

(4) **Effective Date.** The approval of the preliminary plat shall be effective for one year.

b. **Final Plat.** After approval of the Preliminary Plat, the applicant may submit a Final Plat for all or portions of the preliminary plat area.

(1) **Planning Commission.** Within 60 days after submission of a final plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the final plat. If the Planning Commission approves or conditionally approves the final plat, it shall be forwarded to the City Commission with a recommendation that they accept dedication of easements and rights-of-way.

(2) **Dedication of Land for Public Purposes.** The City Commission shall approve or disapprove the dedication of land for public purposes within 30 days following the action of the Planning Commission. The City Commission may defer action for an additional 30 days to allow modifications to comply with requirements established by the City Commission. If the City Commission defers or disapproves such dedication, it shall advise the Planning Commission of the reasons therefore.

(3) **Recording.** If the City Commission accepts the proposed easements and rights-of-way, the final plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.

(4) **Effective Date.** Final plats shall be recorded with the Register of Deeds within 18 months following approval by the Planning Commission, or City Commission approval of land dedicated to public purposes, if required. Final plats which are not recorded within said time period shall be deemed null and void

c. **Disposition of Final Plats.** After the plat has been recorded, the applicant shall provide two full-sized copies of the recorded plat to the Department of Planning and Community Development.

C. ***Improvement Procedures.***

1. ***General.*** After the approval, but prior to the recording of the final plat, the applicant may do the grading and any drainage work that is required, all according to plans approved by the Director of

Public Works. Prior to the issuance of building permits, all street paving, sanitary sewer, storm drainage, and utility lines must be installed in accordance with the most recent version of the Engineering and Public Works Department's Infrastructure Design and Construction Manual and plans approved by the appropriate utility company.

2. *Plans and Specifications.* Upon the approval of the Final Plat, the applicant shall have a licensed professional engineer prepare engineering drawings for proposed required improvements which will be constructed by the developer containing information and details required by the Infrastructure Design and Construction Manual or Public Works Department standards. The Director of Public Works shall review all engineering drawings in order to determine whether such drawings are consistent with the approved Final Plat and comply with their design standards.
3. *Construction of Improvements.* No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a Final Plat and the engineering drawings accompanying it have been approved and there has been compliance with all of the requirements relating to an agreement, bond or deposit specified in these regulations. The developer may install 6" x 5' sidewalks in conjunction with the street paving and forgo the required sidewalk bond.
4. *Inspections.* All improvements constructed or erected shall be subject to inspection by the City or its designated representative responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this regulation shall be charged to and paid by the applicant. Before any required inspections take place, the applicant may be required to post a deposit with the City Clerk to cover the cost of such inspections. Onsite inspections may be conducted at any times and work may be terminated if it does not comply with standards of final drawings.
5. *Final Inspection.* Upon completion of all improvements within the area covered by the Final Plat, the applicant shall notify the Director of Public Works who shall conduct a final inspection of all improvements installed. If the final inspection indicates that there are any defects or deficiencies in any the improvements as installed, or if there are any deviations in the improvements as installed from the final engineering plans and specifications, he shall notify the applicant in writing of such defects, deficiencies, or deviations, and the applicant shall, at his sole cost and expense, correct the defects or deviations. When the defects, deficiencies, or deviations have been corrected, the applicant shall notify the official that the improvements are ready for final re-inspection.
6. *Acceptance.* Upon receipt by the City Commission of the certificate of the Director of Public Works that all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all other applicable statutes, ordinances and regulations, the City Commission and/or such appropriate utility shall thereupon, by letter or motion, formally accept such improvements. The improvements shall become the property of the City Commission or appropriate utility company involved.

Sec. 4.02. Establishment of Districts & Intent

For the purpose of regulating and restricting the location and use of buildings and land for dwellings, business, industry, conservation, flood plain or other uses, the City of Leavenworth, Kansas, is divided into the following districts. The boundaries of zoning districts are indicated upon the most current "Official Zoning District Map" of the City of Leavenworth, Kansas, is made a part of this ordinance. Copies of the zoning district map are filed in the

office of the City Clerk. In support of the Comprehensive Plan, each district has the specific intent statement indicated below.

- A. ***R1-25, Low Density Single Family Residential District.*** This district is intended to allow residential development at a low density. The principal land use is single-family dwelling with uses incidental or accessory thereto. The district also permits a variety of agricultural uses. There shall be only one principal structure per lot in this district.
- B. ***R1-9, Medium Density Single Family Residential District.*** This district is intended to allow medium density single-family residential development with smaller lots. There shall be only one principal structure per lot in this district.
- C. ***R1-7.5, Medium Single-Family Residential District.*** This district is intended to allow medium density single-family residential development. There shall be only one principal structure per lot in this district.
- D. ***R1-6, High Density Single Family Residential District.*** This district is intended to allow higher density residential development. There shall be only one principal structure per lot in this district.
- E. ***R-MF, Multiple Family Residential District.*** This district is intended to provide for development of multiple-family residential developments and allows a high population density. The district is residential in character and promotes a high quality environment through aesthetically oriented property development standards. This district is appropriate for many areas of the community and shall be located in accordance with the criteria established in the Leavenworth Comprehensive Land Use Plan. These districts need not be contiguous with other multiple family districts.
- F. ***R4-16, Medium Density Multiple Family Residential District.*** This district is intended to provide for development of multifamily dwellings up to four unit buildings in areas designated for medium density residential in the Comprehensive Land Use Plan on areas deemed appropriate and compatible based upon the existing development pattern. These districts do not need to be contiguous with other multiple family districts.
- G. ***RMX, Residential Mixed Use.*** The RMX district is intended to provide for high-density, multi-family residential dwellings along with a mix of appropriate neighborhood-serving commercial, civic, and other uses. This district allows for single-family detached homes, townhomes, duplexes, triplexes, and apartments. Commercial uses may be included in some residential structures pursuant to the appropriate design standards, or may be permitted as stand-alone structures. This district implements the North Neighborhood area as identified in the 2010 Northeast and Downtown Leavenworth Redevelopment Plan.
- H. ***MP, Mobile/Manufactured Home Park District.*** The purpose of this district is to provide low-density mobile/manufactured home park developments, which are compatible with the character of the surrounding neighborhood in which they are located. Mobile/manufactured home parks are considered as residential uses and should be located in areas where services and amenities are available such as those found in conventional residential areas. Mobile homes may be on leased spaces and may be permitted to be placed on permanent foundations.
- I. ***NBD, Neighborhood Business District.*** This district is intended to provide a center for convenience shopping in a residential neighborhood. This district provides for retail and service establishments, which

supply commodities or perform services to meet the daily needs of the neighborhood, and shall be in locations where analysis of residential population demonstrates that such facilities are justified.

- J. **OBD, Office Business District.** The intent of this district is to allow office facilities for business and professional service uses. Density and intensity of use may be considered moderate and located in areas where analysis of residential consideration demonstrates that such facilities are justified (i.e., traffic, school, pedestrians, can be safely and efficiently accommodated.)
- K. **CBD, Central Business District.** The purpose of this district is to provide locations for a variety of commercial retail and service activities and wholesale and storage uses normally found in the core area of the city. These uses must be compatible to a dense commercially developed area and may serve local community or regional needs.
- L. **GBD, General Business District.** The purpose of this district is to provide locations for a variety of commercial, retail, and service activities serving the entire community but primarily include activities, which require large land areas or offer service to the motoring public.
- M. **I-1, Light Industrial District.** This district is to provide locations for a variety of less intense industrial, warehousing, and wholesale distribution uses. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees or those conducted in conjunction with manufacturing or wholesaling operations or those commercial uses requiring large land areas.
- N. **I-2, Heavy Industrial District.** The purpose of this district is to provide locations for basic or primary industries and related industrial activities. Many of these industries characteristically store bulk quantities of raw or scrap materials for processing to semi-finished or finished products. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees and those conducted in conjunction with a manufacturing or wholesaling operation or those commercial uses requiring large land areas.
- O. **ROD, Redevelopment Overlay District.** The purpose of the Redevelopment Overlay District (“ROD”) is to facilitate the development of property in the downtown (Central Business District) and northeast Leavenworth in accordance with the 2010 Northeast and Downtown Leavenworth Redevelopment Plan (“Redevelopment Plan”) with the highest possible levels of community and building design consistent with the healthy economic development and redevelopment of the plan area. The Redevelopment Overlay District includes three distinct subareas as identified below.
 - 1. Central Business District Subdistrict (CBD): The Central Business District subdistrict includes areas A, B, C, and D of Figure 4-01.
 - 2. North Neighborhood Subdistrict (NN): The North Neighborhood subdistrict is area E of Figure 4-01.
 - 3. North Gateway Subdistrict (NG): The North Gateway subdistrict is area F of Figure 4-01.
 - 4. Arterials that form the boundaries of any of these districts shall be subject to the ROD standards on both sides of the arterial for the length of the boundary.

Sec. 4.04. Use Standards

- A. **Permitted and Special Uses.** Permitted and special uses for each zoning district are identified in Appendix A Use Table.
- B. **Accessory Uses.**

1. *Principal Use Required.* Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

2. *Accessory Uses.* Accessory Uses are a structure or use which:
 - a. Is subordinate to and serves a principal building and principal use;
 - b. Is subordinate in area, extent, or purpose of the principal use or building or building served;
 - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
 - d. Is located on the same lot as the principal building or principal use served; and
 - e. The total square footage of all detached structures, including second stories of any such structures, functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. Agriculture buildings, as allowed by these regulations, may exceed the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted.
 - f. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area. For these purposes, “detached accessory structures” means any detached, garage, storage building, agriculture building, gazebo, or other such similar above-ground structure erected in conformance with these regulations.

3. *Permitted Accessory Uses.* Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
 - a. Private garages or carports: Not to exceed the following capacity:
 - (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
 - (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
 - (3) Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger may be approved by the Board of Zoning Appeals.
 - b. Storage Buildings: A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
 - c. Play Structures: A child's playhouse, including tree houses.
 - d. Pools & Courts: A private swimming pool, bathhouse, or tennis court.
 - e. Miscellaneous Yard Decor: Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges, and solar collectors.
 - f. Shelters: Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 - g. Signs: Signs, when permitted by Article 8 – Sign Regulations.

- h. Parking: Off-street parking and loading spaces as required by these regulations.
 - i. Recreational Vehicles, Campers, Trailers, and Boats: Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these Development Regulations.
 - j. Commercial Accessories: Restaurants, drug stores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
 - k. Supplemental Employee Services: Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
 - l. Office Space: Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
 - m. Retail Sales: Retail sales in conjunction with permitted industrial uses when located on the same site as the industrial use.
 - n. Indoor Retail Storage: The storage of retail merchandise when located within the same building as the principal retail business.
 - o. Auto Sales: The retail sale of automobile parts and used automobiles on a tract of land not to exceed one acre in area when located on the same site as and in conjunction with an automobile race track.
 - p. Amateur Radio Towers: Amateur radio towers and antennae shall not exceed the height of 50 feet in residential districts. A tower and antennae must maintain a setback of one foot per one foot of height from all property lines and must be located in a side or rear yard of the principal structure and the owner of the tower and property maintains and shows proof of a current federal license as an amateur radio operator. The construction of the tower must follow the manufacturer's installation specifications.
 - q. Agriculture Buildings: In residential districts an agricultural accessory building not to exceed two percent of the total square footage of the lot on which it is located on parcels two acres or larger, up to a maximum of 3,400 square feet.
 - r. Apiaries: In residential districts, bee hives or boxes may not be kept within 50 feet of any dwelling (except the dwelling of the owner of such bees), or within 15 feet of any lot line, sidewalk, alley, or other right-of-way. Notwithstanding, bees may be kept within 15 feet of a lot line, sidewalk, alley, or other right-of-way when a barrier at least 6 feet high is placed between the bee hives or boxes and the lot line, alley, or right-of-way which adequately impairs bee flight. No more than 3 hives shall be placed or kept in a location which is less than 200 feet from a house or other building used for residential purposes other than the residence of the keeper of such bees.
4. *Prohibited Accessory Uses.* None of the following shall be permitted as an accessory use:
- a. Outdoor storage or overnight parking in a residential district of commercial trucks or trailers as defined herein, or other on, or off, road items exceeding 10,000 GVW (Gross Vehicle Weight).
 - b. Outdoor storage, of dismantled, inoperative and/or unlicensed motor vehicles; parking and/or storage of construction machinery and equipment, tracked or wheeled; farm machinery and/or equipment except as specifically permitted in district regulations in conjunction with a permitted use.

5. *Accessory Uses Permitted by Special Use Permit.* The following accessory uses shall only be permitted upon approval of a special use application by the City Commission:
- a. Commercial Communication Towers and Antennae. Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in Article 10, Supplemental Standards.
 - b. Renewable Energy Facilities, including wind or solar energy facilities, subject to the provisions included in Article 10, Supplemental Standards.
 - c. Child Care Centers for 7 or more children:
 - (1) Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.
 - (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100% enclosed by a minimum 4' high fence or wall.
 - (3) Shall provide a loading zone capable of accommodating at least 2 automobiles for the easy picking up and discharging of passengers.
 - (4) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
 - (5) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
 - (6) Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides, or 1 non-illuminated sign affixed to the structure of 3 square feet.
 - d. Accessory Dwelling Units. Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:
 - (1) Shall be compatible with the design of the principal dwelling unit.
 - (2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.
 - (3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.
 - (4) Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.
 - (5) Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.
 - (6) Shall meet all building code requirements for a single family dwelling unit.
 - (7) Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.
 - e. Massage Therapy establishments as a home occupation may be allowed with issuance of a Special Use Permit. Such establishments are subject to all requirements of Home Occupations as provided in these regulations, as well as all requirements for Massage Establishments as provided in the City of Leavenworth Code of Ordinances, Chapter 26, Article III.

6. *Home Occupations.* A home occupation may be established provided:

- a. That no one, other than members of the immediate family residing on the premises, be employed;
- b. That no use will occupy more than 25% of the gross floor area on one floor nor more than 400 square feet of gross floor area;
- c. That a carport, garage, or any accessory structure may only be used for home occupations with issuance of a Special Use Permit;
- d. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
- e. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than 3 square feet on a vertical wall below the roof soffit or placed in the front yard.
- f. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
- g. That the home occupation shall be conducted entirely within the principal residential building except with issuance of a Special Use Permit;
- h. That no machinery or equipment shall be installed which interferes with radio or television reception, and which is not customarily incidental to the practice of such occupation or profession, but in no case shall any machine exceed one rated horsepower;
- i. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
- j. That two off-street parking spaces are provided; and
- k. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
- l. Permitted home occupations shall not in any event be deemed to include:
 - (1) Automobile and vehicular repair on any other than the property owner's personally owned and currently registered vehicle(s)
 - (2) Antique sales.
 - (3) Equipment rental business.
 - (4) Stables, kennels, veterinarian services, pet shops, and animal hospitals.
 - (5) Eating or drinking places.
 - (6) Mortuaries and embalming establishments.
 - (7) Private clubs, including fraternity and sorority houses.
 - (8) Retail sales (over the counter).
 - (9) Repair of home appliance and electronic equipment.

C. *Temporary Uses Permitted.*

- 1. *Sidewalk Sales.* The retail sale of merchandise not within an enclosed structure shall be permitted for a period not to exceed three days and need not comply with the yard and setback requirements. Yard sales are permitted in the residential district after obtaining necessary permits from City Clerk. Sidewalk sales are permitted in the commercial and industrial districts after obtaining necessary permits from the City Clerk. No merchandise will be displayed in the vision clearance triangle and street right-of-way except in the Central Business District.

2. *Christmas Tree Sales.* Christmas tree sales shall be permitted in any commercial or industrial district for a period not to exceed 60 days. Display of these need not comply with the yard and set-back requirements of these regulations, provided that no trees shall be displayed within the vision clearance triangle or in the street right-of-way except in the Central Business District.
3. *Contractor's Office.* Contractor's office and equipment sheds shall be permitted accessories to a construction project only during the duration of such project.
4. *Real Estate Offices.* Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) shall be permitted incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
5. *Carnivals and Circuses.* A carnival or circus shall be permitted, but only in an OBD, NBD, CBD, GBD, I-1, or I-2 District, and then only for a period that does not exceed three weeks. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the vision clearance triangle as defined by these regulations.
6. *Recreational Vehicle Storage.*
 - a. Storage:
 - (1) Between April 1 and October 31, the storage and parking of major recreational equipment such as boats, boat trailers, pick-up campers or coaches, camping buses or converted trucks and tent trailers shall be allowed in the front and side yard. A maximum of two (2) such recreational vehicles may be stored in the front or side yard of a property at any time. Any recreational vehicles stored in the front or side yard shall be located a minimum of 10' from the curb or edge of any street, and a minimum of 2' from any interior side lot line and shall not block any sidewalk. All recreational vehicles must be stored or parked on a paved or aggregate block surface.
 - (2) Between November 1 and March 31, the storage and parking of major recreational vehicles shall be prohibited in the front and side yard setbacks for a period in excess of 72 hours per month but may be stored or parked in a rear yard on a paved or aggregate block surface.
 - b. RV Occupation: No recreational equipment shall be utilized for living, sleeping, or housekeeping purposes when parked on a residential lot or in any location, not approved for such use, for a period in excess of 14 days per calendar year.

D. **Tiny Homes**

1. Tiny Homes as defined herein, may be utilized as the primary dwelling structure on any residentially zoned lot. Tiny Homes must follow all development standards of the zoning district in which they are located.
2. Tiny Homes must be placed on a permanent foundation, and must be connected to a public sewer and water system. Tiny Homes must comply with all applicable building codes.
3. Tiny Homes may be utilized as Accessory Dwelling Units (ADUs) in accordance with these regulations.

Sec. 5.03. General

A. **Use.** Required parking used only for parking operable motor vehicles using the site or use. Any other use of parking areas for outside storage, display or commercial activity shall be permitted by different provisions of these regulations

B. **Surfaces and Markings.** All off-street parking areas and driveways shall be surfaced and provided with a minimum of:

1. **Residential Parking:** (All dwelling units) Six inches of Portland Cement concrete, or four inches of stone and four inches of asphaltic concrete.
 - a. A gravel parking pad in the rear yard may be installed with a border to contain the gravel. Such gravel parking pad must be accessed directly off the alley and may be a maximum depth of 37 feet as measured from the rear property line.
 - b. For lots over 2 acres in size on which the primary structure will be set back a minimum of 100 feet from the front property line, a gravel driveway may be installed past the required 25' front setback, provided that all other applicable building and fire codes are met.
2. **Commercial and Industrial Loading and Parking:** Eight inches of Portland Cement concrete, , or six inches of stone and six inches of asphaltic concrete.
3. **Parking Lot Marking:** Parking spaces in lots of more than six spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
4. **Bumper Guards:** Wheel or bumper guards when used shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways, or come in contact with walls, fences, or plantings.

C. **Drainage:**

1. Off-street parking facilities shall be drained to eliminate ponding water and prevent damage to abutting property and/or public streets and alleys.
2. No surface water from such parking area shall be permitted to drain onto adjoining private property without adequate drainage precaution being taken by the developer.

3. All new and redeveloped parking areas shall be required to present a drainage study prepared by an engineer licensed in the State of Kansas.

Sec. 5.05. Access

Access to sites and parking areas shall generally follow the following standards, unless streetscape design, street networks, development patterns and traffic patterns dictate otherwise:

- A. **Width.** Access for one-way traffic shall be between 12 feet and 20 feet at the property line. Access for two-way traffic shall be between 24 feet and 30 feet at the property line. Access widths may be wider to account for vehicle turning movements at the street edge. Any access that requires greater widths, or access to an arterial street shall be median divided.
- B. **Spacing.** Unless no other practical alternative is available, all driveways and access points shall be spaced as follows:
 - 1. Residential. 50 feet of stand up curb from a street intersection, 12 feet of stand up curb from another access driveway, and 2 feet of stand up curb from an interior property line.
 - 2. Non-residential. 75 feet of stand up curb from a street intersection, 50 feet of stand up curb from another access driveway, and 10 feet of stand up curb from an interior property line.
- C. **Shared Access.** Shared driveways, cross access easements, and other internal access systems are desired in all contexts in order to minimize curb cuts that disrupt the streetscape design and create pedestrian and traffic conflicts.

Sec. 8.11. Signs Permitted in Commercial and Industrial Districts (OBD, CBD, GBD, I-1 & I-2)

Table 8-03: OBD, CBD, GBD, I-1 & I-2 Signage Standards									
	Maximum Number			Maximum Size			Maximum Height		
	CBD	OBD	GBD, I-1 & I-2	CBD	OBD	GBD, I-1 & I-2	CBD	OBD	GBD, I-1 & I-2
Attached Signs [1] [2]	1 per side	1 per side	1 per side	150 s.f.	96 s.f.	500 s.f.	N/A	N/A	N/A
Freestanding Signs [3] [4]	1	1	1	50 s.f.	50 s.f.	100 s.f.	15	15	15
Window Signs	N/A	N/A	N/A	150 s.f. or 33% of window area	150 s.f. or 33% of window area	150 s.f. or 33% of window area	N/A	N/A	N/A

[1] Maximum 10% of wall surface to which signs are attached

[2] Projecting signs are allowed as regulated by section 8.11.C.5

[3] When located across street from commercial or industrial use, height may be increased per section 8.11.D.1

[4] Size may not exceed 1 s.f. per lineal foot of frontage in OBD or CBD, and 2 s.f. per lineal foot of frontage in GBD, I-1 & I-2

- A. All signs as regulated and permitted in Section 8.07 - Signs Permitted in All Districts.

B. Signs as regulated and permitted in the NBD.

C. Signs attached to a building shall be allowed as follows:

1. One sign shall be allowed for each side of a structure or part of a structure clearly defined as an individual storefront. An individual storefront shall have an exterior wall clearly related to the interior space of that storefront and may or may not have windows or an entrance door to the inside of the building.
2. The sign surface area shall not exceed ninety-six (96) square feet in Office Business District (OBD), 150 square feet in Central Business District (CBD) and 500 square feet in General Business District (GBD) and Light and Heavy Industrial Districts (I-1 & I-2) or 10% of the wall surface to which the sign(s) are attached, whichever is less.
3. The permitted signs may be wall signs, projecting signs, mansard signs, roof signs, or marquee signs. A roof sign shall not exceed the highest point of the roof of the structure. A marquee sign may be an electronic changeable message sign.
4. The signage permitted herein may be an electronic changeable message sign, provided it complies with all applicable standards.
5. Projecting signs shall not project from the wall greater than a distance of six feet or encroach in a public right-of-way in OBD, GBD, I-1 or I-2 and shall maintain eight feet of clearance from grade. Projecting signs in the CBD may encroach in the right-of-way, but shall be constructed of approved nonflammable, safety material, shall maintain eight feet of clearance to grade, and shall not be closer than five feet to a curb line.
6. In computing the square foot allowance for a projecting sign, the total area of the sign shall be included in the total sign surface area allowed, but shall not exceed 24 square feet, unless an exception is granted by the City Commission, provided that no projecting sign shall exceed 48 square feet. Projecting signs shall not reduce the number of signs allowed per wall as otherwise allowed by this code.

D. One free standing sign shall be permitted per parcel and regulated as follows:

1. Free standing signs shall not exceed 15 feet in height. Where a sign is located across the street from a property zoned for commercial or industrial uses, the height of the sign may be increased to a height of 25 feet, provided that the nearest edge of the sign is setback from the property line 2 feet for each additional 1 foot in height.
2. No part of a free standing sign face or sign structure shall be closer than five feet to any property line and shall not obstruct traffic vision.
3. Free standing signs may have two faces and shall not exceed 50 square feet per face or one square foot of sign per lineal foot of lot frontage, whichever is less, in OBD or CBD, and 100 square feet per face or two square feet of sign per lineal foot of lot frontage, whichever is less, in GBD, I-1 or I-2.

4. No free standing sign face, frame or base shall be closer than 50 feet to another free standing sign.
 5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on that street frontage which is used for computation (No accumulation is allowed for unused street frontage.)
 6. The free standing signs may be electronic changeable message signs, provided they comply with all applicable standards.
- E. Window signs, as otherwise restricted and permitted herein shall be allowed provided that:
1. The total window sign area in a tenant space shall not exceed 33% of the window area, for each front, side or rear wall, provided that, the total sign surface shall not exceed 150 square feet per side of the building. For the purposes of this subsection, the term "window area" includes the non-opaque parts of any doors or other fenestrations.
 2. The allowable window sign area as defined herein may be illuminated and may be an electronic changeable message sign.

Sec. 8.12. Temporary Signs

- A. The following restrictions, in addition to any other restriction set forth in this sign code, shall apply to any permitted temporary sign.
1. All temporary signs shall obtain a permit before placement except as otherwise specifically stated in this sign code.
 2. Application for a permit after placement shall cause the permit fee to triple.
 3. Temporary signs shall be set back a minimum of six feet from the street line.
 4. Temporary sign permits shall be for no more than 60 days.
 5. A temporary sign permit may be renewed for a second consecutive 60-day period.
 6. No business shall display a temporary sign for more 120 days in any calendar year.
 7. No business shall have more than one temporary sign displayed at any time except as otherwise specifically stated in this sign code.
 8. No temporary sign, except as otherwise specifically provided, shall have a sign surface greater than 25% of the allowable permanent signage which might be permitted per parcel.
 9. No temporary sign shall exceed 100 square feet in area. Example; a two-sided sign with 50 square feet of sign surface equals 100 square feet of sign area.

10. No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
11. Temporary signs shall not be posted on trees or utility poles.
12. No temporary sign shall be placed off-premise or in any road right-of-way except as otherwise specifically stated in this sign code.
13. No temporary sign shall be internally or indirectly illuminated or painted with light-reflecting paint.
14. A temporary sign related to an event shall be removed no later than three days after the event has taken place.
15. Except as otherwise provided in this sign code, a temporary sign may be posted for so long as it remains in good condition. Once a temporary sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced.
16. If the Director determines a temporary sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three days of that notification. Signs that are not removed or replaced within three days of the notification shall be deemed a nuisance and shall be subject to abatement or removal by City staff. The Director's determination that a temporary sign is not in good condition may be appealed to the City Commission under the procedures set forth in this article.
17. Temporary signs shall be allowed in the public right-of-way for 45 days immediately preceding any primary, general or special elections as defined by the Leavenworth County Clerk, and shall be removed 2 days following said election. The person, party or parties responsible for the erection or distribution of any such signs shall be jointly and individually responsible for their removal. All temporary signs placed in the public right-of-way during this time period shall be subject to the following size and setback distance regulations:
 1. Signs shall be set back a minimum of 6 feet from the back of curb.
 2. Signs shall not be placed where they interfere with intersection sight distances.
 3. Signs shall not exceed 3 square feet in face area and 3 feet in height.
 4. Signs shall not be affixed to any utility poles, trees, street lights, bridges, benches or other similar public structures.
18. Any inflatable temporary sign shall be set back a distance from the curb at least equal to the fully inflated height of the sign.

B. ***Excluded Temporary Signs.***

1. Temporary commercial signs carried by a person(s) are not regulated in these Development Regulations. However, if the sign is affixed to any structure or the ground at any time it becomes a regulated sign. Carried signs are not permitted within the public right-of-way.
 2. People dressed in costumes to further business or civic activities are not regulated in these Development Regulations.
- C. ***Specified Types of Temporary Signs.*** In addition to the posting of temporary signs allowed by other sections of this sign Code, the following specified types of temporary signs shall be permitted, as set forth herein, and shall be subject to permit fees unless otherwise exempted by this sign code.
1. ***Special Event Banners:*** On private property used in commercial and industrial zoning districts banners may be used to announce a grand opening of a new business, special sale, or promotion. Banners may be used for 30 days after which time they must be removed. A new banner may be installed after the lapse of 60 days upon obtaining a new permit. Banners shall be attached securely to a building or structure and shall not create a nuisance as determined by the Duly Authorized Representative.
 2. ***Searchlights:*** Searchlights may be used for announcing a grand opening and may be located on private property for a period not to exceed three consecutive days unless special circumstances authorized by the Director warrant a longer duration. Special circumstances shall be described in writing by the owner or the agent associated with the grand opening promotion and shall be approved by the Director prior to the establishment of the search light(s) on the business premises. No light emanating from such a device shall be cast on any adjacent property or building. Lasers are not searchlights and the use of lasers is prohibited.
 3. ***Balloons:*** Gas-filled balloons and figures up to 1,000 cubic feet in mass may be displayed to announce a grand opening of a new business in a commercial or industrial district, but shall be displayed on or above private property. The balloon or figure may be tethered and shall be permitted to rise to a height not to exceed 50 feet above mean ground level. The balloon or figure shall not be permitted to float above any public right-of-way, and shall not interfere with traffic vision or public safety as determined by the City Planner. Any vision or safety interference shall be immediately corrected by the owner or agent upon notice from the Director. A partially deflated balloon or figure shall be considered a public safety hazard and shall require immediate removal by the owner or his agent.
 4. ***Pennants, Flags and Light Strings:*** Flags, pennants, or strings of electric lights or strings of pennants may be strung or hung across or above parking areas on private property used commercially and zoned GBD, but shall not interfere with vision clearance triangles or public safety as determined by the Director or the Duly Authorized Representative.
 5. ***Banners:*** Banners over public rights-of-way or other public property announcing a parade, celebration, festival, play, fund drive or other public promotional activity are allowed as follows:
 - a. Application to install the hanging banner shall be made to the City Clerk in accordance with current city procedures. No sign permit shall be required in addition to this application;

- b. The banner shall maintain a clearance of at least 20 feet as measured from the bottom-most portion of the banner to the highest elevation of the street or land surface below;
 - c. The banner shall be perforated sufficiently to reduce wind resistance and shall be anchored sufficiently to prevent a traffic or safety hazard as determined by the city;
 - d. Banners may be installed up to 14 days prior to an event and shall be removed within 72 hours of the closing of the event. The city reserves the right to reduce the time frame to accommodate multiple requests for a location; and
 - e. Not more than the 10% of a banner's face may be devoted to a commercial space of sponsor's logo.
6. *Portable Signs*: Portable signs, except sandwich board signs as otherwise restricted and permitted by this sign code, shall be subject to the following:
- a. Portable signs may only be used in conjunction with special promotions of a temporary nature. The allowable size of a portable sign shall not exceed 40 square feet;
 - b. Portable signs shall only be permitted in GBD, I-1 and 1-2 zoning districts and shall not interfere with vision clearance triangles or public safety as determined by the Director;
 - c. Portable signs shall be located on private property only; and
 - d. A portable sign may be used for 30 consecutive days and a ninety (90) day period must elapse between the use of a portable sign and its next use. A new permit shall be required each time the sign is erected.

Sec. 11.01. Creation

A Board of Zoning Appeals is created for the City of Leavenworth. Such Board shall consist of five members, all of whom shall be residents of the City of Leavenworth. Members shall be appointed by the Mayor with the consent of the City Commission. Appointments shall be made for three-year terms. Vacancies shall be filled by appointment for the unexpired term. Members of the Board shall serve without compensation.

Sec. 11.05. Appeals of the Board Decision

Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the board, per KSA 12-759.

ARTICLE 12 – DEFINITIONS (Attachment A)

Article 12, Definitions, shall be attached to Ordinance No. 8197 and amended.

APPENDIX A. - USE TABLE (Attachment B)

Appendix A Use Table shall be attached to Ordinance No. 8197 and amended.

Section 2. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Governing Body hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. That nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and publication as provided by law.

Passed by the Leavenworth City Commission on this 11th day of October 2022.

Camalla M. Leonhard, Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

ARTICLE 12. DEFINITIONS

Terms defined in this Article shall be the basis for interpretation of all such terms throughout these Development Regulations. If not so defined a term shall be assigned the meanings found in Webster's most current New Collegiate Dictionary.

100-year Flood: The Base Flood.

Abandoned Sign: Any sign on any building, structure or premises that has been vacated for a six (6) month period.

Abutting: Having property or district lines in common; e.g., two lots are abutting if they have property lines in common.

Access or Accessway: The place, means, or way by which pedestrians or vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this ordinance.

Accessory Building, Accessory Structure, or Accessory Use: A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent or purpose to the principal building or principal use served; (3) contributes to the comfort convenience, or necessity of occupants of the principal building or principal use; (4) is located on the same zoning lot as the principal building or principal use. The same as "appurtenant structure."

Actuarial Rates: "risk premium rates."

Adaptive Use: The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.

Addition: Any construction which increases the size of the building such as a porch, attached garage or carport, or a new room or wing. An addition is a form of alteration.

Address Sign: A sign identifying, through any set of numerals or letters, a principal building's location with respect to the streets or to those homes or buildings around that building. An address sign may include the name of the occupant and may include the name of a home occupation.

Administrative and Professional Offices: Private commercial office space where the public may transact business, receive services or where commercial firms conduct internal office operations.

Administrative Official: A member of the city staff who is empowered to administer and implement the provisions of this Ordinance. Specifically, the Director of Planning and Community Development, City Planner, Planning and Zoning Technician, Director of Public Works, Building Inspector and Environmental Officer.

Administrator: As used in Article X, Floodplain Management, means the Federal Insurance Administrator.

Adult Day Center: Any place or facility operating less than 24 hours a day providing activities and social engagement opportunities for not more than 15 unrelated adult individuals who, due to functional

impairment, require some degree of supervision or assistance with the activities of daily living, with no on-site medical services provided.

Agency: means the Federal Emergency Management Agency (FEMA).

Agent: The legally authorized representative of a landowner

Agriculture Accessory Building: A detached accessory structure used for the shelter of livestock, the storage of agricultural products, or the storage and maintenance of equipment or supplies used for agricultural or property maintenance activities.

Agriculture Uses: The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures necessary for carrying out farming operations; provided, however, such agricultural use shall not include the following uses: (1) the maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted; (2) wholesale or retail sales as an accessory use unless the same are specifically permitted in this ordinance; (3) the feeding, grazing, or sheltering of animals or poultry in either penned enclosures or in open pasture within one hundred (100) feet of any lot line. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur-bearing animals as a principal use, or the operation or maintenance of a commercial stockyard, or feed yard.

Airport: Any location where one or more craft capable of containing a human, takes off or lands, and for which ground facilities necessary to these operations are constructed.

Alley: A public thoroughfare, which affords only a secondary means of vehicular access to abutting property, and is not intended for general traffic circulation. An alley line shall mean the centerline of an alley right-of-way.

Alteration: Any change or rearrangement to the structural parts of an existing building or property. Any enlargement, whether by height or dimension, shall be considered an alteration. Any act or process that changes the exterior architectural appearance of a building.

Amendment: A change in the wording, context, or substance of this ordinance, an addition, deletion, or change in the district boundaries or classifications upon the district map, which imposes any regulation not heretofore imposed or removes or modifies any such regulation heretofore imposed.

Amphitheater: Any open-air venue used for entertainment and performances.

Amusement Park: A commercial amusement activity such as a carnival, circus, miniature golf course, or similar establishment, which is not entirely within an enclosed building.

Animal Clinic or Animal Hospital: A place where animals or pets are given medical or surgical treatment in emergency cases and are cared for during the time of such treatment. Use as kennel shall be limited to short-time boarding and shall only be incidental to such hospital use and shall be enclosed in a soundproof structure

Animal Day Care: See Kennel

Animal Husbandry (other than dairy): The agricultural practice of breeding and raising livestock.

Animal Research Facilities: Any facility in which research on animals is performed in a careful study of a subject, which may be related to the health or other welfare of animals of the same or other species, including humans.

Animal Sales and Service: Any facility where the on-site sale of animals is performed including the sale of animal husbandry or animal health related supplies.

Animation/Animated: Any visible moving part, or oscillating lights either natural or artificial, or visible movement achieved by any means that move, change, oscillate, or visibly alter in appearance to depict action or create special effects or scenes.

Apartment Building: A building used as a dwelling for several families each living separate and apart. Apartments are generally rental units.

Apiary: A place for the keeping of bees

Appeal: An application to a recognized higher authority to correct an alleged injustice done and an error committed in an order, requirement, decision, or determination made by an administrative official in the enforcement of city regulations. Also, a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

Applicant: The owner or duly designated representative of a structure or property. Applicants may apply for building, fence, sign, and other permits or nominations for local, state or national registry, or group of owners of structures in a proposed historic district, or the owner or duly designated representative who has applied for a building permit, demolition or clearance permit involving a registered historic property or property within 500 feet of a registered historic property.

Appropriate: Suitable to or compatible with what exists in the surrounding context or setting.

Appurtenant Structure: A structure that is on the same parcel of property as the principle structure and the use of which is incidental to the use of the principal structure.

Arboretum or botanical garden: A botanical garden containing living collections of woody plants intended for public appreciation and/or for scientific study.

Area of Shallow Flooding: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Arena and Field House: Structures with indoor space sufficient to house large community events and/or indoor sporting events.

Art Gallery or Museum: A building or space for the exhibition of art, usually visual art. Museums can be public or private, but what distinguishes a museum is the ownership of a collection. Paintings are the most commonly displayed art objects; however, sculpture, decorative arts, furniture, textiles, costume, drawings, pastels, watercolors, collages, prints, artists' books, photographs, and installation art are also regularly shown. Although primarily concerned with providing a space to show works of visual art, art

galleries are sometimes used to host other artistic activities, such as performance art, music concerts, or poetry readings.

Arterial Street: A major thoroughfare designed to carry traffic from one area to another and as designated in the Future Land Use Map, which is a part of the Leavenworth Comprehensive Land Use Plan.

Assembly Hall: Any building, or portion of a building, used primarily for public or private gatherings, with a maximum capacity for congregation in the assembly area of at least 50 people.

Assisted Living Facility: Facilities which provide residents with supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being. Other licensure terms used for this philosophy of care include Residential Care Home, Assisted Care Living Facilities, and Personal Care Homes.

Athletic Facilities: Outdoor facilities designed and used for athletic events, practice and coaching.

Auction Establishment: Any facility at which regularly scheduled auctions occur and for which public space has been established. This includes private or member only auction facilities.

Auditorium/Exhibition Hall/Convention Center: A large building that is designed to hold a convention, where individuals and groups gather to promote and share common interests. Convention centers typically offer sufficient floor area to accommodate several thousand attendees. Convention centers typically have at least one auditorium and may contain concert halls, lecture halls, meeting rooms, and conference rooms.

Automobile Parts Recycling Business: Any facility, structure, or land-use storage of used and reusable or scrap salvage materials, including but not limited to resale of parts, shredding, milling, grinding, baling, or packing equipment for the handling of used and re-saleable parts, scrap, salvage materials, or used materials.

Automobile Repair Shop: A place where automobiles are repaired by any of the following; auto mechanics, body shop technicians or electricians.

Automobile Towing Service Storage Yard; Impound Lot: A place where automobile tow trucks are stationed between calls and where automobiles are temporarily stored after being towed for reasons other than mechanical malfunction. The dismantling or salvage of vehicles is not included in this definition.

Automobile, Boat, Truck, Motorcycle, RV Sales, Rental, and Service: A place where automobiles and other power sport vehicles are sold, rented or repaired by any of the following; mechanics, body shop technicians or electricians.

Awning or Canopy Sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A Marquee is not a canopy. A canopy sign shall be considered a wall sign. Any sign printed on a backlit canopy shall be considered a wall sign.

Banner: A canvas, plastic, cloth, or fabric sign used to advertise a product, service, event, or promotion. Banners are considered to be temporary signs only. (See Temporary Sign.)

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: Any area of the structure having its floor subgrade (below ground level) on all sides.

Bed and Breakfast Inn: Any residential structure within a zoning district which allows this land use wherein boarders are allowed to share guest rooms and living space with other guests and breakfast is served at no additional charge. No upper time limit on residency is to be established. In approval of a **Bed and Breakfast Inn** the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. Owner occupancy is not required. However, a 24-hour management presence is required for all operations when 1 or more guests are in residence.

Better Building: This ratio is determined by dividing the County's most recent appraised value for a building (not the site) by the building's area in square feet. The upper 1/3 of all building value to area ratios within 1000' shall be used to determine if a proposed architectural style is generally compatible with the area. Commercial buildings shall only be compared to commercial, industrial to industrial.

Billboard: An off-premise sign having a specified display surface that advertises goods, products, or services, generally not available or sold on the premises.

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

Board of Zoning Appeals (BZA): A local body created by ordinance, whose responsibility is to hear appeals from decisions of the local zoning administrative officials and to consider requests for variances and exceptions permissible under terms of the Development Regulations of the City of Leavenworth, Kansas.

Boarding or Rooming House: A building other than a bed and breakfast, hotel, motel, cafe, or restaurant where, for compensation, directly or indirectly, lodging and/or 2 meals per day are provided for three (3) or more boarders and/or roomers exclusive of the occupant's family.

Buffer Strip: A strip of land, identified in the Development Regulations of the City of Leavenworth, Kansas, established to protect one type of land use from another with which it is incompatible. Additional use, yard, or height restriction may be imposed but normally a properly screened area can provide a buffer.

Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store):

Building – A structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or personal property.

Building Coverage: The amount of land covered or permitted to be covered by a building, usually measured in terms of percentage of a lot

Building Height: The vertical distance measured from the average existing grade within the building setback envelope to the uppermost point of the roof of the building.

Building Materials: Substances used in construction of a building, specifically the exterior elements, which influence character, appearance, and durability.

Building Supplies and Equipment: A wholesale sales and warehousing operation catering to building contractors and not open to the public.

Building Type: A definition based on floor plan, height and roof shape, related to architectural style.

Bulk: That measure that establishes the maximum size of a building and its location on a lot. Components of bulk include: size and height of building, location of exterior walls at all levels with respect to lot lines; streets and other buildings; gross floor area of building and amount of lot area provided per dwelling unit

Bus Garage and Equipment Maintenance: Any facility for the storage, maintenance or operation of transportation equipment.

Bus Terminal: A structure or place for the loading, unloading, and transportation of people into vehicles capable of transporting more than 15 people. Unlike a bus stop, a bus terminal includes restroom facilities and the vending of trip tickets.

Camp, Private, Overnight: A private facility for use of its membership which allows temporary residence, not to exceed 30 days, in tents or recreational camper trailers. On-site staff members are not limited to a residency period restriction. Recreational Vehicles are not included.

Campground: A facility, which allows temporary residence, not to exceed 30 days, in tents or recreational camper trailers. Recreational Vehicles are not included.

Canopy and Awning: A roof-like cover having no supporting walls but supported otherwise from the ground, deck, floor, or walls of the building.

Car Wash/Truck Wash: A facility for the washing and further cleaning of cars or trucks.

CBD: Central Business District as defined by the most current Development Regulations.

Cellar: See Basement.

Cemetery: An area set apart for or containing graves, tombs, or funeral urns.

Certificate of Appropriateness -Minor: A Certificate of Appropriateness which may be granted by certain designated staff for exterior repairs, maintenance, signage or for non-registered properties which have no adverse impact on historic properties.

Certificate of Appropriateness or CofA: A certificate issued by the City approving plans for alteration, construction, demolition or other matters relating to various historic properties.

Certificate of Occupancy: Official certification that a premises and its identified use conforms to the provisions of the Development Regulations of the City of Leavenworth, Kansas and building codes and may be used or occupied. This certificate is granted for new construction.

Certified Ownership List: A current list of names and addresses of property owners of record, and a legal description of the property owned that would lie within 200 feet (1000 in the rural area of the County) of the external boundaries of any land proposed for rezoning, special use permit, variance, or exception. This list may be prepared and certified by an abstractor, attorney, surveyor, or the County GIS department. The Director may accept a list prepared by city staff.

Changeable Message Sign, Electronic – A sign that is activated electronically, whose message, content, or display, in whole or in part, may be changed by means of either electronic, computerized programming or any other means, and which the message is in text, alphanumeric characters, symbols, logos, or static image.

Changeable Message Sign, Manual – A sign on which the message or copy is changed manually in the field.

Character: Those individual qualities of building, sites, and districts that differentiate and distinguish them from other buildings, sites, and districts.

Chief Engineer: The chief engineer of the division of water resources, Kansas Department of Agriculture.

Chief Executive Officer or Chief Elected Official: The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community; i.e., the City Manager.

Child Care Center: A day nursery providing care for seven (7) or more children, for part or all of a day or night, away from the home of the parent or legal guardian; including full day child care, nursery schools, play groups, Head Start, centers giving emphasis to programming for special children, kindergartens not operated by the public schools, and other establishments offering care to groups of children for part or all of the day or night. Centers for infants and toddlers or for handicapped children may have fewer than seven (7) children but be licensed as a center because the program meets child care center regulations.

City Commission: The elected, governing body of the City of Leavenworth.

City Manager: Executive appointed by the City Commission

City Planning Commission: The Leavenworth City Planning Commission.

City: The City of Leavenworth, Kansas.

Civic, Social, and Fraternal Organizations: Any organization with a mission of promoting the public good.

Collector Street: A major thoroughfare designed to carry traffic from an arterial street to the local streets as designated in the Future Land Use Plan in the Leavenworth Comprehensive Land Use Plan. Collector streets serve large subdivisions or neighborhoods.

College or University: An organization which is listed in the U.S. Department of Education's Office of Postsecondary Education database which has been accredited by an accrediting agency or state approval agency recognized by the U.S. Secretary of Education as a "reliable authority as to the quality of postsecondary education" within the meaning of the Higher Education Act of 1965, as amended.

Commercial Message: Any message, content, text, logo, or display that directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity or concerns the economic interest of the advertiser.

Commercial Sign: Any sign that directly or indirectly names advertises or calls attention to a business, product, service or other commercial activity or concerns the economic interest of the advertiser.

Commercial Vehicle: A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if: the vehicle has a gross vehicle weight rating or gross combination weight rating, or a gross vehicle weight or gross combination weight over 10,000 pounds; or the vehicle is designed or used to transport more than eight passengers, including the driver, for compensation; or the vehicle is designed to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or the vehicle is of any size and is used in the transportation of hazardous materials.

Communication Tower: Any commercial structure with one or more antennae rising more than 20 feet above grade or the roof of a structure.

Community Centers: Public locations and structures where members of a community gather for group activities, social support, public information, and other purposes. They may sometimes be open for the whole community or for a specialized group within the greater community.

Community playfields, playgrounds, and parks: Any park or recreation facility accessible by all members of the public and intended to serve the recreation needs of the community as a whole.

Community: Any State, area, or political subdivision thereof, which has authority to adopt and enforce floodplain management or other regulations for the areas within its jurisdiction.

Compatible: Of such character as not to detract from surrounding elements, buildings, sites or structures; consistent and appropriate with the surrounding context and setting.

Component: An individual part of a building, structure, site, or district.

Concentrated Animal Feeding Operations: Agricultural operations where animals are kept and raised in confined situations. CAFOs congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

Consumer Goods Retail Sales: The sale of goods or merchandise from a fixed location, such as a department store, boutique, or kiosk, or by mail, in small or individual lots for direct consumption by the purchaser. Retailing may include subordinated services, such as delivery. Purchasers may be individuals or businesses. In commerce, a "retailer" buys goods or products in large quantities from manufacturers or importers, either directly or through a wholesaler, and then sells smaller quantities to the end user. Retail establishments are often called shops or stores.

Context: The setting in which a historic element or building exists.

Contracting Services, no storage or yard: A facility from which service contractor vehicles are dispatched to jobs, but which has no outdoor storage of construction materials.

Contributing/Key contributing: A building, site, structure or object which adds to the architectural qualities, historic association or archeological values of historic register property for which a property is significant because: (a) it was present during the pertinent historic time; (b) it possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period or (c) it independently meets the standards and criteria of the Historic Preservation regulations.

Convent/Monastery: A building, or complex of buildings, that houses a room reserved for prayer (e.g. an oratory) as well as the domestic quarters and monastic workplaces for monks or nuns, whether living in community or alone (hermits). Monasteries may vary greatly in size – a small dwelling accommodating only a hermit, or in the case of communities anything from a single building housing only one senior and two or three junior monks or nuns, to vast complexes and estates housing tens or hundreds.

Conversion: Changing, by alteration, the original purpose of a building to a different use.

Country Club: A private club, which may have a closed membership, offering a variety of recreational sports facilities. Activities may include golf, tennis, swimming, or polo. A country club will usually provide hospitality to members and guests such as a restaurant and bar, and may provide suitable accommodations for host-catered events, such as weddings.

Covenant: A private legal restriction on the use of land contained in the deed of the property or otherwise formally recorded.

Cul-de-sac: A vehicular turnaround which is either temporary or permanent, located at the closed end of a dead-end street or alley.

Day Care Center/Preschool: Any facility providing care of 15 or more children during the day by a person other than the child's legal guardians, typically performed by someone outside the child's immediate family. Day care centers typically offer an ongoing service during specific periods, such as the parents' time at work. Preschool is the provision of care and an educational program for children before the commencement of statutory education, usually between the ages of three and five.

Day Care Home: A day nursery providing care for not more than six (6) children under kindergarten age. To qualify for a home occupation, no one other than members of the immediate family residing on the premises can be employed (see Child Care Center)

Deciduous Trees: Generally those trees, which shed their leaves annually, such as Ash, Sycamore, Willow, etc.

Density: The average number of families, persons, or housing units per unit of land; expressed in numbers of families per gross developable acre.

Design guideline/standard: The standards set forth by the Secretary of the US Department of the Interior for the preservation of historic places.

Design: The location of streets, alignment of streets, grades, and widths of streets, alignment of easements, grades and widths of easements, alignment and rights-of-way for drainage and sanitary sewers, and the designation of minimum lot area, width and length.

Developable Area (Gross): The total acreage or square footage in a lot or tract proposed to be developed

Developable Area (Net): The gross developable area minus the area to be dedicated for public use or right-of-way

Development Plan: The provisions for the development of land including such drawings as shall serve as a plat or subdivision and all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private drives and ways, parking facilities, common open

space and public space. All written or graphic materials prepared for the development will be considered "provisions of the development."

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Digital Billboard: A billboard capable of displaying multiple static images controlled by electronic communications.

Directional Sign: Any sign that provides direction for the safe and efficient flow of vehicular or pedestrian traffic on a property, and shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises. A directional sign may contain the name or logo of an establishment, but no commercial message. Examples are parking and entrance signs. The logo area shall not exceed 25% of sign area. Off-premise directional signs are only allowed, as regulated, under Special Event Signs.

Director: The Director of Planning & Community Development or a person designated in writing by the Director.

Dissolve (A frame effect): A transition from one message to another where static messages are changed by means of varying light intensity or pattern where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.

District (historic district): An area that possesses a significant concentration, relationship between, or continuity of sites, buildings, structures, or objects united historically or architecturally by plan or physical development. Districts include college campuses, downtown areas, residential areas, industrial complexes, civic centers, government reservations, planned street systems, and parks. The term may also be applied to individual, associated, or functionally related sites, buildings, structures, or objects that are geographically separated. In such cases, visual continuity should not be necessary to convey the historic relationship of a group of related resources.

District: See Zone, Overlay District, or Zoning District

Dormitory: A residence hall providing rooms for individuals or for groups usually without private baths.

Drinking Establishment: A place of business, which sells liquor-by-the-drink and maintains at least 30% of receipts in food sales as regulated by the Alcoholic Beverage Control Division, Department of Revenue.

Driveway, Customary: A private lane which leads from a street or an alley to a garage, carport, rear yard parking area, a parking space established in accordance with the provisions of this ordinance, or to another street or alley. Such driveway may extend in front of, alongside of, or in the rear of a principal structure either planned for or erected upon a building site.

Duly Authorized Representative: Any individual or person or any section, division or department of the city administration or any individual or person within the designated section, division or department of the city administration who has been designated by the Director to implement, administer, and enforce the provisions of these Development Regulations. Generally, references are to the City Planner and his/her designee, assignee, agent, or designated person as used in the text of the ordinance.

Dwell Time: The length of time during which each frame is displayed on any sign that is capable of sequentially displaying more than one message on its sign face.

Dwelling in Mixed-Use Structure: A dwelling unit within a larger structure, which is used in whole or in part as a commercial establishment. The dwelling unit(s) need not be the principal residence of the business operator.

Dwelling, Attached: A dwelling where at least one wall is shared, in common, with another dwelling.

Dwelling, Detached: A dwelling which is separated from any other principal structure

Dwelling, Earth Sheltered: A single family dwelling unit which incorporates the use of earthen materials to insulate not more than three sides of the structure, but which incorporates a conventional mansard, hip, gable, or gambrel roof, all built to the specifications of the local building code. For the purposes of administering this ordinance, an earth sheltered dwelling is NOT a basement dwelling.

Dwelling, Elderly or Retirement Home: A dwelling unit or high-rise apartment building specifically designed to be occupied by residents who are at least sixty-two (62) years of age, and who are ambulatory and able to take care of themselves.

Dwelling, IBC/IRC Modular Home: Sectional prefabricated buildings or houses that meet local building codes and consist of multiple modules or sections, which are manufactured in a remote facility and then delivered to their intended site of use. The modules are assembled into a single residential building using either a crane or trucks.

Dwelling, Live/Work: A dwelling unit, part of which may be used as a business establishment and the dwelling unit is the principal residence of the business operator.

Dwelling, Multi-Family: A building or portion thereof, designed for occupancy by three (3) or more families.

Dwelling, Single Family: A building designed for occupancy by one (1) family.

Dwelling, Single-Family Detached: A building designed for occupancy by one (1) family, which has required yards and setbacks from other residential structures.

Dwelling, Townhouse: A building designed for occupancy by one (1) family in a style of medium-density housing that originated in Europe in the late 17th century, where a row of identical or mirror-image houses share side walls.

Dwelling, Two-Family: A building designed for occupancy by two (2) families

Dwelling: A dwelling is any building or portion thereof not including mobile homes, which is designed or used exclusively for residential purposes including an attached garage, provided the attached garage is subordinate in area to the living portion of the structure. An attached garage shall have a common wall with a main structure for a distance of at least 25% of the length of the longest dimension of the garage. An attached garage not meeting this test may qualify as a detached garage, which need not comply with the five (5) foot setback requirement between buildings but shall meet all setback requirements of the principal structure.

Easement: A right of the owner of one (1) parcel of land by reason of such ownership, or a right of the public, to use the land of another for a special purpose as designated.

Educational and Scientific Research, Development, and Testing Services:

Element: An individual defining feature of a building, structure, site, or district.

Elevated Building: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Community or Participating Community: A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Environmental Officer: The Director of Planning & Community Development.

Environs: The area immediately surrounding a property listed upon the National Register of Historic Places (hereafter, "registered"). The Historic Preservation regulations shall apply to all structures which are within 300 feet of a registered property and to all structures intervisible with the registered property up to, but not farther than, 500 feet. Intervisibility is further defined as "the condition of being able to see one point from another without physical, permanent obstruction." Intervisibility shall be determined by standing at the main entrance of the registered property and looking in all directions for a distance of up to 500 feet. All references to "within 500 feet of a landmark or historic district" as used throughout this code shall use the intervisibility standard for determining changes to the environs of a registered property.

Evergreen Trees: Generally those trees which do not shed their leaves annually, such as Pine, Spruce, Juniper, etc.

Exception: A grant of permission to depart from the general provision of the Development Regulations of the City of Leavenworth, Kansas which is expressly authorized by provisions of the ordinance after a finding of fact and imposition of conditions by the applicable governing body.

Existing Construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Exterior Architecture/Feature: The character and composition of the exterior of the structure, including but not limited to, the kind and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements, and, the elements and components of the outer surface of a structure including windows, doors, light fixtures, signs, fences, hitching posts, decorations, chimneys, false fronts, parapets, flag poles, landscaping, retaining walls and related materials.

Facade: The front elevation of a building.

Fascia Sign: A wall sign mounted against the horizontal piece covering the joint between the top of the wall and the projecting eaves of the roof.

Fade (A frame effect): A transition from one message to another by means of varying light intensity, where the first Message gradually reduces intensity to the point of not being legible and/or gradually increases intensity to become legible.

Family: A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship; (2) two unrelated people; (3) two unrelated people and any children related to either of them; or (4) not more than eight people and up to two caretakers who are residents of a "Group Home" as defined in K.S.A. 12-736 and this ordinance. This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. §802(6). Exceptions: "Family" does not include: any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement because of criminal offenses.

Farm: An area, which is used for the production of farm crops such as vegetables, fruit trees, cotton, or grain and their storage as well as raising thereon of farm animals such as poultry, cattle, or swine on a limited basis. Farms also include dairy operations.

Farming: The practice of raising crops and/or livestock for profit.

Fence: A barrier intended to prevent escape or intrusion, or to mark a property boundary. Open fences are those constructed of wood, masonry, metal, woven wire or other material whose surface area is greater than 50 % open. Solid fences are those constructed of wood, masonry, metal, plantings, hedges, or other material whose surface area is or may become less than 50% open.

Final Plat: A plan or map prepared in accordance with the provisions of this regulation and those of any other applicable local regulation, which plat is prepared to be placed on record in the office of the Register of Deeds of the County.

Financial Institution, with Drive-thru: An institution that provides financial services for its clients or members including deposit-taking institutions, which accept and manage deposits and make loans. Examples are banks, building and loan societies, credit unions, trust companies, mortgage loan companies, insurance companies, pension funds, brokers, underwriters, and investment funds. This definition does not include short term or automobile title loan businesses. If these institutions have a physical facility to allow their customers to make transaction from a vehicle they are "drive-thru."

Financial Institution, without Drive-thru: An institution that provides financial services for its clients or members including deposit-taking institutions, which accept and manage deposits and make loans. Examples are banks, building, and loans societies, credit unions, trust companies, mortgage loan companies, insurance companies, pension funds, brokers, underwriters, and investment funds. This definition does not include short term or automobile title loan businesses. If these institutions do not have a physical facility to allow their customers to make transaction from a vehicle they are "without drive-thru."

Fish Farm/Hatchery: A place where large numbers of fish eggs are artificially fertilized and hatched, and fish are raised in an enclosed environment. Hatcheries may be owned and operated by either governments or private interests. Some hatcheries raise the fry until they reach adulthood and have

commercial value; others release the fry into the wild with the intent of building up the wild stock. Fish Farms raise the fish until they are ready for market.

Flashing: A pattern of changing light illumination where the sign's illumination alternates suddenly between fully illuminated and fully non-illuminated for drawing attention to the sign.

Floating Zone: A special detailed use of district of undetermined location in which the proposed kind, location, size, juxtaposition and form of structures must be preapproved, and which, like a special use permit, is legislatively predetermined to be compatible with the areas in which it may thereafter be located on a particular application, provided specified predetermined standards are met and actual incompatibility is not revealed. A Planned Unit Development is the only floating zone in this ordinance.

Flood Boundary and Floodway Map (FBFM): An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood Elevation Determination: A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Elevation Study: An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

Flood Fringe: The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood Hazard Map: The document adopted by the City Commission showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

Floodplain Management Regulations: Development Regulations, Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances), and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain or Flood-prone Area: Any land area susceptible to being inundated by water from any source (see "flooding").

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway Encroachment Lines: The lines marking the limits of floodways on Federal, State and local floodplain maps.

Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Use: A use that can be approved by the City Engineer upon the application of certain criteria for uses in the 100-year floodway as regulated by Article X – Floodplain Management.

Floor Area Defined: For the purpose of applying the requirement of off-street loading and parking, the term "floor area" in the cases of offices, merchandising, or service types of use, shall mean the gross floor area used or intended to be used by tenants, or for the service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used principally for non-public purposes, such as storage, incidental repair, processing, or packaging of merchandise, offices incidental to the management or maintenance of stores or buildings, restrooms, facilities, or exterior balconies.

Food, Beverage, Convenience and Groceries Retail Sales: A grocery store is a store established primarily for the retailing of food. It stocks different kinds of foods from assorted places and cultures, and sells them to customers. Large grocery stores that stock products other than food, such as clothing or household items, are called supermarkets. Small grocery stores that mainly sell fruits and vegetables are known as produce markets. Bodegas and kiosks are small grocery stores that predominantly sell snack foods and sandwiches. Convenience stores typically also retail gasoline.

Foster Home: A residence or building in which 12 to 24-hour care is provided to no more than five (5) children, two (2) or more of which are unrelated to the foster parent. Foster homes are permitted in all residential districts as they are considered a family

Frame Effect: A visual effect on an Electronic Changeable Message Sign applied to a Frame to transition from one Frame to the next.

Frame: A single static image generally used to convey a picture or message or portion thereof that could include multiple frames through scrolling, traveling, and other effects.

Fraternity/Sorority Home: A chapter house, providing residential and dining facilities for members of social organizations with a membership consisting of undergraduate students at colleges and universities. These are single-sex, initiatory organizations with membership considered active during the undergraduate years only. A fraternity or sorority must be recognized by and affiliated with a local college or university.

Free Standing Sign: Any self-supporting ground, pole, pylon, or monument sign which is detached and is independent from any structure.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Frontage: The frontage of a lot is the side nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides adjacent to streets shall be considered frontage and yards shall be provided, as set forth in this document.

Functionally Dependent Use: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Funeral, Mortuary, Crematory: A facility for the provision of funeral services, including the preparation of bodies for burial or their disposal by cremation.

Future Land Use Map: A component of the Comprehensive Land Use Plan.

Gas Station: See Service Station.

GBD: General Business District as defined by the most current Development Regulations.

Golf course, private: A golf course, with private membership and ownership, consists of a series of holes, each consisting of a teeing ground, fairway, rough, and other hazards, and a green with a flagstick and cup, all designed for the game of golf. It may include a driving range, restaurant, pro-shop and bar.

Golf course, public: A golf course, with public membership and either private or public ownership, consisting of a series of holes, each consisting of a teeing ground, fairway, rough and other hazards, and a green with a flagstick and cup, all designed for the game of golf. It may include a driving range, restaurant, pro-shop and bar.

Governing Body: The City Commission of Leavenworth, Kansas. **Government Activities or Services:** The rendering of services of a governmental nature (police, fire protection, refuse collection, or code enforcement for example) required within or upon any property regardless of zoning classification.

Government Administrative Buildings and Support Facilities: Primary and accessory structures to be used by United States, Kansas, county, city, and local school districts or governments for the delivery of essential services to the public. This definition does not apply to nonprofit corporations or organizations, which may deliver government services but are not under the jurisdiction of a popularly elected legislative board or commission. All other provisions of the city's Development Regulations, zoning, land use, construction, and property maintenance codes shall apply to government-owned facilities.

Government Offices and Facilities: Any facility, function, office, shop, or place operated by any one of the following governments: United States, State of Kansas, County of Leavenworth, City of Leavenworth, USD 453, or any other division of the state of Kansas with the authority to levy and collect taxes.

Grass: A species of perennial grass grown as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes.

Greenhouse/Nursery: A nursery is a place where plants are propagated and grown to usable size. These include retail nurseries that sell to the public, wholesale nurseries that sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries that supply the needs of institutions or private estates. Some retail and wholesale nurseries sell by mail.

Group Home: Disabled (defined by K.S.A. 12-736): A dwelling unit occupied by not more than ten (10) persons, including eight (8) or fewer persons with a "disability", which is licensed by a regulatory agency of the state. "Disability" refers to persons with physical or mental impairments substantially limiting major life activities.

Gun Sales and Service: Any place, structure, or person licensed by the federal government, which offers the sale, rental, service, repair, or storage of guns, ammunition and shooting accessories.

Health Resort/Spa: A business establishment which people visit for professionally administered personal care treatments such as dietary counseling, various therapies, massages, and facials in a hotel setting where people reside for a day or more.

Heavy Industrial: The production of products, which are either heavy in weight or heavy in the scale of the processes leading to their production. Products are often produced with by the use of smelters, furnaces, and high energy or raw material inputs. Often heavy industrial processes involve the use of large machines, smokestacks, hazardous products, and waste chemicals. Typical Heavy Industrial processes have some negative effects on the surrounding property through the emission of noise, large vehicle traffic, particulate matter emissions, mechanical vibration, unpleasant smells, and or deleterious environmental impacts. Heavy industrial projects can be generalized as more capital intensive or as requiring greater or more advanced resources, facilities or management. These industries are often the most heavily regulated by the federal or state governments.

Heavy Vehicle/Equipment Sales, Rentals, and Service:

Heliport: Any location where one or more heavier than air rotor-wing craft capable of containing a human, takeoff or land, and for which ground facilities necessary to these operations are constructed.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic and Monument Sites: Any site so designated by the local, state, or federal Government.

Historic District: An area designated as an historic district and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have such other structures which contribute to the overall visual characteristics of the significant structures or objects located within the designated area, and are free from non-contributing structures which detract from the historic properties.

Historic Preservation: The study, identification, protection, restoration and rehabilitation of buildings, sites, structures, objects, districts, and areas significant to the history, architecture, archaeology or culture of the city, state or nation. Preservation may include work to halt the process of decay, normal maintenance, and other measures to retain and sustain the nature, form, material, and integrity of historically or architecturally important properties, structures or districts.

Historic reconstruction: The reproduction of the exact form and detail of a vanished building, site, structure or object or a part thereof, as it appeared at a pertinent time using materials based on precise historical documentation and specification, including construction method.

Historic replication: the reconstruction of structural elements, which match the shape and size but may be made of different materials or methods than those used in the original construction.

Historic restoration: the accurate reconstruction of structural elements matching in shape, size and texture the original construction method and material, including removal of materials that are not appropriate to the structure.

Historic Structure: Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

Historically or Architecturally important feature: The qualities present in a structure, property, or district because it: (a) Is associated with an event or events that significantly contributed to the broad patterns of the history or architectural heritage of the city, state, or nation. (b) Is associated with the life of a person(s) significant to the history of the city, state, or nation. (c) Embodies distinctive characteristics of a type, design, period, or method of construction. (d) Represents the work of a master craftsman or possesses high artistic value. (e) Exemplifies the cultural, political, economic, social, or historic heritage of city, state, or nation. (f) Contains elements of design, detail, materials, or craftsmanship which represent a significant construction innovation. (g) Is part of or related to a square, park or other distinctive area that was or should be developed or preserved according to a plan based on a historic or architectural motif. (h) Is an established and familiar visual feature of a neighborhood or of the community. (i) Has yielded or is likely to yield archeological artifacts and/or information.

Holiday Decorations: Displays erected on a seasonal basis in observance of religious, national, or state holidays that are not intended to be permanent in nature and that do not constitute commercial signs.

Home Occupation: A business, profession, service, or trade, meeting the qualifications of and permitted by the Supplementary District Regulations of this ordinance, conducted for gain or support within a residential building.

Hospital: An institution for health care providing patient treatment by specialized staff and equipment, and often, but not always providing for long-term patient stays.

Hotel: A building or portion thereof, or a group of buildings, which provide sleeping accommodations for transients on a daily or weekly basis for pay, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or otherwise.

Hotels and Motels (with accessory uses): A commercial establishment that provides guest-lodging accommodations consisting of a room with a bed, bathroom, climate control and maid service on a short-

term basis. Hotels typically have rooms exiting on to a semi-secure central hallway. Motels typically have rooms exiting directly to the outdoors and have parking close to the room door.

Identification Sign: Any sign giving the nature, logo, trademark or other identifying symbol, address, or any combination of the name, symbol, and address of a building, business development, or establishment on the premises where it is located.

Illegal Lot Combination/Transfer: A lot that contains one (1) or more portions of a lot or lots of record. The transference of a portion of a platted lot without a replat of both the donor and recipient lots is illegal.

Illegal Sign: A sign that violates the intent or provisions of the sign code and is installed or erected after the effective date of the current sign code or was illegally installed before the effective date of the sign code and is not in conformance with the sign code.

Illuminated Sign: A sign lighted by, or exposed to, artificial lighting either by lights on or in the sign or directed toward the sign.

Illumination: The amount of light that is incident to the surface of an object. This is the method for describing ambient light levels or the amount of light that is projected onto a front-lit sign. This parameter is typically measured in Lux (foot-candles x meters).

Improvements: Street and drainage work and utilities that are to be installed, or agreed to be installed in conformance to City of Leavenworth's standard and specifications, by the subdivider on the land to be used for public or private use of the lot owners in the subdivision, as a condition precedent to and acceptance of the final plat.

Indirectly Illuminated Sign: A sign whose source of illumination is exterior to the body of the sign with the light shining directly on the sign.

Indoor Commercial Recreation/ Entertainment: Any facility for recreation, which is indoors, and commercial in nature.

Indoor Shooting Ranges: Any indoor shooting range for guns or archery meeting National Rifle Association standards for the design, construction, and operation of the facility.

Infill Construction: Construction of a new residential or commercial structure on a previously platted and developed lot where one or more main structures were removed. Infill constructions shall conform to established setback lines, building orientation, mass, form, and architectural styling of the surrounding buildings.

Inoperative Vehicle: A vehicle that is wrecked, partially dismantled and/or damaged to the extent that the equipment required by State statute on any such vehicle used on the streets and highways is not present or is not in good condition or proper adjustment or such vehicle is in an inoperable condition or a condition that would render the operation on the streets and highways a hazard to public safety.

Internally Illuminated Sign – A sign in which the source of illumination is contained within the sign.

Inter-Parcel Access: A private, vehicular way adequate to convey vehicular traffic from the subject property to adjacent properties in an unimpeded manner.

Jails and Prisons: Places in which people are physically confined and, usually, deprived of a range of personal freedoms. In the United States, "jail" and "prison" refer to separate levels of incarceration;

generally speaking, jails are county or city administrated institutions which house both inmates awaiting trial on the local level and convicted misdemeanants serving a term of one year or less, while prisons are state or federal facilities housing those awaiting trial on the state or federal level and convicted felons serving a term of more than one year. On the federal level, this terminology has been largely superseded by a more complex five-tier system implemented by the Federal Bureau of Prisons that ranges from low security "Prison Camps" to medium security "Correctional Institutions" and finally maximum security "Penitentiaries."

Junk Yard: The use of any lots, portion of a lot, or tract of land for the storage, processing, sale, or abandonment of junk, including scrap metal or other scrap material, or for the dismantling, demolition or abandonment of automobiles, or other vehicles, or machinery or parts thereof

Junkyard, Salvage Yard: The location of a dismantling business where wrecked or decommissioned vehicles or other scrap is brought, their usable parts are sold for use in operating vehicles, while the unusable metal parts, known as scrap metal parts, are processed and sold to metal-recycling companies.

Kansas Register/State Register: The current State Register of Historic Places as prepared, approved and amended by the State Historic Sites Board of Review and authorized by KSA 75-2701, et.seq.

kennel: A facility, which houses, boards, breeds, or trains five (5) or more dogs or cats by other than the owner.

Landfill, Construction and Demolition: An approved location through the special use permit process wherein the following can be deposited: waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, and pavement.

Landfill, Cut And Fill: A location wherein clean fill dirt may be deposited or cut with the approval and review of the Director of Public Works.

Landfill, Municipal Solid Waste: A landfill accepting all types of material as regulated by the State of Kansas not including Construction and Demolition Landfills or Cut and Fill Landfills. Municipal Solid Waste Landfills are not allowed in the City of Leavenworth.

Landowner: (Also known as property owner) The legal or beneficial owner or owners of all land proposed for action under this ordinance. The holder of a contract to purchase or other persons having an enforceable proprietary interest in such land shall be deemed a landowner or property owner for the purpose of this ordinance.

Landscape Material: Living material such as trees, shrubs, ground cover/vines, turf grasses, and non-living material such as: rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and/or other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

Landscaped Open Space: All land area within the property lines not covered by building or pavement.

Leavenworth Landmark: A site, structure, or object designated as a landmark by the City Commission deemed worthy of preservation because of its historic, archaeological, and/or architectural significance to the City, state or nation.

Legal Setback Line: A line established by the Development Regulations beyond which no building may be built. A legal setback line shall be measured from the property line, not the curb line.

Library: A collection of sources, resources, and services, and the structure in which it is housed, organized for use and maintained by a public body, an institution, or a private individual.

Light Industrial: Light industry is usually less capital intensive than heavy industry, and is more consumer-oriented than business-oriented. Most light industry products are produced for end users rather than as intermediates for use by other industries. Light industry facilities typically have less environmental impact than those associated with heavy industry. Light industry is a manufacturing activity that uses moderate amounts of partially processed materials to produce items of relatively high value per unit weight. Examples of light industries include the manufacture of clothes, shoes, furniture, consumer electronics, and home appliances. Light industries require only a small amount of raw materials, area, and power.

Local Streets: A street whose primary purpose is to provide access to private property.

Lot Area: The total square footage area of the property bounded by the front, side and rear lot lines, excluding all dedicated rights-of-way.

Lot, Buildable: Any lot of record meeting the zoning minimums or lot of record that has frontage on a dedicated street that is open and maintained by the city. A street of less than a minimum right-of-way width shall require dedication of additional right-of-way prior to the issuing of any building permits. No permits for residential uses shall be issued on streets that are not open, dedicated, and maintained by the city except in a PUD.

Lot Coverage: The portion of a lot occupied by the building footprint and all impervious surfaces.

Lot Line, Front: The property line dividing a lot from the right-of-way of a street. On a vacant corner lot, the shorter street right-of-way shall be considered as the front line. On a developed corner lot, the front line should be determined by the structure's main entrance.

Lot Line, Rear: The lot line opposite and most distant from the front lot line and most nearly parallel to it.

Lot Line: Lot boundary line or property line.

Lot of Record: A lot which is a part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Leavenworth County; or a parcel of land described by metes and bounds, the deed to which was recorded in the office of the Register of Deeds prior to the adoption of this ordinance.

Lot Width: The distance between the side lot lines, measured along the front setback line as established by this ordinance. Where the front setback line is curvilinear, lot width shall be measured along the tangent to this curve.

Lot, Depth Of: The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Interior: Any lot other than a corner lot.

Lot/Parcel/Tract: As defined by the State of Kansas.

Lot: A parcel or tract of land under single ownership or control. A lot may consist of one (1) or more lots of record. Multiple lots may be developed as one lot if internal easements are voided. A portion of land in a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development.

Lowest Floor: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

LPC: The Leavenworth Preservation Commission.

Luminance: The amount of light that emanates from an internally illuminated sign. This parameter is measured in nits. The nit levels necessary for the sign to be legible vary with the ambient light conditions. On a sunny day, the nit levels must be very high, while at night, the levels must be very low to prevent the image from distorting and to prevent glare.

Major Arterial Street: A street of great continuity which serves as a major thoroughfare whose primary function is to move traffic from and to principal traffic generators within the region

Mansard Sign – A sign mounted on a roof with two angles of slope, the lower portion of which is steeper and architecturally comparable to a building wall. Also may be a vertical façade that imitates a roof. A mansard sign is a wall sign.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Home: Those structures, which are built to standards pursuant to the Federal Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5401, et seq. Usually these are a dwelling unit that is mass produced in a factory, is designed for long term residency and is constructed for transportation to a site for installation and use on a permanent foundation when connected to required utilities, and is either an independent, individual building or a module for combination with other elements to form a building. The term "manufactured home" does not include a "recreational vehicle."

Manufactured/Mobile Home Community: A community consisting entirely of single family homes manufactured off-site. Typically, residents pay a lot rental fee to the owner of the community.

Manufacturing, Fabrication, and Assembly: Any place or structure where value is added to a material product through manufacturing techniques.

Map: The Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

Marina: A marina is an artificial harbor with wharfs keeping boats and yachts and with services for recreational boating. A marina may have refueling, washing and repair facilities, ship chandlers, stores and restaurants. A marina may include ground facilities such as parking lots for vehicles and boat trailers and boat ramps to transfer trailered boats into the water. A marina may have a boat hoist operated by service personnel. A marina may have out-of-water-storage for out-of-season boat storage. A marina differs from a port in that a marina does not handle large passenger ships or cargo from freighters.

Market Value or Fair Market Value: An estimate of what is fair, economic, just, and equitable value under normal local market conditions.

Marquee Sign: A sign made a part of a marquee and designed as either a manual changeable message sign or an electronic changeable message sign. A marquee sign is a wall sign.

Marquee: A hood, canopy, or awning of permanent construction that projects from a wall of a Building, usually above an entrance.

Mass: The ratio of solid wall space to window and door openings on a building footprint and all impervious surfaces with the sole exception of sidewalks.

Mausoleum: A stone or masonry building with places for entombment of the dead above ground level.

Maximum Extent Feasible: Reasonable efforts have been undertaken to comply with the regulations, but the cost of compliance clearly outweighs the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

Mean Sea Level: For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

Medical and Dental Clinics and Offices: A clinic is a health care facility that is primarily devoted to the care of outpatients. Clinics can be privately operated or publicly managed and funded, and typically, cover the primary health care needs of populations in local communities, in contrast to larger hospitals which offer specialized treatments and admit inpatients for overnight stays. Clinics are often associated with general medical practice, run by one or several general practitioners or practice managers.

Membership Clubs: An organization composed of people who voluntarily meet on a regular basis for a mutual purpose. The term club is not a legal term per se, but a group that organizes itself as a club must comply with any laws governing its organization and otherwise be cognizant of the legal ramifications in undertaking to organize itself in this manner.

Message: As used in the sign code, a text, image, or combination thereof meant to be comprehended as a whole by the viewer. Each simple concept shall be deemed a separate message. A message can be either a static display or a display that, not fitting onto the screen all at once, is broken into parts, which appear sequentially, scrolling across the screen. Electronic changeable message signs are capable of changeable messages.

Mini-Storage: A business that owns and operates a facility that is subdivided into self-storage spaces, which are rented to tenants, usually on a monthly basis. Self-storage facilities lease space to individuals, usually storing household goods, or to small businesses, usually storing excess inventory or archived records. The rented spaces are secured by the tenant's own lock and key. Facility operators do not have casual access to the contents of the space, unlike a professional warehouseman. A self-storage operator does not take possession, care, custody, or control of the contents of the storage rental space unless a lien is imposed for non-payment of rent.

Minor Arterial Street: A street whose primary function is the same as that of a principal arterial street, except that it serves on a small community scale, and provides destinations to specific traffic generators.

Mobile Home Park: Any lot, tracts, or parcel of land used or offered for use in whole or in part with or without charge for parking of mobile homes for non-transient use, but shall not include mobile home sales lots on which unoccupied mobile homes are parked for the sole purpose of display, inspection, sale or storage.

Mobile Home Space: A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

Mobile Home: A movable dwelling over thirty-two (32) feet in length or over eight (8) feet wide, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence when connected to utilities. The term shall not include travel trailers, campers or self-contained motor homes or camper buses.

Monument Sign: A freestanding sign having the appearance of a solid base of landscape construction materials such as brick, stucco, stonework, textured wood, tile or textured concrete materials. The base of a monument sign shall be architectural in nature, with a concealed means of support, and utilize materials consistent with the design of the building it is identifying.

Motel: See Hotel.

Motion: As used in the sign code, the depiction of movement or change of position of text, images, or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, scrolling sequential text, graphic bursts, lighting that resembles zooming, twinkling, or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes and similar actions.

Motor Vehicle Repair: General repair, engine rebuilding, rebuilding, or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair; overall painting; but not including painting of automobiles unless conducted in a completely enclosed spray booth. Motor vehicle repair service shall only be performed within an enclosed yard or structure. All inoperable vehicles shall also be stored within an enclosed yard or structure.

Moving and Storage Facilities: A facility for the storage and dispatching of household or commercial relocation services, trucks and crews. It may also contain facilities for the warehousing of household or commercial goods in short term or long-term storage.

Name Plate Sign: A single-faced, non-illuminated wall sign that displays only the name and/or occupation of the person or persons occupying space in a building. Name plate signs may be incorporated within wall signs and shall otherwise be subject to regulations restricting wall signs.

National Register: The current National Register of Historic Places established by the National Preservation act of 1966, 80 Stat. 915.16 USC 470 *et seq*, as may be amended.

Neighborhood Recycling Center: A center, designed to serve a limited area or specific neighborhood, for the collection of specific materials, which may be recycled. It is not a center for the on-site processing of used materials into new materials. Recyclable materials include many kinds of glass, paper, metal, plastic, textiles, and electronics. The composting or other reuse of biodegradable waste, such as food or garden waste is not considered recycling under this definition. Materials to be recycled are brought to a collection center by local residents. Commercially generated recyclables are not to be deposited in neighborhood recycling centers.

New Construction: Construction of site infrastructure or a new element, building, or structure.

New Construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP: The National Flood Insurance Program.

Nit: A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

Non-Affixed Sign: Any sign that is not permanently affixed to a building, structure or the ground.

Non-Commercial Message: Any message, content, text, or display that is not a commercial message.

Non-Commercial Sign: Any sign that is not a commercial sign.

Non-Conforming Lot of Record: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of the original Subdivision Regulations in the city, July 19, 1966, and neither the lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

Non-Conforming Signs and Billboards: Any sign or billboard that was installed prior to the passage of this sign code and that was a legal sign, but which does not now conform to the requirements of this sign code.

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

Non-Conforming Use: An existing use which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

Non-Contributing: A building, site, structure or object that does not add to the architectural quality, historic association or archaeological values for a landmark or historic district because it was not present historically, or has been altered or changed which has destroyed its historic integrity and it is incapable of being restored, or it cannot independently meet the criteria for landmark designation.

Non-Residential Swimming Pools: Swimming pools operated by a private membership organization or government.

Normal Maintenance/Repair: Any work designed to correct damage or deterioration to the condition that existed prior thereto. "Normal maintenance" includes all work performed on structures by a property owner which does not require a permit as prescribed by the City's development regulations.

Nursery Care or School: See Child Care Center or Day Care Home.

Nursing Home/Hospice: A nursing home, convalescent home, Skilled Nursing Unit, care home, rest home, or hospice which provides a type of care for its residents. It may be a place of residence for people who require constant nursing care and have significant deficiencies with activities of daily living. Residents include the elderly and younger adults with physical or mental disabilities. Residents in a skilled nursing facility may also receive physical, occupational, and other rehabilitative therapies following an accident or illness. Hospice is a type of care that focuses on the palliation of a terminally ill patient's symptoms. These symptoms can be physical, emotional, spiritual, or social in nature.

Official Sign: Any sign installed or erected by a governmental body or agency or by a public utility such as traffic signs, signals, regulatory devices or warnings; signs designating properties or structures officially designated by the federal, state or local government as being of historical significance or other similar signs. Commercial signage by a utility is not an official sign.

Off-Premise Sign: A commercial sign containing a message that pertains to a business, establishment, person, organization, activity, entertainment, event, condition, place, service or product that is not principally located, or primarily manufactured, produced, available, furnished or sold on the premises upon which the sign is erected, The on-premises/off-premises distinction applies only to commercial signs.

On-Premise Sign: A sign advertising an establishment, business, person, activity, good, product, or service that is located on the premises upon which the sign is erected.

Open Space, Common: An area of land or water or combination thereof reserved for the passive and active recreation of the residents of a designated area. Such area shall not include areas used for streets, alley, driveway, private roads, off-street parking, or loading areas, utility easement, trash collection point or private yard area not open to common use by these residents.

Open Space: An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking for loading areas, or required front, rear, or side-yards.

Orientation: Direction on a lot followed by the building's dominant lines, i.e., front-to-back or side-to-side.

Outdoor Commercial Recreation: Any facility for recreation, which is outdoors, and commercial in nature.

Parking Lot or Garage (Commercial, Non-Accessory): Defined in the Off Street Parking section of these regulations.

Parking Lot: A parcel of land devoted to the parking of motor vehicles, which considers the width, length, turning radii and ingress/egress requirements of a standard sized automobile. A parking lot will be sealed with a dustless, all-weather surface.

Parking Space: Off-Street: A parcel of land, which is required for parking purposes by this ordinance, on or near the property where the particular use is located. Parking places required by this ordinance cannot be located on any part of a public easement or dedicated right-of-way.

Parking Space: The portion of a parking lot sufficient in size to store one automobile. The minimum design established is 8 1/2' x 18'.

Parks and Open Space:

Participating Community: An "eligible community"; a community in which the Administrator has authorized the sale of flood insurance.

PC: Planning Commission

Pedestrian Way: A right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access of adjacent streets and properties.

Permit: A signed document from a designated community official authorizing development. As relating to floodplain management a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

Person: Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

Pervious Pavement: A pavement system with traditional strength characteristics but which allows rainfall to percolate through it rather than running off. A pervious pavement system uses either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded course aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water that allows for passage of run-off and air. Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco-stone®.2

Pet Grooming: The hygienic care and cleaning of a pet as well as a process by which a pet's physical appearance is enhanced.

Pet Shops: Any location where the retail sales of pets and pet accessories occurs.

Petroleum Pipeline and Pressure Control Stations: Any facility used to measure or maintain the conditions in a pipeline operated by a public utility.

Placement: Building siting or positioning on a lot, as determined by its setbacks. Placement also refers to the positioning of individual elements on a building.

Planned Unit Development (PUD): A single parcel or contiguous parcels of land intended to be developed in accordance with an overall design plan, which may include residential, commercial, industrial, or public land uses or a mixture thereof.

Planning Commission: Shall mean the Leavenworth City Planning Commission.

Pole Sign: A freestanding sign supported by uprights, braces, columns, poles, or other vertical members that are not attached to a building.

Portable Sign: A temporary sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels or by a person, a sandwich board sign, balloons or other gas or air filled objects used as commercial signs, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless that vehicle is used in the normal day-to-day operations of the business.

Porte Cochere: (pronounced port co-SHARE) The architectural term for a porch- or portico-like structure at a main or secondary entrance to a building, through which a horse and carriage (or motor vehicle) can pass in order for the occupants to alight under cover, protected from the weather.

Post Office Branches: Any physical subdivision or staffed permanent presence of the United States Postal Service.

Preliminary Plat: A plan made for showing the design of a proposed subdivision and the existing conditions in and around it. This plan need not be based on a detailed final survey of the property.

Principal Structure: A structure in which a dominant use of the lot on which the structure is located is conducted.

Principal Use: The main use of land or structures as distinguished from a subordinate or accessory use.

Principally Above Ground: At least 51 percent of the actual cash value of the structure, less land value, is above ground.

Private Club: "Class B Club" A premises operated for profit by a corporation, partnership or individual, known as the management, to which premises the management allows persons, known as members to resort for the consumption of food or alcoholic beverages and for entertainment.

Private Club: "Class A Club" A premises owned or leased and operated by a corporation, partnership, business trust or association, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates, their families and invited and accompanied guests, and which is not operated for a profit other than such as would accrue to the entire membership. A corporation, partnership, business trust, or association not operated for a profit, for the purposes of the definition of a Class A Club shall only include a corporation, partnership, business trust, or association, which has been determined to be a bona fide nonprofit social, fraternal or war veterans club.

Projecting Sign: A sign that projects from and is supported by a wall of a building or structure. (Sign face may be perpendicular to the wall.)

Property Identification Sign: A sign identifying a neighborhood, subdivision or other residential development. A property identification sign may not be a temporary sign.

Property Line: The boundary line (front, side, or rear) of land owned by an individual, firm or corporation described by metes and bounds or by a plat lot number.

Public Interest Sign: Any sign intended to convey a legal right or restriction on a property, such as a "No Trespassing" sign; a sign intended to warn the public of a bona fide danger on the property, such as a "Beware of the Dog" sign; or a sign placed by order of a court or by a government official in the normal course of their duties. Public interest signs shall include signs identifying a structure or area as a historic structure or place.

Public or Private Membership: Any structure or area under the control of a group with restricted membership.

Pylon Sign: A freestanding sign with a visible support structure that may or may not be enclosed by a pole cover.

Racing Facilities: Any facility, with any surface, where motorized, electric, or internal combustion, vehicles with one or more human occupant race, practice, or test for racing purposes.

Racquet Club: A commercial facility for the playing of squash, tennis, or racquetball at which there is a clubhouse including restrooms. Such a facility may provide additional services customarily furnished by a club such as swimming, outdoor recreation, and related retail sales that may include a restaurant and cocktail lounge as a secondary use.

Radio, Television, and Recording Services: Any facility where electronic media for radio, television or other methods of distribution is made for commercial purposes.

Railroad Terminal: Any passenger or freight terminal used by a railroad company.

Ranching: The raising of livestock for commercial sale.

Reasonably Safe from Flooding: Base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Recreational Vehicle: A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling Collection Station: As opposed to a neighborhood recycling centers, recycling collection stations are designed to serve a city sized area for the collection of specific materials, which may be recycled. It is not a center for the on-site processing of used materials into new materials. Recyclable materials include many kinds of glass, paper, metal, plastic, textiles, and electronics. The composting or other reuse of biodegradable waste, such as food or garden waste is considered recycling under this definition. Materials to be recycled are brought to a collection center by local residents and businesses. Commercially generated recyclables may be deposited at Recycling Collection Stations.

Religious Assembly: Any assembly of one or more people in furtherance of their shared spiritual beliefs.

Remedy a Violation: As used in Article X, Floodplain Management, to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Residential Home-Stay: Any furnished residential structure wherein one limited-term boarder (not to exceed 180 days) is allowed the use of an entire structure, or a portion of a structure, and its grounds. No management or owner presence is required and no meals are served. In approval of a **Residential Home Stay** the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. Such a business shall be registered with the City Clerk as a rental property.

Residential: A Residential zoning district, RI-25, RI-9, RI-6, R4-16, RMF, and MP as defined by the most current Zoning Ordinance.

Restaurant, Drive-thru or Drive-in: An establishment whose primary business is the serving of food to the public, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains. The Drive-in or Drive-thru

component refers to a situation where food and drink are served for consumption, on or off the premises by order from and service to vehicular passengers outside the structure.

Restaurant: An establishment whose primary business is the serving of food to the public, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains.

Retreat House: A residential dwelling wherein short-term boarders are allowed (not to exceed one week) to share living space and participate in specifically defined activities related to hobbies or other shared interests.

Riding Academies/Stables: Any facility dedicated to equine activities, to include teaching riding, riding, showing, boarding, maintenance, care, breeding, and rental of horses.

Right-of-Way: A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of the law.

Risk Premium Rates: Those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Roof Sign: A sign erected upon or above a roof or parapet of a building or structure, affixed to, supported by, or braced upon the roof joists or rafters.

Salvage/Junkyard: The use of any lot(s), portion of a lot, or tract of land for the storage, processing, sale or abandonment of junk, including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Sandwich Board Sign: A self-supporting A-shaped freestanding, portable, temporary sign with only two visible sides angled, rather than parallel and flush; also called an A-Frame sign. These signs are situated to a business, typically on a sidewalk.

Scale: The size, both height and width, of a building or structure. Scale is influenced by patterns, shapes, and sizes of materials, components, and openings.

School, Elementary and Middle (Public and Private): As defined by the State of Kansas.

School, Senior High: As defined by the State of Kansas.

School, Vocational-Technical and Trade: As defined by the State of Kansas.

Screening (Screening Enclosure Or Properly Screened): A solid or semisolid fence or wall at least six (6) feet high but not more than eight (8) feet high, having a density of not less than eighty (80) percent per square foot. A landscape screen consisting of trees, shrubs or hedges meeting density requirement may be used to meet the requirement. Fence or wall shall be maintained in good condition by owner or owners of the property.

Scrolling/Travel: A frame effect where the frame is changed by the apparent vertical or horizontal movement of a frame or of the letters or graphic elements of the message.

Secretary: Secretary of the Planning Commission.

Semi-Permanent Structures: Structures that have a general lifespan less than that of the primary structure. Examples include both above and below grounds swimming pools, storage sheds, play structures, and gazebos.

Senior Housing: Housing for people over 55 and their immediate family members, which may include some limited on-site care.

Service Station, Automobile: A retail business engaged primarily in the sale of motor fuels; but also in supplying goods and services generally required in the operation and maintenance of automobiles.

Setback Line or Building Line: A line fixed parallel to the lot line beyond which a building cannot extend under the terms of the Development Regulations. It is equivalent to the yard requirement.

Set-Back: The required distance between each structure located on a building lot and the property lines of the lot. **Setting:** The immediate physical environment of a building, structure, site, or district.

Sexually Oriented Business: A business establishment open to the public, or to members, that offers for sale any or all of the following: nude or semi-nude entertainment, sexually oriented outcall services, sexually oriented retail sales of products, seminude dancing, and seminude dancing agencies. These include any facility or establishment which offers for sale, loan or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually oriented paraphernalia or aid, if a substantial portion (over 25%) of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities. This may also involve employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or to persons involved in such display.

Shape: Surfaces and edges of a building and individual elements.

Shelter Home: A dwelling unit in which 15 or fewer adults and children are temporarily housed for receiving services to assist with the problem of domestic violence.

Shelter, Domestic Violence: A place of temporary refuge and support for people escaping violent or abusive situations.

Shrub: Any self-supporting, woody plant of a species, which normally grows to an overall height of less than fifteen (15) feet in this region.

Sidewalk: A paved walk for pedestrians along and at the side of a street.

Sign Alteration: The replacement, enlargement, reduction, reshaping, changing, or adding to a sign, sign structure or other supporting members.

Sign Face: The entire area within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including the sign structure.

Sign Maintenance: The normal care and minor repair necessary to retain a safe, attractive, and finished sign, sign surface, or sign structure. Changing the copy or a logo on a sign face without increasing sign dimensions shall be considered sign maintenance, if the information, product or service depicted remains the same and if the sign is to serve the identical establishment using the same business firm name as before the change.

Sign Refacing – The changing or replacing of the words, numerals or other aspects of the sign face to serve a different establishment or business, or to create a substantially different visual effect without alternating, moving, or replacing the sign, sign structure, or sign face.

Sign Structure: The support, poles, upright bracing or brackets and framework for any sign that is mounted on or affixed to a building, structure, or the ground. A sign structure may be a single pole and may or may not be an integral part of the building.

Sign Surface: The entire area aggregated on all sign faces, within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including the sign structure.

Sign: Any device, fixture, or placard on a structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. Flags are not signs. All signs must conform to the applicable city codes.

Site (Historic): The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural, or archeological value.

Site: A parcel, lot, or tract of land on which activities are conducted or one or more buildings or structures are located.

Siting: Orientation and placement of a building on a parcel or lot.

Small Wind Energy Systems: Privately owned wind energy generating systems designed to service a single family or building with under 10,000 square feet of floor space.

Snipe Sign: A sign made of material such as cardboard, paper, pressed wood, plastic, or metal that is attached to a fence, window, tree, utility pole or temporary structure or any sign that is not securely fastened to a building or structure or firmly anchored to the ground.

Social Service Center: A facility whose sole purpose is to provide informational, educational, social, or economic counseling or other similar services to persons residing in the city or county. A social service center must be sponsored and operated by a not-for-profit organization whose stated purpose is to improve quality of life within the city and county. This does not include nursing homes, fraternal orders, or private clubs.

Solar Collection Systems: Technologies employed to convert solar energy into usable light or heat, cause air-movement for ventilation or cooling, or store heat for future use. Active solar uses electrical or mechanical equipment, such as pumps and fans, to increase the usable heat in a system. Solar energy collection and utilization systems that do not use external energy, like a solar chimney, are classified as passive solar technologies.

Solid Waste Facility: Any facility, which serves to collect, distributes or temporarily store household generated solid waste.

Special Event Sign: A sign identifying a grand opening, parade, festival, fund drive or similar occasion.

Special Flood Hazard Area: See "area of special flood hazard."

Special Hazard Area: An area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

Sports/Entertainment Arena or Stadium: Any place or structure where more than 100 people can gather to watch a sporting or entertainment event.

Start of Construction: Includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Agency: The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

State Historic Preservation Officer or SHPO: The person who has been designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program for carrying out the provisions of the National Historic Preservation Act of 1966, as amended and related laws and regulations.

State Review Board: The Kansas Historic Sites Board of Review as established in KSA 75-2719a.

Static: Having no motion; being at rest; fixed, stationary.

Street: A right-of-way, dedicated to the public use, or a private right-of-way, which provides principal vehicular and pedestrian access to adjacent properties.

Streetscape: All physical elements that may be viewed along a street frontage.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Student Housing: Housing which only students in boarding schools, universities or other educational institutions are eligible to reside.

Studio, Music/Movie/TV: A place for the nurturing and recording of the visual and auditory arts.

Style: The visual appearance of a building, structure, site, or district depicting the influence of shape, materials, detailing or other features associated with a particular architecture.

Subdivider: A person, firm, corporation, partnership, or association who causes land to be divided into a subdivision for himself or for others.

Subdivision (Major): The division of a tract of land into five or more lots or parcels for the purpose of transfer of ownership of building development, or, if a new street is involved, any division of a parcel of land. The term "subdivision" includes "resubdivision," as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which vary from the latest, approved plat of the same.

Subdivision (Minor): The division of a tract of land into not more than five (5) tracts, parcels, or lots meeting the requirements set forth herein.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial-damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantial Renovation: Any alteration affecting the front elevation of a building or costing more than 50 % of the current assessed County tax valuation.

Substantial Work: Work comprising the expenditure of more than 33% of the value of the project as listed on the building permit.

Sundries, Pharmaceuticals, Convenience Store Retail Sales:

Tailoring, Custom: Making or altering apparel according to personal or special order. The distinction between tailor shops and apparel manufacturing for zoning purposes is: 1. A custom tailoring shop should not have more than the equivalent of fifteen (15) full-time employees and; 2. Building space devoted to tailoring operations and product storage shall not exceed 12,000 square feet of floor space as measured by the exterior spatial dimensions.

Tattoo Parlor/Piercing/Body Art: Any place or structure, which is regulated by the Kansas Board of Cosmetology and where any form of elective body modifications occurs.

Tavern: An eating or drinking establishment where cereal malt beverages are sold for consumption on-premises as regulated by the Alcoholic Beverage Control Division, Kansas Department of Revenue.

Taxi Dispatch: A facility for the radio dispatch of taxis for hire. Taxis may also await dispatching at this location.

Temporary Sign: Any sign, banner, searchlight, sidewalk or curb sign, pennant, valance, flag, balloon, air- or gas-filled figure, or advertising display that is intended to be displayed for a limited period of time only and is typically constructed from nondurable material, such as paper, plastic, cloth, canvas, light fabric, cardboard, wallboard or other material, with or without frames. Temporary signs may be portable or fixed, but are not intended for permanent display. Temporary signs include, but are not limited to, real estate signs, garage sale signs, grand opening signs, construction signs, land for sale signs and open

house signs. Specific restrictions, in addition to those restrictions that apply to all temporary signs, may apply to specially identified types of temporary signs. More comprehensive restrictions apply generally to all signs included in the broad category of temporary signs.

Time and Temperature Sign: An electronic changeable message sign displaying solely the time and temperature.

Tiny Home: A home between 200-400 square feet that is site-built or partially site built, that is set up and secured on a permanent foundation with any means of transporting the unit, including wheels, suspension, axel components, or trailer, being removed. Tiny Homes do not include recreational vehicles, mobile homes, shipping containers, train cars, or any other similar structure or equipment.

Trailer: A vehicular, portable device used for moving people/goods or services between points and usually towed by a motor vehicle (see mobile home).

Transition: As used in the sign code, a visual effect (frame effect) used on an electronic changeable message sign to change from one message to another.

Travel Trailer Parks: See camp grounds

Traveling: As used in the sign code, a frame effect where the frame is changed by the apparent horizontal movement of the letters or graphic elements of the message.

Trees: Any self-supporting, woody plant of a species, which normally grows to an overall minimum height of fifteen (15) feet in this region.

Truck Terminal, Freight, Air Courier Services: Any place or structure for the transfer of goods from one means of conveyance to another.

Twirl Time: The time it takes for static text, images, and graphics on an electronic changeable message sign to transition to a different text, images, or graphics.

Uniform Building Code: The current edition of the Uniform Building Code, published by the International Conference of Building Officials.

Unlicensed Vehicle: A vehicle not carrying the currently effective license or registered number plate or plates, including any registration issued to the owner of such vehicle displayed on the vehicle so registered as required by the motor vehicle laws of the State of Kansas.

Urban Agriculture/Community Garden: Any place or structure within the city, which exceeds ¼ acre, where crops intended for human consumption are raised.

Variance: A grant of relief to a property owner from certain provisions of the Zoning Ordinance when because of the particular physical surroundings, shape or topographical conditions of the property, compliance would result in a particular hardship upon the owner as distinguished from a mere inconvenience or a desire to make money. The variance may be granted for area, yard bulk, or parking requirements but not for a use. Or, a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community. Or, a variation from a specific requirement of the Secretary of the Interior's design standards, as applied to a specific structure or property.

Vehicle Impound Lot: The use of any part of a parcel or tract of land for the storage of automobiles or other vehicles that is not operable or roadworthy according to the laws of Kansas. Generally, these lots receive vehicles because of accidents or abandonment. No salvage of parts is permitted as part of this operation.

Vehicle Storage Lot: The use of any part of a parcel or tract of land for the storage of automobiles or other vehicles including recreational vehicles, that are owned by person(s) other than the operator of the storage lot, for a fee. To qualify to be held in a storage lot, the vehicle need be licensed and roadworthy according to the laws of Kansas.

Veterinary Clinic: Any place or structure where animal health services are provided by a one or more people licensed to provide veterinary services by the State of Kansas.

Video: A high resolution, high frames per second motion picture display.

Violation: As used in Article X, Floodplain Management, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until that documentation is provided.

Vision Clearance Triangle: A space, triangular in shape, on a corner lot in which nothing is permitted to be built, placed on or grown in a way that would impede visibility. Its purpose is to assure that vehicles and pedestrians have adequate and safe visibility.

Wall Sign: Any sign attached to, erected against, or painted on the face or wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall. Mansard, awning or canopy, marquee and fascia signs are wall signs.

Warehouse, Mini: A building or portion thereof designed or used exclusively for storing excess personal property of an individual or family when not located on the lot of their residence. Said personal property includes items normally found in the home or in accessory structures to residences including passenger or recreation vehicles, house trailer, boat, excess furniture, and similar household items, which are not used for the conduct of a business. This shall not include the storage of any merchandise, stock, furnishings, or vehicles of a business of any kind.

Warehousing: Any place or structure where the temporary storage of commercial or industrial goods is conducted.

Water Storage: Potable commercial water storage structures or features of more than 10,000 gallons.

Water Surface Elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain riverine areas.

Wearing Apparel and Accessories Retail Sales: Any place or structure where the retail sale of apparel and or accessory goods is conducted.

Wholesale, Storage, Warehouse, and Distribution: Any place or structure where the non- retail temporary storage, sale, or rental of commercial or industrial goods is conducted.

Window Sign: Any sign that is placed on the inside of a window or upon the windowpanes and is visible from the exterior of the window.

Yard, Front: A yard extending the full width of the lot and situated between the street right-of-way and the required building setback line. The front yard of a residential corner lot is the yard adjacent to the shorter street frontage.

Yard, Rear: A yard extending the full width of the lot on which a building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

Yard, Side: A yard extending from the required front yard, or front lot line where no front yard is required, to the required rear yard.

Yard: An open space at grade level on a tract with a building, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or depth of a rear yard, the minimum horizontal distance between the lot line and the nearest architectural projection should be used.

Zone or District: A section or area of the city as depicted by the Zoning District Map, for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land, and open space are herein established.

Zoning District Map: A map or maps with all notations, dimensions, references, and symbols shown thereon depicting individual zoned districts as adopted and amended by the City Commission.

Zoning Ordinance: The text of this ordinance and the accompanying Zoning District Map.

Zoo: A collection of animals for display to the public.

- A, **Table Organization.** Table A1-1 Table of Permitted Uses classifies land uses and activities into general “use categories” and specific “use types” based on common functional or physical characteristics, such as the type and amount of activity, the type of customers or residents, types of products, how goods or services are sold or delivered, and site conditions. Regardless of whether a use is allowed by right or permitted as a special use, there may be additional standards that are applicable to the use. Uses are allowed as follows:
1. *Permitted By-Right Uses.* “P” in a cell indicates that the use is permitted by right in the respective zoning district and overlay district. Permitted uses are subject to all other applicable regulations in this document, including the use-specific standards in this section.
 2. *Special Uses.* “S” in a cell indicates that the use is allowed only if reviewed and approved as a special use in accordance with the procedures of Article II - Administration regarding Special Use Permits. Special uses are subject to all other applicable regulations of this document including the use-specific standards in this section and the requirements of Article IV – Supplementary District Regulations.
 3. *Prohibited Uses:* A blank cell indicates that the use is prohibited in the respective zoning district.
- B. **Classification by Interpretation.** This classification does not list every use or activity that may appropriately exist within the categories and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The categories are intended merely as an indexing tool for the specific use type and are not regulatory. When application is made for a use type that is not specifically listed in Table A1-1, Table of Permitted Uses but that appears similar to uses in that table, the Director shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:
1. The Director shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
 2. Standards for new and unlisted uses may be interpreted as those applicable to a similar use.
 3. The Director may choose to send a proposed use to the City Commission for interpretation where classification options are unclear or where the potential impact must be considered in the interpretation process.
 4. When the Director determines that a new or unanticipated use is so similar in impact to a specific use type, or uses generally within the use category the Director may:
 - a. Make the interpretation the use type is generally broad enough to include the use in question; or
 - b. For ease of future application and interpretation add the use to the appropriate category in the table. Such administrative adjustment to the table shall not be considered an amendment to this ordinance provided the criteria above are clearly met, and provided notice and comment of the adjustment is placed on the agenda of both the Planning Commission and Governing Body for review and consent.
 5. Appeal of the Director’s decision shall be made to the City Commission.

Table A1-1, TABLE OF PERMITTED USES																			
P = Permitted, S = Special Use Permit Required																			
Use Category	Residential								Non-Residential							Overlay			
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG	
Specific Use Type																			
RESIDENTIAL USES																			
Household Living																			
Dwelling, Single-Family Detached	P	P	P	P		P	S	P	P			S					P	S	
Dwelling, Two-Family	S	S	S	S	P	P		P	P								P	S	
Dwelling, Townhouse				S	P	P		P	P								P	P	
Dwelling, Multi-Family					P	P		P									P	P	
Dwelling in Mixed-Use Structure Note [1]								P	P	P	P	P					P	P	P
Dwelling, Live/Work								P	P	P	P	P					P	P	P
Dwelling, Manufactured	P	P	P	P			P												
Dwelling, Mobile Home							P												
Group Living																			
Assisted Living Facility	S	S	S	S	S	S		S				P	P				S	S	S
Convent/Monastery	P	P	P	P	P	P	P	P											
Dormitory	S	S	S	S	S	S		S											
Fraternity/Sorority Home	S	S	S	S	S														
Group Home: Disabled (K.S.A. 12-736)	P	P	P	P	P	P	P	P									S	S	S
Nursing Home/Hospice	S	S	S	S	P	S						P					S	S	S
Senior Housing	S	S	S	S	P	P		S				P	P				S	S	S
Shelter, Domestic Violence	P	P	P	P	P	P	P	P	P	P	P	P					P	P	P
Student Housing	S	S	S	S	P	P		P				P	P						
PUBLIC AND INSTITUTIONAL USES																			
Community Services																			
Adult Day Center	S	S	S	S					P	P	P	P					S	P	P
Cemetery	S	S	S	S															
Mausoleum	S	S	S	S								P	P						

Table A1-1, TABLE OF PERMITTED USES																		
P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential						Overlay			
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Civic, Social, and Fraternal Organizations	S	S	S	S				S		P	P	P				P	S	P
Community Centers											P	P				P		P
Government Offices and Facilities	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
Historic and Monument Sites	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Jails and Prisons													S	S				
Library	S	S	S	S				S	P	P	P	P				P	P	P
Post Office Branches								P	P	P	P	P				P	P	P
Religious Assembly	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Safety Services	P	P	P	P				P	P	P	P	P				P	P	P
Day Care																		
Day Care Center/Preschool	S	S	S	S	S	S	S	S	P	P	P	P				P	P	P
Day Care, Home (6 or less children)	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Day Care, Home (7 or more children)	S	S	S	S	S	S	S	S	P	P	P	P				S	P	P
Educational Facilities																		
College or University	S	S	S	S						P	P	P				S	S	S
School, Elementary and Middle (Public and Private)	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Senior High	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Vocational-Technical and Trade									S	P	P	P						S
Health Care Facilities																		
Hospitals									S	S	P	P						S
Medical and dental clinics and offices								P	P	P	P	P				P	P	P
Parks and Open Space																		
Arboretum or botanical garden	S											P				P	P	P
Campground	S																	
Community playfields, playgrounds, and parks	P	P	P	P				P	P	P	P	P				P	P	P

Table A1-1, TABLE OF PERMITTED USES																		
P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential						Overlay			
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Golf course, public	S	S	S	S											S			S
Golf course, private	S	S	S	S											S			S
Zoo												P						
Transportation																		
Airport												S	S	S				S
Bus Garage and Equipment Maintenance												P	P	P				
Bus Terminal									S	S	P	P	P	P	P			
Heliport											S	S	S	S				
Railroad Terminal												P						
Taxi Dispatch									S	S	P	P						
Truck Terminal, Freight, Air Courier Services													P	P				
Utility																		
Private Wind Energy Systems	P	P	P	P	P	P	P	P	P	P		P	P	P		P	P	P
Private Solar Collection Systems	P	P	P	P	P	P	P	S	P	P	P	P	P	P		P	P	P
Commercial Wind Energy Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Commercial Solar Collection Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Tower – Alternative Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Facility on Existing Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water Storage	P	S	S	S	S	S	S	S	S	S	P	P				S	S	S
COMMERCIAL USES																		
Animal Sales and Service																		
Kennel												P	P	P				
Pet Shops									P		P	P				P	P	
Pet Grooming	S	S	S	S				S	P		P	P				S	S	S
Veterinary Clinic with Boarding									S	S	P	P	P	P		S	S	P

Table A1-1, TABLE OF PERMITTED USES																				
P = Permitted, S = Special Use Permit Required																				
Use Category	Residential								Non-Residential							Overlay				
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG		
Specific Use Type																				
Veterinary Clinic without Boarding									S	S	P	P	P	P	I-1	I-2	FP	P	P	P
Assembly																				
Assembly Hall									S	S	P	P	P							
Auction Establishment									S	S	P	P	P	P					S	
Membership Clubs									S	P	P	P	P				S	S	S	
Event Venue									S	P	P	P						P	P	
Financial Service																				
Financial Institution, with Drive-thru									P	P	P	P	P				S	S	P	
Financial Institution, without Drive-thru									P	P	P	P	P				P	P	P	
Food and Beverage Services																				
Food and Beverage General									S	P	S	P	P				P	P	P	
Bars or Taverns									S	S	S	P	P				S	P	P	
Restaurant, with Drive-in or Drive-thru									S	P	S	P	P					S	P	
Restaurant, without Drive-in or Drive-thru									S	P	S	P	P				S	S	S	
Office																				
Administrative and Professional Offices									P	P	P	P	P				P	P	P	
Offices for Nonprofit, Community Health, and Welfare Service Organizations									P	P	P	P	P				P	P	P	
Recreation and Entertainment, Outdoor																				
Arena and Field House												S	P					S	S	
Country Club	S	S	S	S									P							
Marina	S											S	S	S						
Outdoor Commercial Recreation and Entertainment	S											S	P	S				S	P	
Racing Facilities	S												S	S	S	S				
Riding Academies/Stables	S													S	S	S				

Table A1-1, TABLE OF PERMITTED USES																		
P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential							Overlay		
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Sports/Entertainment Arena or Stadium									S	S	S	P	S					P
Athletic Facilities	S	S	S	S				P	P	P	P	P	S					
Non- Residential Swimming Pools Public or Private Membership	S	S	S	S							P	P				P		P
Recreation and Entertainment, Indoor																		
Art Gallery or Museum								P	P	P	P	P				P	P	P
Auditorium/Exhibition Hall/Convention Center											S	P					S	P
Indoor Commercial Recreation/ Entertainment											P	P	P			P	P	P
Commercial Services																		
Sexually Oriented Business													S					
Building Services										P	P	P				S	S	P
Business Support								P	P	P	P	P				P	P	P
Contracting Services, no storage or yard											P	P	P	P				P
Funeral, Mortuary, Crematory	S	S	S	S						S	P	P				S	S	S
General Personal Services								P	P	P	P	P				P	P	P
Gun Sales and Service								S	P	P	P	P						
Indoor Shooting Ranges											S	S	P	P				
Maintenance and Repair									P	S	P	P					S	S
Tattoo Parlor/Body Art								P	P		P	P						
Radio, Television, and Recording Services										S	P	P					P	P
Studio, Music/Movie/TV								P	P	P	P	P						
Retail (Sales)																		
Building Supplies and Equipment											P	P	P				S	P
Consumer Goods								P	P	P	P	P				P	P	P
Sundries, Pharmaceuticals, Convenience Store								P	P	P	P	P				P	P	P
Food, Beverage, and Groceries								P	P	P	P	P				P	P	P

Table A1-1, TABLE OF PERMITTED USES																		
P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential							Overlay		
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																		
Vehicles and Equipment																		
Automobile Repair Shop											P	P	P					
Automobile, Boat, Truck, Motorcycle, RV Sales, Rental, and Service											P	P	S					
Car Wash/Truck Wash									S		S	P	P					
Gas Station									S		P	P	P			S	P	P
Heavy Vehicle/Equipment Sales, Rentals and Service												P	P	P				
Parking Lot or Garage (Commercial, Non-Accessory)	S	S	S	S				S	S	S	P	P	S	S		S	S	S
Visitor Accommodation																		
Bed and Breakfast Inns	S	S	S	S	S	S	S	P	P	P	P	P				S	S	S
Residential Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Boarding and Rooming Houses	S	S	S	S	S	S	S	P	S	S	P	P				S	S	
Camp, Private, Overnight	S																	
Health Resort/Spa										P	P	P						
Hotel										P	P	P				P	P	P
Hotel – Limited Service										P	P	P				P	P	P
Residence Hotels								S	S	P	P	P				P	P	P
Retreat House	S	S	S	S														
INDUSTRIAL USES																		
Industrial Service																		
Animal Research Facilities													S					

Table A1-1, TABLE OF PERMITTED USES																			
P = Permitted, S = Special Use Permit Required																			
Use Category		Residential								Non-Residential							Overlay		
Subcategory		R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																			
Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store)													P	P					
Construction Industry Related Businesses (such as general contractors, electrical contractors, plumbing contractors) /Accessory and Incidental uses													P	P	P				
Educational and Scientific Research, Development, and Testing Services											P	P	P	P	P			P	P
Heavy Industrial															P	S			
Light Industrial														P	P	S			
Petroleum Pipeline and Pressure Control Stations		S	S	S	S	S	S	S	S	S	S	S	S	S	S				
Manufacturing and Production																			
Manufacturing, Fabrication, and Assembly: Custom													S	P	P				
Manufacturing, Fabrication, and Assembly: Light													P	P	P				
Manufacturing, Fabrication, and Assembly: Heavy													S	S	P				
Wholesale, Storage, Warehouse, and Distribution																			
Automobile Towing Service Storage Yard; Impound Lot												S	S	P	P				
Mini-Storage												S	P	P					
Moving and Storage Facilities													P	P					
Warehousing												S	P	P	P				
Wholesale Trade or Storage, General													P	P	P				

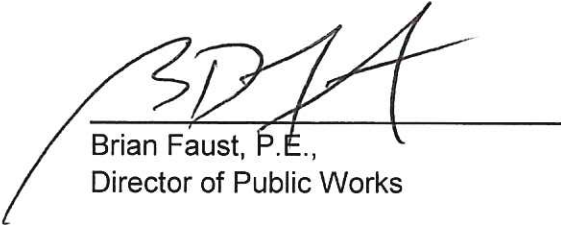
Table A1-1, TABLE OF PERMITTED USES																		
P = Permitted, S = Special Use Permit Required																		
Use Category	Residential								Non-Residential							Overlay		
Subcategory	R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type											P	P	P					
Wholesale Trade or Storage, Light											P	P	P					
Waste and Salvage																		
Automobile Parts Recycling Business												S	P	P				
Junkyard, Salvage Yard												S	P	P				
Neighborhood Recycling Center	S	S	S	S	S	S	S	S	S	S	S	S	S	S		P	P	P
Recycling Collection Station													P	P				
Solid Waste Facility													S	S				
AGRICULTURE																		
Agriculture/Aquaculture																		
Animal Husbandry (other than dairy)	P																	
Apiary	P	P	P	P	P	P	P	P										
Farming	P																	
Fish Farm/Hatchery	S																	
Ranching	S																	
Greenhouse/Nursery	S	S							S	S	P	P	S	S				P
Urban Agriculture/Community Garden	P	P	P	P	P	P	P	P								P	S	P
NOTE 1: In the CBD, Residential is not permitted within the front half or front 30' of space, whichever is greater, on the 1 st floor (Sec 1.17 A,B)																		

**POLICY REPORT NO. 22-39
APPROVE 2023 LANDFILL SERVICES CONTRACT
WITH WASTE MANAGEMENT**

October 11, 2022

Prepared By:

Reviewed By:



Brian Faust, P.E.,
Director of Public Works



Paul Kramer,
City Manager

ISSUE:

Consider approval of the refuse disposal contract with Waste Management (WM) for 2023.

BACKGROUND:

The City of Leavenworth has operated a municipal solid waste (MSW) collection and disposal service since at least the 1950s. The City disposes, on average, 11,500 tons of municipal solid waste each year. This waste is collected by City employees and placed into City-operated trucks and transported to a state-approved disposal site. In addition to the MSW, the City disposes of approximately 3,700 tons of special waste (sludge/grit) from the Wastewater Treatment Plant (WWTP).

The City has hauled MSW to various landfills over the years. In 2018, the City made the decision to bid out landfill services. Waste Management was the low bidder and the City has been using their landfill in Shawnee since January 2019. In extreme weather conditions and to address staffing shortages, the City will occasionally haul to the Leavenworth County Transfer Station. The rates at the transfer station are significantly higher than WM so we limit our usage of the transfer station. The County's rate for 2022 was \$52/ton and they expect an increase for 2023.

In 2023, the cost to dispose of MSW at WM is increasing from \$27.28/ton to \$29.72/ton (9% increase), and the cost for special waste is increasing from \$46.98/ton to \$52.38/ton (12% increase). WM stated their costs, associated with inflation, have increased up to 18.1%.

Another part of the cost is that WM identifies specific, special waste that carries potential risks, and wastewater sludges exhibit that risk. It is critical for a landfill to maintain the appropriate MSW/sludge ratio to keep their landfill structurally stable.

Accepting excessive amounts of sludge into landfills can create one or more environmental and/or safety risks including, but not limited to:

- Increased occupational risk to employees and equipment due to soft surfaces.
- Reduced structural stability of the landfill.
- Development of perches water zones and leachate seeps.
- Increased leachate production.
- Elevated landfill temperature risk.
- Exceedance of POTW pre-treatment requirements.
- Odor issues from hydrogen sulfide production.
- Unplanned increases in biological activity and gas production.
- Reduced GCCS efficiency.

There are other options for solid waste disposal that can be considered over the long term. Staff is working with our WWTP consultant to evaluate the various options and to identify the most cost effective and sustainable long-term solutions.

BUDGET IMPACTS:

The increase will cost an additional \$28,000 for MSW and \$20,000 for special waste.

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the 2023 Landfill Services Contract with Waste Management in the amount of \$29.72/ton for municipal solid waste and \$52.38/ton for special waste.

ATTACHMENTS:

Waste Management Disposal Services Agreement



INDUSTRIAL WASTE DISPOSAL SERVICES AGREEMENT

Table with 2 columns: Field (COMPANY, Address, Signed, Name/Title, Effective Date) and Value (Waste Management of Kansas, Inc., 2601 Midwest Drive, Kansas City, KS 66111, Scott Cornell, Scott Cornell, SR. IAM, Jan. 1, 2023)

Table with 2 columns: Field (CUSTOMER, Address, Signed, Name/Title, Initial Term) and Value (City of Leavenworth, Kansas, 100 North 5th Street, Leavenworth, KS 66048, Authorized Signature, 12-month agreement commencing on 1/1/2023)

AGREEMENT

This INDUSTRIAL WASTE DISPOSAL SERVICES AGREEMENT, consisting of the terms and conditions set forth herein, and Exhibit A, and/or Confirmation Letter(s) and the Profile Sheet(s) entered into from and after the date hereof from time to time (all of the foregoing being collectively referred to as the "Agreement"), is made as of the Effective Date shown above by and between the Customer named above, on its and its subsidiaries and affiliates behalf (collectively, "Customer") and the Waste Management entity named above ("the Company").

TERMS AND CONDITIONS

1. SERVICES PROVIDED. The Company and/or its affiliates will provide Customer with disposal services ("Services") for Customer's non-hazardous Solid Waste, Special Waste, Hazardous Waste, and/or Recyclables, as described on Exhibit A and/or Confirmation Letter(s) and/or applicable Profile Sheets (collectively "Industrial Waste").

2. CUSTOMER WARRANTIES. Customer hereby represents and warrants that all Industrial Waste collected by or delivered to the Company shall be in accordance with waste descriptions given in this Agreement and shall not be or contain any Nonconforming Waste.

3. TERM OF AGREEMENT; RIGHT TO PROVIDE COMPETING OFFERS. The Initial Term of this Agreement shall be as set forth above and if no such term is set forth above, it shall be 36 months, commencing on the Effective Date set forth above.

4. INSPECTION; REJECTION OF WASTE. Title to and liability for Nonconforming Waste shall remain with Customer at all times. Company shall have the right to inspect,

analyze or test any waste delivered by Customer. If Customer's Industrial Waste is Nonconforming Waste, Company can, at its option, reject Nonconforming Waste and return it to Customer or require Customer to remove and dispose of the Nonconforming Waste at Customer's expense.

Company may upon four (4) hours oral or written notice to the Customer, suspend the Wastewater Materials disposal services provided hereunder if, in its sole discretion, Company determines that acceptance of the additional volume of Wastewater Materials is not in Company or Company's affiliate's disposal facility's best interests.

5. SPECIAL HANDLING; TITLE. If Company elects to handle, rather than reject, Nonconforming Waste, Company shall have the right to manage the same in the manner deemed most appropriate by Company given the characteristics of the Nonconforming Waste.

6. COMPANY WARRANTIES. Company hereby represents and warrants that: (a) Company will manage the Industrial Waste in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations;

7. LIMITED LICENSE TO ENTER. When a Customer is transporting Industrial Waste to a Company facility, Customer and its subcontractors shall have a limited license to enter a disposal facility for the sole purpose of off-loading Industrial Waste at an area designated, and in the manner directed, by Company.

8. CHARGES AND PAYMENTS. Customer shall pay the rates ("Charges") set forth on Exhibit A or a Confirmation Letter, which may be modified as provided in this Agreement. Company reserves the right, and Customer acknowledges that it should expect Company to increase or add Charges payable by Customer hereunder during the Term.

federal laws or regulations, including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters. Company also reserves the right to charge Customer additional charges for Services provided by Company to Customer, whether requested or incurred by Customer, including, but not limited to, dig out, minimum load charges, profile approval charges, all at such rates that Company is charging its customers at such time. The Company may also increase the charges by an amount equal to the average percentage increase for the previous twelve-month period in the Consumer Price Index for Water & Sewer & Trash Collection Services, as published by the U.S. Department of Labor, with the amount of the increase based on the most current information available from the U.S. Department of Labor 30 days prior to the date of the increase, unless the parties have otherwise agreed to a different CPI as stated in an Exhibit A. Increases in Charges for reasons other than as provided above require the consent of Customer which may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, payment of the invoice reflecting such changes, and written notice to Customer of any such changes and Customer's failure to object to such changes, which shall be deemed to be Customer's affirmative consent to such changes. Increases to Charges as specified in this Section 4 may be applied singularly or cumulatively and may include an amount for Company's operating or profit margin. Customer acknowledges and agrees that any increased Charges under this section are not represented to be solely an offset or pass through of Company's costs. All rate adjustments as provided above and in Section 5 shall take effect upon notification from Company to Customer. Customer shall pay the rates in full within thirty (30) days of the invoice date.

Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Customer check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Customer acknowledges that any late charge charged by Company is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to Company for late payment. If payment is not made when due, Company retains the right to suspend Services until the past due balance is paid in full. In addition to full payment of outstanding balances, Customer shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, Company may immediately terminate this Agreement for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 14.

9. INDEMNIFICATION. The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability (including reasonable attorneys' fees) which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by Company's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (1) during the collection or transportation of Customer's Industrial Waste by Company, or (2) as a result of the disposal of Customer's Industrial Waste, after the date of this Agreement, in a facility owned by a subsidiary or affiliate of the Company provided that the Company's indemnification obligations will not apply to occurrences involving Nonconforming Waste.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability (including reasonable attorneys' fees) which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Customer or its employees, agents or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company.

Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement except for third party claims related to violations of law.

10. UNCONTROLLABLE CIRCUMSTANCES. Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events beyond its reasonable control, including, but not limited to, strikes, riots, imposition of laws or governmental orders, fires, acts of God, and inability to obtain equipment, permit changes and regulations, restrictions (including land use) therein, and the affected party shall be excused from performance during the occurrence of such events.

11. RECYCLING SERVICES. The following shall apply to fiber and non-fiber recyclables ("Recyclable Materials") and recycling services:

- (a) (i) Single stream Recyclable Materials ("Single Stream") will consist of Customer's entire volume of clean, dry, paper or cardboard without wax liners; clean, dry and empty aluminum food and beverage containers, ferrous (iron) or steel cans, aerosol cans, and rigid container plastics #1-7, including narrow neck containers and tubs. Any material not specifically set forth above, including but not limited to foam, film plastics, plastic bags, and tissue or paper that had been in contact with food, is unacceptable ("Unacceptable Materials"), provided that glass may be included in Single Stream with specific written approval of Company. Single Stream may not contain any Unacceptable Materials. (ii) Customer shall provide source-separated wastepaper, cardboard, plastics and metals in accordance with the most current ISRI Scrap Specifications Circular and any amendments thereto or replacements thereof. (iii) All other Recyclable Materials will be delivered in accordance with industry standards or such specifications communicated to Customer by Company from time-to-time. (iv) Company reserves the right, upon notice to Customer, to discontinue acceptance of any category of Recyclable Materials as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials which are subject to this Agreement.

- (b) Recyclable Materials may not contain Nonconforming Waste or other materials that are deleterious or capable of causing material damage to any part of Company's property, its

personnel or the public or materially impair the strength or the durability of Company's structures or equipment.

(c) Company may reject in whole or in part, or may process, in its sole discretion, Recyclable Materials not meeting the specifications, and Customer shall pay and reimburse Company for all costs, losses and expenses incurred with respect to such non-conforming Recyclable Materials including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, Company may assess and Customer shall pay a contamination charge for additional handling, processing, transporting and/or disposing of Unacceptable Materials, Nonconforming Waste, and/or all or part of non-conforming loads. In the event costs of processing recyclables exceeds the commodity value, a recyclable material offset will be charged per ton.

12. ASSIGNMENT & SUBCONTRACTING. This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Customer acknowledges and agrees that the Company may utilize unaffiliated subcontractors that are not affiliates of Company to provide the Services to Customer.

13. ENTIRE AGREEMENT. This Agreement and its exhibits and attachments represent the entire understanding and agreement between the parties relating to the Services and supersedes any and all prior agreements, whether written or oral, between the parties regarding the same; provided that, the terms of any national service agreement or lease agreement for compactors or specialty equipment between the parties shall govern over any inconsistent terms herein.

14. TERMINATION; LIQUIDATED DAMAGES. Company may immediately terminate this Agreement, (a) in the event of Customer's breach of any term or provision of this Agreement, including failure to pay on a timely basis, or (b) if Customer becomes insolvent, the subject of an order for relief in bankruptcy, receivership, reorganization, dissolution, or similar law, or makes an assignment for the benefit of its creditors or if Company deems itself insecure as to payment ("Default"). Notice of termination shall be in writing and deemed given when delivered in person or by certified mail, postage prepaid, return receipt requested. In the event Customer terminates this Agreement prior to the expiration of the Initial or Renewal Term ("Term") for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay the following liquidated damages in addition to the Company's legal fees, if any: (a) if the remaining Term (including any applicable Renewal Term) under this Agreement is six (6) or more months, Customer shall pay the average of its six (6) most recent monthly Charges (or, if the Effective Date is within six (6) months of Company's last invoice date, the average of all monthly Charges) multiplied by six (6); or (b) if the remaining Term under this Agreement is less than six (6) months, Customer shall pay the average of its six (6) most recent monthly Charges multiplied by the number of months remaining in the Term. Customer shall pay liquidated damages of \$100 for every Customer waste tire that is found at the disposal facility. Customer acknowledges that the actual damage to Company in the event of termination is impractical or extremely difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon charge and is not imposed as a penalty. Collection of liquidated damages by Company shall be in addition to any rights or remedies available to Company under this Agreement or at law. In addition to and not in limitation of the foregoing, Company shall be entitled to recover all losses, damages and costs, including attorneys' fees and costs, resulting from Customer's breach of any other provision of this Agreement in addition to all other remedies available at law or in equity.

15. EQUIPMENT. All equipment furnished by Company shall remain its property; however Customer shall have care, custody and control of the equipment and shall be liable for all loss or damage to the equipment and for its contents while at Customer's service location(s). Customer will not overload, move or alter the equipment, or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, Company's equipment shall be in the condition in which it was provided, normal wear and tear excepted. Customer shall provide safe and unobstructed access to the equipment on the scheduled collection day. Company may suspend Services or terminate this Agreement in the event Customer violates any of the requirements of this provision. Customer shall pay, if charged by Company, any additional Charges, determined by Company in its sole discretion, for overloading, moving or altering the equipment or allowing a third party to do so, and for any service modifications caused by or resulting from Customer's failure to provide access. Customer warrants that Customer's property is sufficient to bear the weight of Company's equipment and vehicles and agrees that Company shall not be responsible for any damage to Customer's pavement or any other surface resulting from the equipment or Services.

16. CONFIDENTIALITY. Except as required by law, the parties agree that the rates set forth on Exhibit A, a Confirmation Letter, including any adjustments thereto, and any other pricing information shall be considered confidential and shall not be disclosed to third parties without the other party's written approval.


17. MISCELLANEOUS. (a) The prevailing party will be entitled to recover reasonable fees and court costs, including attorneys' and expert fees, in enforcing this Agreement. In the event Customer fails to pay Company all amounts due hereunder, Company will be entitled to collect all reasonable collection costs or expenses, including reasonable attorneys' and expert fees, court costs or handling fees for returned checks from Customer; (b) The validity, interpretation and performance of this Agreement shall be construed in accordance with the law of the state in which the Services are performed; (c) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be deemed severable from and shall not affect the remainder of this Agreement, which shall remain in full force and effect; (d) Customer's payment obligation for Services and the Warranties and Indemnification made by each party shall survive termination of this Agreement.

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS
CHAPTER 22 HEALTH AND SANITATION; SECTIONS 22-25, 22-107, AND 22-134 CHANGING THE
LICENSE/PERMIT PERIOD**

OCTOBER 11, 2022



Sarah Bodensteiner, CMC City Clerk



Paul Kramer, City Manager

ISSUE:

To place on first consideration an ordinance to amend Sections 22-25, 22-107 and 22-134 of the City Code of Ordinances to change the license/permit period of the Health Permit, Ice Cream Vendor License/Permit, and Mobile Food Vendor License, in order to streamline the current process, and allow for an easier licensing process with our valued businesses.

BACKGROUND:

Staff is seeking to streamline and make more efficient the licensing period of these three license types to better align with the State License renewal period. Currently the Health Permit for businesses expires on December 31st each year. The Ice Cream Vendor License/Permit and Mobile Food Vendor License expire on February 28th. All of these licenses require a copy of the current State Food Establishment License to be on file with the City. However, the State Food Establishment License expires on March 31st each year, resulting in these license types being renewed based on a State license that will expire in 90 days or less, which then leaves Staff to track down the renewed State license from each business, who have already renewed with the City, after the State license expiration date.

Staff has heard from our business owners that they would prefer to have the renewal period occur around the same time as the State License, so they can renew at the City using their newly renewed State license, which would allow them to renew their license with the City at one time. Based on these comments, Staff is proposing changing the license/permit period on these 3 license types to an April 30th expiration date. This date would allow the business owners to obtain their license from the State and then renew their City license with all the current information and documentation that is needed. The license/permit would continue to be a yearlong license/permit, Staff is only proposing changing the timing of these licenses/permits to better accommodate our businesses and streamline the process.

ACTION:

Consensus by the Governing Body to place on first consideration.

ATTACHMENTS:

- Draft Ordinance

(Summary Published in the Leavenworth Times on _____, 2022)

ORDINANCE NO. XXXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS; CHAPTER 22 HEALTH AND SANITATION, SECTIONS 22-25, 22-107 AND 22-134 CHANGING THE LICENSE/PERMIT PERIOD, AND ESTABLISHING NEW AND REPLACEMENT SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS:

Section 1. Section 22-25 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 22-25. Health Permit.

No food or drinking establishment shall operate within the city without first obtaining a health permit. When a food or drinking establishment is in violation of this article, including any rules adopted by reference herein, the city health officer is authorized to suspend, or revoke the permit of the food or drinking establishment. Each owner or operator of a food or drinking establishment shall pay an annual health permit fee as provided in the city fee schedule. The annual permit fee shall be payable to the city clerk before the permit is issued. The health permit shall be renewed and the permit fee paid prior to May 1 each year. Proof of a valid food safety license issued by the state department of agriculture must be provided to the city clerk. The city health permit application shall be made upon a form prescribed by the city and submitted and filed with the city clerk. Such form shall include the following:

- (1) Name and permanent address and contact information of the applicant and the business. If the applicant is not an individual, the names and permanent address of the officers of the corporation or the members of the partnership, firm association or other entity, as the case may be;
- (2) Valid state sales tax ID number; and
- (3) Signature of applicant, individually or by its members and officers, and any agents or employees of the applicant who will be involved in the applied-for health permit certifying that all of the information provided in the application is true and correct.

Section 2. Section 22-107 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 22-107. Registration application.

- (a) All applications for new or renewal license for mobile food vending shall be made upon a form prescribed by the city and submitted and filed with the city clerk. All mobile food vending licenses are for a period of May 1 – April 30. License fees are not prorated. All applications shall be reviewed and approved by the city health officer prior to issuance of the license.
- (b) License or permit is non-transferable. Such form shall include the following:
 - (1) Name and permanent address of the applicant and the business, showing proof of identification, if the applicant is not an individual, the names and permanent address of the officers of the corporation or the members of the partnership, firm association or other entity, as the case may be;
 - (2) The name of the owner and the type, make and registration number and description of the vehicle to be used;
 - (3) Valid state sales tax ID number;
 - (4) A statement as to whether or not the applicant has ever had a mobile food vending registration or other similar license or permit revoked or suspended by the city or any other city. Such a revocation or suspension may result in the city's refusal to process the application;
 - (5) A statement that the applicant understands and agrees that registration will not be used or represented in any way as an endorsement of the applicant by the city or by an department, officer, or elected or appointed official of the city;
 - (6) Proof of a valid driver license for operation of the class of vehicle identified in the application for the applicant and any agent or employees of the applicant who will be involved in driving the identified vehicle;
 - (7) Proof that the applicant has secured commercial general liability insurance for the mobile vending operation to be maintain for the entire length of the registration, written by an insurance carrier licensed to do business in the state, with minimum limits of \$1,000,000.00 combined, single limit for bodily and property damage, each occurrence and \$2,000,000.00 in the general aggregate. In the description of operations section shall include the following: "Mobile Food Vending" and "City of Leavenworth, its assigned, officers and affiliates are additional insured on a primary and non-contributory basis". Evidence of compliance with these insurance requirements shall be in the form of a certificate of insurance that shall be submitted with application. Such insurance certificate shall not be cancelled without prior written notice to the city; and

- (8) Signature of applicant, individually or by its members and officers, and any agents or employees of the applicant who will be involved in the applied-for mobile food vending certifying that all of the information provided in the application is true and correct.

Section 3. Section 22-134 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 22-134. Registration application.

- (b) All applications for new or renewal license for and ice cream vendor shall be made upon a form prescribed by the city and submitted and filed with the city clerk. All ice cream vendor license or permits are for a period of May 1 – April 30. License or permit fees are not prorated or refundable. All applications shall be reviewed and approved by the city health officer and police chief prior to issuance of the license.

- (b) License or permit is non-transferable. Such form shall include the following:

- (1) Name and permanent address of the applicant and the business, showing proof of identification, if the applicant is not an individual, the names and permanent address of the officers of the corporation or the members of the partnership, firm association or other entity, as the case may be;
- (2) The name of the owner and the type, make and registration number and description of the vehicle to be used;
- (3) Valid state sales tax ID number;
- (4) A statement as to whether or not the applicant has ever had an ice cream vending registration or other similar license or permit revoked or suspended by the city or any other city. Such a revocation or suspension may result in the city's refusal to process the application;
- (5) A statement that the applicant understands and agrees that registration will not be used or represented in any way as an endorsement of the applicant by the city or by an department, officer, or elected or appointed official of the city;
- (6) Proof of a valid driver license for operation of the class of vehicle identified in the application for the applicant and any agent or employees of the applicant who will be involved in driving the identified vehicle;
- (7) Proof that the applicant has secured commercial general liability insurance for the mobile vending operation to be maintain for the entire length of the registration, written by an insurance carrier licensed to do business in the state, with minimum limits of \$1,000,000.00 combined, single limit for bodily and property damage, each occurrence and \$2,000,000.00 in the

general aggregate. In the description of operations section shall include the following: “Ice Cream Vendor” and “City of Leavenworth, its assigned, officers and affiliates are additional insured on a primary and non-contributory basis”. Evidence of compliance with these insurance requirements shall be in the form of a certificate of insurance that shall be submitted with application. Such insurance certificate shall not be cancelled without prior written notice to the city; and

- (8) Signature of applicant, individually or by its members and officers, and any agents or employees of the applicant who will be involved in the applied-for ice cream vendor license or permit certifying that all of the information provided in the application is true and correct.

(c) No license shall be issued under this division to any person who:

- (1) Is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 et seq., or pursuant to an offender registration act of any state;
- (2) Has been convicted of a felony;
- (3) Has been convicted in the past five years of a misdemeanor or ordinance violation involving force, violence, deceit, or fraud; or
- (4) Has been convicted in the past three year of any law prohibiting leaving the scene of an accident; driving under the influence of alcohol or drugs; reckless; fleeing or eluding a police officer; driving while license is suspended or revoked; failure to report an accident; or five or more traffic violations (not including parking violation).

Section 4. Sections 22-25, 22-107 and 22-134 of the Leavenworth Code of Ordinances, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 5. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED and APPROVED by the Governing Body on the _____ day of _____, 2022.

Camalla M. Leonhard, Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk