



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

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, APRIL 25, 2023 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 AND PROCLAMATIONS:

1. Mayor’s Award
2. Proclamations: (pg. 03)
 - a. Arbor Day April 28, 2023
 - b. Small Business Week April 30-May 6, 2023
 - c. Historic Preservation Month
 - d. National Drinking Water Week May 7-13, 2023
 - e. National Travel & Tourism Week May 7-13, 2023

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

3. Minutes from April 11, 2023 Regular Meeting **Action:** Motion (pg. 08)

Second Consideration Ordinances:

4. Second Consideration Ordinance No. 8212 Rescind Special Use Permit at 1830 S. Broadway Street
Action: Roll Call Vote (pg. 15)

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.

General Items:

5. Mayor’s Appointments **Action:** Motion (pg. 17)
6. Consider Cereal Malt Beverage Licenses for Family Dollar at 104 N. Broadway St and 1906 Spruce St
Action: Motion (pg. 18)

Resolutions:

7. Resolution B-2332 Community Development Block Grant Annual Action Plan **Action:** Motion (pg. 19)
8. Resolution B-2333 Resolution of Support - Excel Development Group Low Income Housing Tax Credits
Action: Motion (pg. 25)

Bids, Contracts and Agreements:

9. Consider Agreement with Kansas Big Brothers Big Sisters **Action:** Motion (pg. 27)
10. Consider Contract for IT Data Backup Services **Action:** Motion (pg. 32)

First Consideration Ordinances:

11. First Consideration Ordinance Amending Charter Ordinance No. 40 **Action:** Consensus (pg. 38)
12. First Consideration Ordinance Amending the Development Regulations, Article 9 Historic Preservation
Action: Consensus (pg. 41)

13. First Consideration Ordinance for Special Use Permit at 728 Pottawatomie to Allow Two-Family Dwelling

Action: Consensus (pg. 71)

14. First Consideration Ordinance for Special Use Permit at 1906 5th Avenue to Allow Two-Family Dwelling

Action: Consensus (pg. 78)

Consent Agenda:

Claims for April 8, 2023 through April 21, 2023, in the amount of \$1,423,656.39; Net amount for Payroll #08 effective April 21, 2023, in the amount of \$367,229.76 (Includes Police & Fire Pension in the amount of \$10,383.15).

Action: Motion

Other:

Adjournment

Action: Motion

City of Leavenworth, Kansas



Proclamation

WHEREAS, *in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and*

WHEREAS, *this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and*

WHEREAS, *Arbor Day is now observed throughout the nation and the world; and*

WHEREAS, *trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and*

WHEREAS, *trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and*

WHEREAS, *trees in the City of Leavenworth, Kansas increase property values, enhance the economic vitality of business areas, and beautify our community.*

NOW, THEREFORE, *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim April 28, 2023 to be:*

Arbor Day

and I urge all citizens to celebrate Arbor Day, to support efforts to protect our trees and woodlands, to plant trees to gladden the heart and promote the well-being of this and future generations.

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

Jermaine Wilson, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *from the storefront shops that anchor Main Street to the high-tech startups that keep America on the cutting edge, small businesses are the backbone of our economy and the cornerstones of our nation's promise; and*
- WHEREAS,** *small business owners and Main Street businesses have energy and a passion for what they do; and*
- WHEREAS,** *when we support small business, jobs are created, and local communities preserve their unique culture; and*
- WHEREAS,** *because this country's 28 million small businesses create nearly two out of three jobs in our economy, we cannot resolve ourselves to create jobs and spur economic growth in America without discussing ways to support our entrepreneurs; and*
- WHEREAS,** *the President of the United States has proclaimed National Small Business Week every year since 1963 to highlight the programs and services available to entrepreneurs through the U.S. Small Business Administration and other government agencies; and*
- WHEREAS,** *the City of Leavenworth, Kansas supports and joins in this national effort to help America's small businesses do what they do best – grow their business, create jobs, and ensure that our communities remain as vibrant tomorrow as they are today; and*
- WHEREAS,** *the Leavenworth Main Street Program has been in existence since 1995, personally supporting and growing downtown small businesses and entrepreneurs within the community and specifically within the 28 blocks of the First City of Kansas.*

NOW, THEREFORE, *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim April 30 – May 6, 2023 to be:*

National Small Business Week

and urge all citizens to acknowledge and celebrate the achievements made by small business both locally and nationally and encourage all citizens to Live Local.

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

Jermaine Wilson, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *historic preservation is an effective tool for managing growth and sustainable development, revitalizing neighborhoods, fostering local pride, and maintaining community character while enhancing livability; and*

WHEREAS, *historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life, and all ethnic backgrounds; and*

WHEREAS, *it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as people; and*

WHEREAS, *"People Saving Places" is a national campaign cosponsored by the Leavenworth Preservation Commission, Preservation Alliance of Leavenworth, Leavenworth Main Street, and the National Trust for Historic Preservation.*

NOW, THEREFORE, *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim May 2023 to be:*

Leavenworth Historic Preservation Month

and call upon the people of Leavenworth, the First City of Kansas, to join their fellow citizens across the United States in recognizing and participating in this special observance.

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

Jermaine Wilson, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *water is our most valuable and important natural resource; playing a vital role in our daily lives; and the water produced by the Leavenworth Water Department is the most reliable and best-tasting water in all of Leavenworth County; and*

WHEREAS, *a safe, reliable water supply is critical to the success of our community – it creates jobs, attracts industry and investment, and provides for the health and welfare of citizens in ways ranging from disease prevention to fire suppression and the quality of life we enjoy; and*

WHEREAS, *we often take water supply for granted until it is threatened, either by drought, water main breaks, or some other event; any measure of a successful society – low mortality rates, economic growth and diversity, productivity, and public safety – are in some way related to access to safe water; and*

WHEREAS, *we are all stewards of the water supply and infrastructure upon which future generations depend; and*

WHEREAS, *each citizen of the City of Leavenworth is called upon to help protect our source waters from pollution, to practice responsible water conservation, to get involved in local water issues; and*

NOW, THEREFORE, *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim May 7-13, 2023 as:*

National Drinking Water Week

and I urge all citizens to recognize the vital role water plays in our daily lives and to value the importance and fragility of our water resources.

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

Jermaine Wilson, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *Travel to and within Kansas provides a significant economic benefit to the state with 33.7 million visitors to Kansas in 2021 with a direct spending of \$7 billion dollars; and*
- WHEREAS,** *when indirect and induced impacts are considered, tourism supported a total of 84,400 jobs, ranking tourism the 13th largest industry in Kansas; and*
- WHEREAS,** *visitor spending, visitor supported jobs, and business sales generated \$1.3 billion in government revenues. State and local taxes alone tallied \$700 million in 2021. Each household in Kansas would need to be taxed an additional \$613 to replace the visitor-generated taxes; and*
- WHEREAS,** *the average traveler to Kansas spends \$261 per day per person, 25% on transportation, 21% on Food & Beverage, 19% on Shopping, 14% on Entertainment, 13% on other and 9% on Lodging; and*
- WHEREAS,** *the City of Leavenworth realized approximately \$9.6 million from overnight visitor expenditures in 2022 per the Smith Travel Research Report, validating the unique significance of the National travel industry in the lives of the citizens of Leavenworth, Kansas.*
- NOW, THEREFORE,** *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim May 7-13, 2023 to be:*

National Travel & Tourism Week

and call upon the people of Leavenworth to observe this coming week, as sanctioned by the U.S. Congress, with appropriate ceremonies and activities.

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

Jermaine Wilson, Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk



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

Staff members present: City Manager Paul Kramer, Assistant City Manager Penny Holler, Planning & Community Development Director Julie Hurley, City Planner Bethany Falvey, Police Chief Patrick Kitchens, Battalion Chief Bill McKeel, Public Information Officer Melissa Bower, City Attorney David E. Waters and City Clerk Sarah Bodensteiner.

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

PROCLAMATIONS:

National Public Safety Telecommunicators Week April 9-15, 2022 – Mayor Wilson read the proclamation. The proclamation was accepted by Police Chief Patrick Kitchens and Battalion Chief Bill McKeel.

Leavenworth Spring Clean Up Day April 22, 2023 – Mayor Wilson read the proclamation. The proclamation was accepted by Public Information Officer Melissa Bower.

National Library Week April 23-29, 2023 – Mayor Wilson read the proclamation. The proclamation was accepted by Leavenworth Public Library Director Matt Nojonen.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Martin moved to approve the minutes from the March 28, 2023 regular meeting. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

Second Consideration Ordinances:

Second Consideration Ordinance No. 8210 Approval of Special Use Permit to Allow Two-Family Dwelling at 113 Seneca Street – City Manager Paul Kramer reviewed the Ordinance. There have been no changes since first introduced on March 28, 2023.

Mayor Wilson called the roll and Ordinance No. 8210 was unanimously approved.

Second Consideration Ordinance No. 8211 Rezoning 3523 10th Avenue from Multi-Family Residential District to Medium Density Single Family Residential District – City Manager Paul Kramer reviewed the Ordinance. There have been no changes since first introduced on March 28, 2023.

Mayor Wilson called the roll and Ordinance No. 8211 was unanimously approved.

Public Comment: *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*
None.

Public Hearing:

Public Hearing for Unsafe and Dangerous Structures

Open Public Hearing:

Commissioner Bauder moved to open the public hearing. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

Review of Properties by Staff and Public Comment:

Planning & Community Development Director Julie Hurley and City Planner Bethany Falvey reviewed the following properties. Property owners within a 200' radius were also notified of the public hearing date and were invited to provide comment.

612 N 2nd Street – Single family house, last water service 1/3/2022. No change, no contact from owner. According to County records, it appears the property has new ownership.

Owner Jerry Wesley, 823 Miami Street

- Evicted previous tenant
- Requesting 60 days to make progress
- Water was turned on today

Mayor Wilson:

- Asked what could be completed in 60 days

Mr. Wesley:

- A new roof, new windows and doors

There was consensus by the Commission to extend to June 13, 2023.

710 S. 7th Street – Single family house and accessory structure, no active water service since 2008. Owner signed remediation agreement and has indicated intent to repair. No change, no active building permits.

Owner Kevin Lis, 4424 Broadway Terrace

- Intends to demolish the building
- Having a survey done

There was consensus by the Commission to extend to June 13, 2023.

817 N. 16th Street – Single family house and accessory structures, last water service was 2/19/2021. No change, no contact from owners. Neighbor called and stated they are “in favor of the demolition.”

Owner not present

There was consensus by the Commission for staff to proceed with demolition after 10 days.

701 Chestnut Street – Single family house and accessory structure, last water service 10/30/2009. Owner signed remediation agreement and has indicated intent to repair. No active building permits, but appears to be working on the rear addition.

Owner Kevin Lis, 4424 Broadway Terrace

- Intends to repair the structure
- Roof should be repaired in 60 days

There was consensus by the Commission to extend to June 13, 2023.

776 Miami Street – Accessory structure. Owner obtained a demolition permit and demolished structure as of 2/21/2022.

Owner not present

There was consensus by the Commission to remove the property from the demolition list.

1030 Miami Street – Single family house and accessory structures, last water service 08/05/2020. No change, no active building permits or contact from owner.

Owner not present

There was consensus by the Commission for staff to proceed with demolition after 10 days.

212 Olive Street – Single family house and accessory structure, last water service 4/29/2021. No change, no active building permits.

Owner not present

There was consensus by the Commission for staff to proceed with demolition after 10 days.

200 Osage Street – Accessory structure. Owner indicated intent to repair the property. No change, but has an active building permit to remove the second story of the garage and rebuild roof.

Owner not present

There was consensus by the Commission to extend to June 13, 2023.

229 Osage Street – Single family house, last water service 2/14/2022. There are active building permits and work is occurring. No contact from owner.

Owner Shaman Baird, 6722 NE Agnes Circle, Gladstone MO

- Advised the framing is complete
- Electrical inspection is scheduled
- Roof should be going up pretty soon

There was consensus by the Commission to extend to June 13, 2023.

1128 Quincy Street – Single family house, last water service 10/09/2019. No change, no active building permits.

Owner not present

Neighbor Peggy Holmes, 1136 Quincy Street

- Squatters have been in the home
- Drug activity has occurred
- Had to contact the police multiple times
- In favor of demolition

There was consensus by the Commission for staff to proceed with demolition after 10 days.

Close Public Hearing:

Commissioner Hingula moved to close the public hearing. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

Consider Resolution B-2331 Demolition or Extension to Repair:

Commissioner Martin moved to adopt Resolution B-2331 proceeding with demolition or giving extension as agreed to by consensus of the commission after review of each property and as annotated by the City Clerk. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

Commissioner Martin:

- Asked if the demolition list could be longer in the future to tackle more blight

Ms. Hurley:

- Goal is get homes back to home owners, so staff review all the properties that are identified to see if any would be appropriate for the land bank, and those brought forward to the Commission have reached the point where demolition or substantial repair is required

General Items:

Mayor's Appointments:

Mayor Wilson moved to reappoint to the Leavenworth Preservation Commission Richard L. Gibson and Edward Otto to terms ending April 15, 2026 and to appoint to the Library Board Lisa Weakley and Myron "Mike" Griswold to terms ending April 30, 2027. Commissioner Bauder seconded the motion. The motion did not pass, with Mayor Wilson and Commissioner Bauder voting in favor of the motion and Commissioners Hingula and Martin abstaining from the vote.

City Attorney Waters advised the Commissioners that they have a duty to vote and if a conflict of interest is present, they would need to state that and remove themselves from the dais during this particular proceeding. If no conflict of interest exists, the Commissioner need to vote either yea or nay.

The Commission reconsidered the item.

Mayor Wilson moved to reappoint to the Leavenworth Preservation Commission Richard L. Gibson and Edward Otto to terms ending April 15, 2026 and to appoint to the Library Board Lisa Weakley and Myron "Mike" Griswold to terms ending April 30, 2027. Commissioner Bauder seconded the motion and the motion was approved. Mayor Wilson declared the motion carried 3-1 with Commissioner Martin voting against no.

2023-2024 City Commission Goals – City Manager Paul Kramer presented for consideration and approval the 2023-2024 City Commission Goals. The City Commission met on Friday, March 24, 2023 for their annual goal setting session. The goals for 2023-2024 have been updated and finalized based on input from the Commission. The Goals document was presented for approval and the following updates were discussed:

Economic Development

Added:

- Explore opportunities, partnership and other methods to increase traffic in the downtown, including events and arts and cultural attractions

Modified:

- Advocate for renovation and reuse of existing Bureau of Prisons facilities
- Continue and expand the City’s small business symposium
- Add “downtown park enhancements” to item (b)(iii)

Community Improvement

Removed:

- Explore a more accessible, attractive and functional recycling center
- Use the City’s Solid Waste Citizen’s Task Force to evaluate and make recommendations on refuse collections

Modified:

- Implement the City’s transit service program and track metrics to monitor usage data

Public Safety

Modified:

- Placing an emphasis on fentanyl and opioids
- Successfully complete the replacement of Fire Station No. 3

Roadways and Infrastructure

Modified:

- Continue to push for the full funding and expedient replacement of Centennial Bridge in Kansas KY 2026

Deleted:

- Improvements West of Centennial Bridge
- Supporting Projects that lead to annexation
- 90 day emergency reserve in Wastewater
- Complete condition assessment for the WWTP
- Complete condition assessment for traffic signals

Outreach and Transparency

Added:

- Revise and update City Reserve Policy
- Update and revise financial policies related to cooperative purchasing
- Create a multi-year budgeting and cash forecasting tool

Other Items Receiving General Support

Added:

- Prioritize and explore all efforts related to employee recruitment and retention
- Annual update for Workforce Partnership
- Annual update for Guidance Center
- Semi-Annual update for the Chamber of Commerce

Commission Bauder moved to approve the 2023-2024 City Commission Goals as presented. Commissioner Martin seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

First Consideration Ordinances:

First Consideration Ordinance to Rescind Special Use Permit at 1830 S. Broadway St. – City Manager Paul Kramer presented for first consideration an Ordinance that would rescind the special use permit allowing a convalescent nursing or rest home facility at 1830 S. Broadway Street. As the previous tenant of the building has since relocated and the property has been rezoned, the current zoning and use of the property no longer necessitate the need for the Special Use Permit.

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

Consent Agenda:

Commissioner Bauder moved to approve claims for March 25, 2023, through April 7, 2023, in the amount of \$1,582,117.72; net amount for Payroll #07 effective April 7, 2023, in the amount of \$358,488.52 (No Police & Fire Pension). Commissioner Martin seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

Other:

Commissioner Hingula:

- Hoped everyone had a happy and joyous Easter
- Commented on the great weather

Commissioner Bauder:

- Noted that the Ride LV transit busses are running
- You can call to schedule or use the app to schedule

Mayor Wilson:

- Stated God bless and have a good week

Executive Session – Preliminary Discussion of Acquisition of Real Property – Mayor Wilson moved to recess into executive session for a period of 20 minutes for the purpose of discussing the acquisition of real property pursuant to the preliminary discussion of the acquisition of real property exception per K.S.A. 75-4319 (b) (6). The City Commission, City Manager, and City Attorney will be present. The open meeting will resume in the City Commission Chambers at 7:15 p.m. Commissioner Bauder seconded the motion and the motion as unanimously approved. Mayor Wilson declared the motion carried 4-0.

The Leavenworth City Commission returned to open session at 7:15 p.m.

Adjournment:

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


Time Meeting Adjourned 7:15 p.m.
Minutes taken by City Clerk Sarah Bodensteiner, CMC

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8212
RESCINDING THE SPECIAL USE PERMIT ALLOWING A CONVALESCENT NURSING OR REST
HOME FACILITY AT 1830 S. BROADWAY STREET**

APRIL 25, 2023



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the April 11, 2023 City Commission regular meeting the City Commission reviewed and placed on first consideration:

**AN ORDINANCE TO RESCIND THE SPECIAL USE PERMIT ALLOWING A
CONVALESCENT NURSING OR REST HOME FACILITY AT 1830 S.
BROADWAY STREET, LEAVENWORTH KANSAS.**

There have been no other changes since first consideration.

Ordinance No. 8212 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8212

(Summary Published in the Leavenworth Times on April 28, 2023)

ORDINANCE NO. 8212

**AN ORDINANCE TO RESCIND THE SPECIAL USE PERMIT
ALLOWING A CONVALESCENT NURSING OR REST HOME
FACILITY AT 1830 S. BROADWAY STREET,
LEAVENWORTH KANSAS.**

WHEREAS, under Appendix A of the City of Leavenworth Code of Ordinances, Development Regulations, Section 2.04 C, the Governing Body of the City of Leavenworth is given the power to administratively discontinue or rescind a special use permit; and

WHEREAS, current zoning and use of the property no longer require a special use permit.

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

Section 1. That the following special use permit is hereby rescinded:

Name	Location	Use	Original Special Use Ordinance to Rescind	Date Approved
Baljit Baidwan	1830 S. Broadway Street	Convalescent Nursing or Rest Home Facility	6771, Section 9	04/23/1985

Section 2. This Ordinance shall take effect and be in force from and after its passage by the Governing Body, and its publication once in the official City newspaper.

PASSED AND APPROVED by the City Commission of the City of Leavenworth, Kansas, on this 25th day of April, 2023.

Jermaine Wilson, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

MAYOR'S APPOINTMENTS

APRIL 25, 2023

Mayor Wilson

"Move to

*Reappoint to the **Board of Zoning Appeals** Jan Horvath to terms ending May 1, 2026;*

*Reappoint to the **Leavenworth Planning Commission** Sherry Hines-Whitson and James Diggs to terms ending May 1, 2026;*

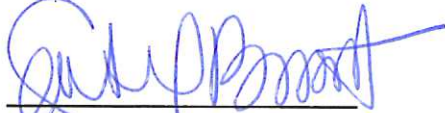
*Appoint to the **Parks & Community Activities Advisory Board** Stephanie Ingels to a term ending January 15, 2024.*

Requires a second and vote by the Governing Body.

**POLICY REPORT
CONSIDER CEREAL MALT BEVERAGE LICENSES FOR
FAMILY DOLLAR, 104 N. BROADWAY ST AND 1906 SPRUCE ST**

APRIL 25, 2023

Prepared by:



Sarah Bodensteiner, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

ISSUE:

Consider approving the issuance of 2023 Cereal Malt Beverage (CMB) Licenses to Family Dollar, for locations at 104 N. Broadway Street and 1906 Spruce Street.

BACKGROUND:

Family Dollar has submitted the applications for off premise consumption Cereal Malt Beverage Licenses for their two (2) locations in town. The Police Department has reviewed and approved the applications.

STAFF RECOMMENDATIONS:

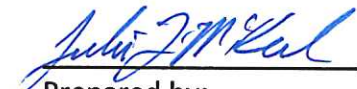
Staff recommends approving the issuance of the CMB licenses.

ACTION:

Motion to approve the issuance of 2023 off premise consumption Cereal Malt Beverage Licenses for Family Dollar at 104 N. Broadway Street and at 1906 Spruce Street.

POLICY REPORT
Community Development Block Grant
2023-24 Annual Action Plan
April 25, 2023

PREPARED BY:



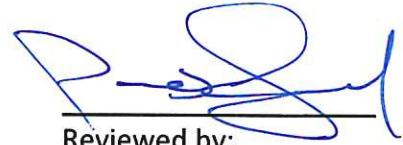
Prepared by:
Julie McKeel
Community Development
Coordinator

REVIEWED BY:



Reviewed by:
Julie Hurley
Director of Planning &
Community Development

REVIEWED BY:



Reviewed by:
Paul Kramer
City Manager

Discussion:

As an entitlement community, Leavenworth is required by the Department of Housing and Urban Development (HUD) to submit an Annual Action Plan. The Annual Action Plan is formulated using an electronic planning tool, provided by HUD, and reflects the Annual Action Plan's corresponding 5 year Consolidated Plan. The 2023-24 Annual Action Plan is the second year of the City's 2022-26 Consolidated Plan.

The entitlement award figure for the 2023 grant year was released on February 27, 2023 and is expected to be \$340,093. The expected award equates to a \$2,000 increase from the 2022 grant year. Any difference in actual award will result in a pro-rata configuration. Distribution in funding to the CDBG programs is reflective of recent years.

CDAB held two open public meetings to solicit community input on February 13, 2023 and April 10, 2023. All public comments were accepted and received.

The needs in the community will continue to be monitored with the statistics received from our public service agencies, requests for Community Development Block Grant (CDBG) program funds for low to moderate income and by the staff in Community Development.

The proposed 2023-24 Annual Action Plan can be viewed at:

<https://www.leavenworthks.org/cd/page/community-development-division>

Scroll to the bottom of the page and open the PDF file entitled,
2023-24 Annual Action Plan

Final Copy:

Certifications to be signed by Mayor Wilson and/or the City Manager will be added to the plan before electronic submission to HUD. Printed copies will be distributed to the Leavenworth Public Library and in the Leavenworth City Community Development Department, as well as, uploaded to the City's website.

Recommended Action:

Motion to adopt or modify the attached resolution adopting and authorizing the submission of the 2023-2024 Annual Action Plan to HUD.

2023-24 ANNUAL ACTION PLAN SYNOPSIS

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS
LEAVENWORTH, KANSAS
JULY 1, 2023-JUNE 30, 2024
\$340,093 ENTITLEMENT

SYNOPSIS

Entitlement award is expected to be \$340,093 for the CDBG 2023 Program Year, as projected by HUD on February 27, 2023. Actual award differing from projection will be distributed pro-rata while abiding by HUD requirements and the City’s Citizen Participation Plan. This summary sets forth the proposed budgets for activities funded with CDBG 2023 Program Year funds and is the second year of the 2022-2026 Consolidated Plan.

1. Administration

Departmental administration supports one full-time position and operating expenses that HUD requirements limit to 20% of the entitlement award.

Total budget: **\$68,018**

2. Public Service Agencies

The following Public Service Agencies will provide services to help Leavenworth’s lower income families become self-sufficient. The agencies work closely together to share knowledge and resources in order to assist low and moderate income clientele of our community. Through these agencies, low and moderate income citizens are served with medical and mental health, education, food, clothing, substance abuse and sheltering needs, as well as, individual agency wrap around services. CDBG will provide rent and/or utility reimbursement to the agency’s location in our City to support the agencies in their services. HUD requirements limit grants of this nature to 15% of the total entitlement.

Total budget: **\$51,013**

a. Catholic Charities of Northeast Kansas (CCNEKS)

CCNEKS operates a family support center and serves as a referral agency meeting the needs of vulnerable households resolving crises and supporting long term solutions through food assistance with their food pantry, clothing, direct financial rental and utility assistance, case management, financial education and employment support to prevent homelessness. CCNEKS will be reimbursed for the facility's utilities at 716 N 5th Street in Leavenworth.

\$7,800

b. Court Appointed Special Advocates (CASA)

CASA is an organization that advocates, under court order, for children who have been abused and/or neglected. Services include forensic interviews, providing referrals, mental health care, safe child exchange, and assisting to ensure needed services are established by trained volunteers and multidisciplinary team members. CASA will be reimbursed for the facility's rent at 100 S 5th Street in Leavenworth.

\$8,642.60

c. St. Vincent's Clinic (SVC)

SVC provides primary health care services to low income adults for general medical care, specialty care, and needed medications to the City's uninsured working families. SVC will be reimbursed for the facility's utilities at 818 N 7th Street in Leavenworth, however, if SVC moves within City limits during the 2023 grant year then they can be reimbursed for rent or utilities at the new location.

\$8,642.60

d. Leavenworth Interfaith Community of Hope (LICOH)

LICOH provides assistance for community members that struggle with homelessness with use of a night shelter, day center, and resources to those in our community with needs for clothing, food, assistance with rent/utilities, and obtaining their own personal documents for identification. LICOH will be reimbursed for the facility's utilities at 310 Kiowa Street in Leavenworth.

\$8,642.60

e. The Guidance Center (TGC)

TGC provides mental health services, outpatient therapy, emergency services, medication management, psychosocial groups, case management, supported employment, substance abuse, attendant care, and respite care to community members regardless of their ability to pay at 500 Limit St. TGC will be reimbursed for the facility's utilities at 500 Limit Street in Leavenworth.

\$8,642.60

f. The Alliance Against Family Violence(AAFV)

AAFV operates an emergency shelter for survivors of domestic violence, sexual assault, human trafficking, and stalking at an undisclosed location for the protection of those they serve. AAFV will be reimbursed for the facility's utilities at their undisclosed location in Leavenworth.

\$8,642.60

3. Housing Programs:

a. Home Repair Program / Home Accessibility Program

The City consolidates three categories of minor repairs or replacement for emergency, exterior, and weatherization into one major category, which provides up to \$10,000 to income qualified homeowners focusing on health and safety. Qualified applicant grant amount is dependent upon income level utilizing the current HUD Income Limits. Some examples of work include roofing, insulation, heating, cooling, plumbing, and code violations. Many homeowners have felt the effects of the economy and can no longer stretch their budgets to include home repairs; therefore, this program remains very popular. Handicap accessibility is available to qualified applicants that may or may not own their own home. Procedural approval from the landlord/homeowner is required if the qualified applicant is a renter.

Total budget: **\$90,000**

b. Home Ownership Program

This activity awards funds for 50% down payment and then closing costs and/or principal or interest buy-down to low and moderate income qualified applicants. The home must be able to pass an HQS inspection, be located in Leavenworth City limits, and cannot be in the 100 year flood plain. Processing & Underwriting Guidelines must be abided by to assure the funds are utilized as a benefit for the buyer's principal and specific closing costs. Qualified applicant grant amount is dependent upon income level utilizing the current HUD Income Limits. Award is 5%, but no more than \$5,000 for moderate income and 8%, but no more than \$8,000 for low income.

Total budget: **\$50,000**

4. Neighborhood Stabilization:

a. Removal of dangerous structures

Spot blight removal has been an ongoing project in the City for many years. The structures removed are beyond economic viability for rehabilitation and cause various problems in the neighborhoods in which they exist. This activity assists in safety for the City's citizens.

Total budget: **\$37,000**

b. Infrastructure

Infrastructure funds will repair and/or add sidewalks with ADA compliance in areas where more than 51% of residents are low/mod income. Results will provide a safe walking link to community facilities. Streets and sewer have been approved in the 5 Year Consolidated Plan within this category, however, sidewalks have been identified as the expected project.

Total budget: **\$44,062**

RESOLUTION NO. B-2332

A RESOLUTION AUTHORIZING AND ADOPTING THE 2023-2024 ANNUAL ACTION PLAN OF THE CITY OF LEAVENWORTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

WHEREAS, the Community Development Advisory Board (CDAB) held public hearings on February 13, 2023 and April 10, 2023 to receive input from citizens and agencies having interest in the Community Development Block Grant program; and

WHEREAS, the CDAB recommends approval of the 2023-2024 Annual Action Plan to and by the Governing Body.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION, CITY OF LEAVENWORTH, KANSAS, AS FOLLOWS:

Section 1. The Annual Action Plan for July 1, 2023 through June 30, 2024 is hereby adopted as presented.

Section 2. The City has met the requirements for citizen participation in preparation of this plan and has allowed the maximum feasible opportunity for persons or agencies to identify needs and present concepts to help meet those needs through the CDBG program.

Section 3. The City has reviewed its housing and non-housing needs in preparation of this document. This document is not in conflict with any provisions of the Five-year Action Plan prepared for the operation and administration of public housing programs in Leavenworth.

Section 4. The City has consulted with representatives of area agencies in the preparation of this document, for the purpose of furthering the objectives of the CDBG program.

Section 5. The City is taking all necessary steps to analyze and take appropriate action to further fair housing goals as outlined in the regional Fair Housing Assessment.

Section 6. This resolution shall take effect from and after its passage as provided by law.

ADOPTED THIS 25th day of April 2023.

Jermaine Wilson, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC City Clerk

Policy Report
Resolution of Support – Excel Development Group
April 25, 2023

Prepared by:



Paul Kramer
City Manager

Background:

In 2021, the City Commission approved a resolution of support for a Greenamyre Rentals residential project at the location mentioned in this policy report. Subsequently, the project has been purchased and modified by Excel Development Group.

Issue:

Excel Development Group recently approached the City about providing local support for an application to the State of Kansas for Low Income Housing Tax Credits for residential development at 2604 S. Second Avenue in Leavenworth, Kansas. The development would be limited to those 55 years old or older.

Action:

It is recommended that the City Commission approve a resolution of support for the Excel Development Group for application of Low Income Housing Tax Credits from the Kansas Housing Resources Corp.

ATTACHMENTS: Resolution

RESOLUTION B-2333

A RESOLUTION OF SUPPORT OF LOW INCOME HOUSING TAX CREDITS FOR EXCEL DEVELOPMENT GROUP HOUSING DEVELOPMENT AT 2604 S. SECOND AVENUE LEAVENWORTH KANSAS

WHEREAS, the City of Leavenworth, Kansas has been informed by Excel Development Group that Low Income Housing Tax Credits (LIHTC) from the Kansas Housing Resources Corp. are necessary to move forward with an age-restricted (55+) residential housing development at 2604 S. Second Avenue in Leavenworth, Kansas; and

WHEREAS, this housing project contains 12 duplex buildings – 24 two-bedroom units – in total; and

WHEREAS, the units will be reserved for seniors 55 and older, whose incomes are 60%, or less, of area median income (AMI); and

WHEREAS, the individual units will have Energy Star rated appliances, washers/dryers; and

WHEREAS, the property will have the following amenities: community building, garages, community garden, storm shelter, transportation pick-up/drop-off location; and

WHEREAS, the City of Leavenworth will provide fee waivers in the amount of at least \$20,000.

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

Section 1. The Mayor and City Commission, City of Leavenworth supports and approves the development of the aforesaid housing in our community, subject to City ordinances and the building permit process.

Section 2. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

ADOPTED THIS 25TH Day of April 2023

Jermaine Wilson, Mayor

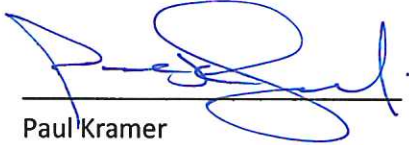
{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

Policy Report
Agreement with Kansas Big Brothers Big Sisters
April 25, 2023

Prepared by:



Paul Kramer
City Manager

Background

The City Commission has discussed the prospect of increasing youth-targeted services in the City of Leavenworth. Discussion formalized around the City Commission goals and with multiple discussions on the funding provided by the American Rescue Plan Act (ARPA). Initial discussions included a variety of options, before eventually focusing on Kansas Big Brother Big Sisters (KSBBBS). KSBBBS presented at the Feb. 7, 2023 Study Session, and staff has subsequently provided the City Commission with requested follow up statistics and reports.

Issue

The attached agreement between KSBBBS and the City of Leavenworth is the culmination of efforts to bring the organization to the City of Leavenworth. The agreement outlines the terms and responsibilities of the parties, but a few highlights include:

- The agreement ensures a Leavenworth-dedicated match specialist focusing on creating a one-to-one mentorship program.
- The agreement is for three (3) years of service at a total amount not to exceed \$180,000. The entirety of the funds are restricted to uses outlined in the "Scope of Services."
- The agreement references Kansas cash-basis and budget laws, indicating that the City's funding obligations are subject to annual appropriations.
- KSBBBS is defined as an independent contractor under this agreement. The agreement does not create a partnership or joint venture with the City in regards to execution of services.
- The agreement includes an indemnity clause, and ensures that the City is not tied, in any way, to the employment or operations of the program.
- The agreement includes quarterly reporting requirements.

Commission action

The agreement is before the Commission for consideration.

Attachments

- Contract, as agreed upon between City staff and KSBBBS.

AGREEMENT

between



and

City of Leavenworth, Kansas

For

One-to-one Mentoring Services

THIS AGREEMENT is entered into effective as of April ____, 2023, by and between the **City of Leavenworth, Kansas**, a Kansas municipal corporation (hereinafter the "City") and **Kansas Big Brothers Big Sisters, Inc.**, a Kansas not for profit corporation (hereinafter "KSBBBS").

WITNESSETH THAT:

WHEREAS, pursuant to the terms of this Agreement, the City has agreed to provide certain funding to KSBBBS for the implementation by KSBBBS of KSBBBS' one-to-one mentoring program in Leavenworth County, Kansas.

WHEREAS, the cooperation of the City and KSBBBS is essential for the successful implementation of this project.

NOW, THEREFORE, the parties hereto do mutually agree that this Agreement is entered into predicated upon the following terms and/or conditions, all and every one of which the parties hereto agree to observe and perform:

SCOPE OF SERVICES

- 1) Scope of Services: KSBBBS will implement a Community-based (CB) and Site-based (SB) one-to-one mentoring program. KSBBBS will provide evidenced-based one-to-one mentoring to Leavenworth County youth who have risk factors including, but not limited to: single-parent homes; financial poverty; family conflict; history with law enforcement (youth or parent/guardian); abuse (verbal, emotional, physical, or sexual); bullying; living out-of-home (DCF placement, with other family, with friends); school disciplinary issues; negative behaviors (is rebellious, angry/defiant, shows lack of concern/empathy for others); substance/alcohol abuse (youth or parent/guardian), and; mental/emotional health diagnoses.

Funds provided by the City to KSBBBS, and received by KSBBBS, will be utilized by KSBBBS to cover all costs associated with establishing the previously mentioned programs. The nature of said costs will include but are not limited to: salaries, taxes/fringe benefits, liability insurance, BBBSA fees, licensing of the BBBS brand and logo, office equipment, technology, marketing, finance, financial audit, future fundraising, human resources, program training audit and compliance, mileage expenses, meeting expenses to secure local community partnerships, and miscellaneous supplies that will directly benefit the Bigs and Littles within the defined service area of Leavenworth County.

- 2) Revision of Scope: The performance criteria and objectives may be modified, revised, or amended upon the joint written consent of the parties.

COMMENCEMENT AND COMPLETION

- 1) Term. Unless earlier terminated as provided herein, the term of this Agreement shall be for three (3) years, commencing April ____, 2023, expiring March ____, 2026.

- 2) Time of Performance: The services of KSBBBS are to commence as soon as practicable on or after the date of this Agreement, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement through the term. KSBBBS' goal is to launch and grow the program in a sustainable way by acquiring future local donors who will support the program. The hope is that this will allow KSBBBS to serve beyond the scope and term of this Agreement.
- 3) Close-out Period: KSBBBS has 30 days following the performance of this activity during which to conduct and complete close-out requirements associated with this Agreement. Final accomplishment and outcome reports are due to the City by May ____, 2026.
- 4) Default: Either party shall have the right to terminate this Agreement in the event that the other party shall breach, fail to keep or perform any covenant or obligation contained in this Agreement and such other party fails to remedy such breach or failure within fourteen (14) calendar days after the non-breaching party has given the breaching party written notice specifying such breach or failure, or within such additional period (not to exceed an additional thirty (30) days) as may reasonably be required to cure such breach or failure if it is of such nature that it cannot be cured within said fourteen (14) day period because of matters beyond the control of the breaching party. In the event of default, each party shall have such rights and remedies as may be available to them under Kansas law.

PAYMENTS & USE OF FUNDS

Regulation for Use of Funds: The use of funds received pursuant to this Agreement shall be in accordance with the requirements of this Agreement, other regulations governing the use of contract funds, and any amendments or policy revisions thereto which shall become effective during the term of this Agreement.

Payment Requests:

- (a) For the full term of the Agreement, City agrees to fund to KSBBBS an amount not to exceed \$180,000.00. City shall make an initial payment of \$30,000.00 to KSBBBS within thirty (30) days after the effective date of this Agreement. Thereafter, commencing on September 30, 2023, and each calendar quarter thereafter (December 31, March 31, June 30, and September 30), City shall make equal quarterly payments in the amount of \$15,000.00 each, with the final payment being no later than December 31, 2025.
- (b) Notwithstanding the foregoing, City and KSBBBS acknowledge and agree that the City is subject to the provisions and limitations of the Kansas cash-basis law, K.S.A. 10-1101 *et seq.*, as amended, and the Kansas budget law, K.S.A. 79-1935, as amended, and that City's funding obligations are subject to annual appropriations. In the event of non-appropriation, then this Agreement shall terminate as of the date for which funds have not been so appropriated, and the parties shall have no further obligations hereunder.

ASSIGNMENTS

Assignability: Neither the City nor KSBBBS shall assign, sublet, or transfer their interest in this Agreement without the prior written consent of the other.

RESPONSIBILITIES

Compliance with Laws: All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments. Further, KSBBBS agrees to perform services pursuant to the provisions of this Agreement and Federal and City regulations, rules and policies and special assurances included therein.

Indemnity: KSBBBS agrees to indemnify and hold City harmless from and against all losses, damages, costs and expenses incurred by City arising out of KSBBBS' activities under this Agreement or the program contemplated under this Agreement. KSBBBS shall maintain comprehensive general liability insurance policies, with a combined single limit of at least \$1,000,000.00.

Relationship: It is the intent of the parties that KSBBBS shall be an independent contractor in its capacity hereunder. KSBBBS will not be deemed or construed to be a partner or joint venturer of or with City solely by virtue of, or pursuant to, this Agreement, and KSBBBS will not have the power to bind or obligate City except as set forth in this Agreement or as otherwise approved by City in writing. KSBBBS is solely responsible for payment of wages, salaries, fringe benefits and other compensation of, or claimed by, KSBBBS's personnel in the performance of its services under this Agreement, including, without limitation, contributions to any employee benefit plan and all payroll taxes.

DOCUMENTATION AND RECORD KEEPING

Establishment and Maintenance of Records: KSBBBS shall establish and maintain records with respect to all matters covered by this Agreement.

Record Requirements: KSBBBS shall maintain all records that are pertinent to the activities to be funded under this Agreement. Such records shall include detailed records of KSBBBS' organization, financial, programmatic, assessment, volunteer, and administrative systems.

Quarterly Reporting: KSBBBS will provide financial and programmatic reports to the City on a quarterly basis, no later than 6 weeks after the close of the quarter. This documentation will include, but is not limited to: income statement, balance sheet, new match data including demographic information, closure information, and length of match.

LAWS, REGULATIONS AND SPECIAL CONDITIONS

Discrimination Prohibited: No recipient of any services under the provisions of this Agreement or any program related to this Agreement shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project or activity funded in whole or in part with the funds made available through this Agreement on the grounds of race, color, national origin, ancestry, disability, sex, or age.

Lobbying Prohibited: None of the funds provided under this Agreement shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

MISCELLANEOUS

This Agreement contains the entire agreement of the parties; supersedes all prior agreements of the parties, whether oral or written; and may be amended only by further written documents signed by each of the parties. If any provisions of this Agreement are held invalid or unenforceable, the invalidity or unenforceability shall be limited to the provisions involved; and shall not affect the validity or enforceability of remaining provisions. The captions of the sections of this Agreement shall have no legal significance. The rule that a document is construed against the drafting party shall have no application to the interpretation of this Agreement, except as otherwise expressly set forth herein. This Agreement shall be construed and governed under the laws of the State of Kansas. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same Agreement. This Agreement may also be signed by exchanging electronic mail copies in portable documents format of this Agreement, duly executed. The failure of any party at any time or times to require performance of any provision hereof shall not affect in any manner the right of such party to enforce the same at a later time.

AUTHORIZATION TO ENTER INTO THIS AGREEMENT

The undersigned person signing as an officer on behalf of KSBBBS, a party to this Agreement, hereby severally warrants and represents that said person has authority to enter into this Agreement on behalf of KSBBBS and to bind KSBBBS to this Agreement, and further that said KSBBBS has authority to enter into this Agreement and that there are no restrictions or prohibitions contained in any article of incorporation or bylaw against entering into this Agreement.

KANSAS BIG BROTHERS BIG SISTERS

Mary Shannon, President & CEO

Date

CITY OF LEAVENWORTH, KANSAS

Signature

Date

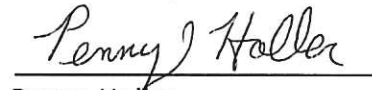
Print Name & Title

Policy Report
Data Back Up Services Contract
April 25, 2023

Prepared By:


Carol Charity
Information Systems Manager

Reviewed By:


Penny Holler
Assistant City Manager

Reviewed By:


Paul Kramer
City Manager

BACKGROUND:

To protect the City's data, we utilize a nightly back-up system through provider ISG Technology, LLC. Our previous 3-year contract for ISG back-up services was due to be re-bid. A Request for Proposals (RFP) for a new 3-year contract was posted. Though the posting generated a lot of interest, only one completed response was submitted by the deadline.

Our current provider, ISG, submitted a proposal to provide the City with back-up services for 3 years at a cost roughly \$5,000 less than our current monthly cost. That amount includes both on-site and off-site backup for all our servers and data. ISG's services will help maintain a continuity of City services and retention of documents should an unexpected event require a system restoration.

STAFF RECOMMENDATION:

Approve entering into the new 36-month contract with ISG Technology, LLC for \$214,668 annually (\$644,004 3-year total). The current cost was already approved in the 2023 budget and the reduced cost will be included in 2024 and 2025 budget requests.

ATTACHMENT:

ISG Purchase Agreement

Schedule ID 17-008

ISG Use Only

Effective Date 5/1/2023



Managed Cloud Backup Service Schedule

Pursuant to the Master Client Agreement previously or contemporaneously executed by **City of Leavenworth** ("Client") and ISG Technology, LLC. ("ISG"), hereinafter the "Parties", Client wishes to obtain, and ISG hereby agrees to provide to Client, the Products, Software and Services set forth herein (collectively hereinafter, the "Managed Cloud Backup Services" or simply the "Service") in accordance with the Master Client Agreement Standard Terms and Conditions ("Standard Terms and Conditions") and the additional terms and conditions set forth herein. Capitalized terms used and not defined herein shall have the meaning given in the Standard Terms and Conditions.

1. DESCRIPTION OF SERVICES

This Service will be provided as outlined in the *Managed Cloud Backup Product Guide*, which provides the most current and detailed information about the Service. Product Guides may be modified or updated by ISG with sixty (60) days advanced written notice to Client.

A. MANAGED CLOUD BACKUP SERVICE

This Service is a Cloud-based backup service using software-based backup functionality to generate de-duplicated and compressed backup files that are stored to an ISG-provided storage device called a Local Backup Appliance, which is installed on the Client premises or at another Client-specified location on Client's network. This local backup repository provides the capability to restore data quickly from local backup files. The backup process is configured and automated according to Recovery Point Objective options provided by ISG and chosen by the Client during implementation of the Service. The backup of data systems is limited to those identified by the Client and agreed upon by ISG. Local backups are securely transferred on a daily basis over a standard Internet connection from the local backup repository to an ISG Cloud Backup Repository for remote storage. Storage is allocated and billed in 1 TB (1024 GB) increments and is adjusted as required to accommodate successful completion of backup jobs.

This service is not meant to replace the need for the Client to maintain their own primary instance of production or business-critical data. Long term backup archiving, if kept as the sole stored instance of data, may still present a risk of data loss. Additional copies of backup data may be provided for an additional fee. ISG is not responsible for any impact to the Client for the loss of backup data provided as part of this service.

The Service will retain Client backup data in accordance with standards outlined in the Product Guide unless otherwise specified by Client during implementation of the Service. All backup files and data will follow a purge cycle whereby oldest backups are replaced with the most current backup data.

2. TERM

- a) **Initial Term:** The Effective Date of this Service Schedule shall be the next 1st or 15th of the Month following, or coinciding with, the date 30 days after the acceptance date as indicated by the date of signature by the Client or the next 1st or 15th of the Month following, or coinciding with, the date services

are active, whichever is earlier. The Initial Term of this Service Schedule shall commence on the Effective Date (set forth above) and continue for thirty-six (36) months unless terminated earlier pursuant to Section 5 of the Standard Terms and Conditions. Billing for services under this agreement will commence no later than the Effective Date unless an alternative date is agreed upon by ISG and the Client in writing prior to the commencement of billing.

- b) **Renewal Terms:** This Service Schedule shall automatically renew for an additional Twelve (12) month Renewal Term after the end of the Initial Term and each subsequent Renewal Term unless either party gives written notice to the other party of its intent to cancel this Service Schedule at least thirty (30) days prior to the end of the Initial Term or the then-applicable Renewal Term. ISG reserves the right to modify rates when this Schedule renews to the rates that are in effect at the time of renewal. Any change in rates will be communicated at least thirty (30) days prior to the effective date.
- c) **Fee Increases:** The Fees charged for the Services will automatically increase by five percent (5%) on each twelve-month anniversary of the Agreement Signature Date. The increase may apply to all or partial units of service provided as part of this Agreement.

3. CLOUD BACKUP RATES & FEES

This Service is billed monthly for all Backup services used by Client in the month in accordance with the *Managed Cloud Backup Rates & Fees Attachment A* which has been mutually agreed upon by both parties. Monthly billing will be adjusted periodically based on actual usage.

Minimum Monthly Commitment: Client agrees to pay a minimum monthly commitment of \$17,889 if total calculated monthly fees are reduced to less than the minimum monthly commitment amount indicated.

4. CLIENT OBLIGATIONS

Client hereby agrees and understands that they are obligated to the following in conjunction with these Services, as well as any other obligations set forth in the Standard Terms and Conditions:

Internet Access. Client shall be responsible for procuring and maintaining Internet access with a minimum bandwidth that provides for local backup transfers to an ISG Cloud Storage Repository in less than twenty-four (24) hours. For offsite backups requiring more than twenty-four (24) hours, dedicated bandwidth and a VPN connection to ISG may be required.

5. SOFTWARE/THIRD PARTY AGREEMENTS

Client is responsible for complying with all software licenses and third party agreements governing Client's use of the Services.

6. ADDITIONAL CLOUD SERVICES TERMS AND CONDITIONS

- a) Compliance with Law, ISG Rules and Regulations and Acceptable Use Policy. Client agrees that it will use the Cloud Services only for lawful purposes and in accordance with this Service Schedule. Client will comply at all times with all applicable laws, rules, and regulations (collectively, the "Laws"), ISG's general rules and regulations relating to Client's use of the Data Center and the Cloud Services, as updated by ISG from time to time (the "**Rules and Regulations**") and ISG's Acceptable Use Policy relating to Client's use of the Cloud Services, as updated by ISG from time to time (the "**AUP**"). Both the Rules and Regulations and the AUP are incorporated herein and made a part of this Service Schedule

by this reference. Client agrees that it has read and understands the current version of the Rules and Regulations and the AUP. ISG may change the Rules and Regulations and/or the AUP upon fifteen (15) days' notice to Client, which notice may be provided by posting the new Rules and Regulations and/or the new AUP at the ISG website or forwarding such new versions to Client via email. Client acknowledges that ISG exercises no control whatsoever over the content of the information passing through the Data Center, and that it is the sole responsibility of Client to ensure that the information it transmits and receives complies with the Laws, the Rules and Regulations and the AUP. Notwithstanding anything to the contrary contained herein, Client acknowledges that ISG may immediately take corrective action, including, without limitation, suspension or termination of the Cloud Services and removal of any offending data, information or content, in the event ISG receives notice of possible violations by Client of the Laws, the Rules and Regulations and/or the AUP.

- b) Restrictions on Use of the Cloud Services. Client shall not at any time, without ISG's prior written consent, (i) permit the Data Center to be utilized for the provision of any services that compete directly or indirectly with any ISG services, (ii) resell the Cloud Services to any third parties or otherwise allow third parties to use the Data Center or the Cloud Services, (iii) connect ISG Equipment to anything other than ISG's network, equipment or facilities, (iv) attempt to grant access or otherwise allow any individual not identified and authorized into the Data Center; or (v) access, alter, tamper with, adjust or repair any equipment, property, data, information or systems not belonging to Client.
- c) Damage Prevention. Client will refrain from using any facilities, equipment, tools, materials, apparatuses or methods that, in ISG's sole judgment, might cause damage to the Data Center or otherwise interfere with ISG Equipment or operations or the equipment or operations of any other ISG Client. ISG reserves the right, in its sole discretion, to take any action to prevent harm to the services, personnel or property of ISG (and its affiliates, vendors or Clients).
- d) Inspection. ISG and its designees may inspect, observe and/or monitor Client's equipment and Client's use of the Data Center at any time, electronically or otherwise.
- e) ISG Equipment. Client may wish for ISG to use ISG Equipment in providing Cloud Services to Client. Client shall have the right to use ISG Equipment for the Term of this Service Schedule. Under no circumstances will Client remove any ISG Equipment from the Data Center without the prior written consent of ISG.
- f) Facility Maintenance. Unless otherwise set forth herein, Client is solely responsible for all facility service and maintenance to ensure the adequate operation of Client's equipment and ISG Equipment located at Client's premises expressly leased and/or rented to Client for Client's exclusive use.
- g) Additional Client Indemnification of ISG. In addition to Client's indemnification obligations set forth in the Standard Terms and Conditions and elsewhere in this Service Schedule, Client will indemnify, defend and hold ISG and ISG Indemnified Parties harmless from and against any and all Losses that may at any time be incurred by such parties and that arise out of or relate to (i) with respect to Client's business, (a) infringement or misappropriation of any intellectual property rights, (b) defamation, libel, slander, obscenity, pornography or violation of the rights of privacy or publicity, (c) spamming, or any other offensive, harassing or illegal conduct or violation of the Laws, the Rules and Regulations or the AUP or (d) any breach of this Service Schedule by Client or (ii) any damage or destruction to the Data Center or ISG Equipment or any other Client by Client or Client Representatives.
- h) No Lease. This Service Schedule is a service agreement and is not intended to and will not constitute a lease for any real or personal property. Client acknowledges and agrees that (i) it has been granted only a license to use ISG Equipment and/or the Data Center in accordance with this Service Schedule, (ii) Client has not been granted any real property interest in ISG Equipment and/or the Data Center and (iii) Client has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations or ordinances.
- i) Removal of Data. Upon termination of this Service Schedule, ISG requires the right and ability to re-use the Managed Cloud Backup infrastructures used by Client by removing all equipment, services, applications, and data associated with Client so that this capacity can be provisioned for other Clients. If Client wishes to migrate applications, data or other applicable infrastructure used on the Service, Client

must do so prior to the end the Term of this Service Schedule or seek written agreement with ISG at least sixty (60) days prior to the end of the current Term for special handling or accommodations after the then current Term has ended.

7. SIGNATURES

This Service Schedule is governed in accordance with the terms and conditions of the Master Client Agreement executed by both Parties. ISG Reserves the right to withdraw this offer if Client does not execute and deliver the Schedule to ISG before 4/30/2023.

CITY OF LEAVENWORTH

ISG TECHNOLOGY, LLC.

By: _____
(Authorized Signature)

Name: Carol Charity

(Print)

Title: IS Manager

Date: _____

By: _____
(Authorized Signature)

Name: _____

(Print)

Title: _____

Date: _____

Managed Cloud Backup Rates & Fees Attachment A

Service Component	Monthly Rate	Initial Qty	Initial Commit
Managed Cloud Backup			
Managed Backup Services – includes up to: 855 TB Local Backup Storage 1210 TB Cloud Backup Storage 50 Managed Server Backups	\$17,889	1	\$17,889
Additional Services Rates			
Local Backup Storage (per TB)	\$10.00	0	\$0.00
Cloud Backup Storage (per TB)	\$10.00	0	\$0.00
Managed Server Backup (per Server)	\$50.00	0	\$0.00
Total Initial Monthly Commitment			\$17,889

The services and rates indicated in this Attachment represent the initial order for services and level of monthly commitment under the associated Managed Cloud Backup Service Schedule.

Client initials _____

ISG Technology initials _____

DS
RG

DS
MR

Policy Report

Finance

First Amendment to Charter Ordinance No. 40

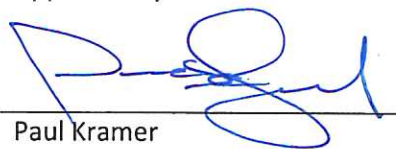
April 25, 2023

Prepared by:



Roberta Beier
Finance Director

Approved by:



Paul Kramer
City Manager

Background:

Staff evaluated several design-build teams for the purpose of designing and building a new Fire Station #3 and the WPC Administration Building. Based on that evaluation, Staff invited two design-build teams to make presentations to the City Commission at the March 21, 2023, Study Session. Staff requested direction from the City Commission on which design-build team the City should negotiate with for these two projects.

At the April 4, 2023, Study Session, the City Commission provided direction to Staff, through consensus, to proceed with pursuing a design-build contract with Kaaz Construction & WSKF Architects for the design and construction of Fire Station #3 and the WPC Administration Building.

Issue:

On May 27, 1997, the Governing Body of the City of Leavenworth passed and approved Charter Ordinance No. 40 (the Ordinance) which, among other things, exempted the City from the provision of the K.S.A. 13-1017 related to purchasing practices of certain city improvements, and provided substitute provisions on the same subject. Section 2 of the Ordinance stipulated that where the estimated cost of the building, facility, or improvement amounts to more than \$10,000, sealed proposals for the improvement shall be invited by advertisement and published in the official city paper, and the governing body shall let all such work by contract to the lowest responsive bidder. Section 3 of the Ordinance provides that any future modification to the \$10,000 cost provision stated in Section 2 of the Ordinance can be made by simple ordinance.

Recommendation:

Staff is requesting that the City Commission approve, by simple ordinance, an amendment of Charter Ordinance No. 40 to change the \$10,000 cost provision stated in Section 2 of the Ordinance to \$10,000,000. This will give the City Commission the flexibility to approve design-build contracts for projects up to \$10,000,000.

**ORDINANCE NO. XXXX
BEING A FIRST AMENDMENT TO CHARTER ORDINANCE NO. 40**

AN ORDINANCE REGARDING PURCHASING PRACTICES FOR CERTAIN CITY IMPROVEMENTS, AMENDING BY REGULAR ORDINANCE CHARTER ORDINANCE NO. 40, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

WHEREAS, on May 27, 1997, the Governing Body of the City of Leavenworth, Kansas, passed and approved Charter Ordinance No. 40 which, among other things, exempted the City from and made inapplicable to it, the provisions of K.S.A. 13-1017 related to purchasing practices for certain city improvements, and provided substitute provisions on the same subject; and

WHEREAS, among other things, Section 2 of Charter Ordinance No. 40 provided that in all cases where the estimated cost of the contemplated building, facility or other improvement amounts to more than \$10,000, sealed proposals for the improvement shall be invited by advertisement and published by the city clerk once in the official city paper, and the governing body shall let all such work by contract to the lowest responsible bidder who submits a responsive bid, if there is any whose bid does not exceed the estimate; and

WHEREAS, Section 3 of Charter Ordinance No. 40 provides that any future modification to the \$10,000 cost provision stated in Section 2 of Charter Ordinance No. 40 can be made by simple ordinance.

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

Section 1. Section 2 of Charter Ordinance No. 40 is hereby deleted in its entirety and amended to read as follows:

Section 2. Estimate of Cost of Improvements; Contracts; Bids; Bond Issue; When. Before undertaking the construction or reconstruction of any sidewalk, curb, gutter, bridge, pavement, sewer or any other public improvement of any street, highway, public grounds, or public building or facility, or any other kind of public improvement in the City of Leavenworth is commenced or ordered by the governing body, or under its authority, a detailed estimate of the cost of the improvements shall be made under oath by the city engineer (or some other competent person, appointed for such purposes by the governing body). Such estimate shall be submitted to the governing body for its action thereon. In all cases where the estimated cost of the contemplated building, facility or other improvement amounts to more than \$10,000,000.00, sealed proposals for the improvement shall be invited by advertisement, published by the city clerk once in the official city paper. The governing body shall let all such work by contract to the lowest responsible bidder who submits a responsive bid, if there is any whose bid does not exceed the estimate.

Section 2. Section 2 of Charter Ordinance No. 40, in existence as of and prior to the adoption of this ordinance is hereby repealed. Except as expressly modified by this ordinance, Charter Ordinance No. 40 remains unmodified and in full force and effect and is hereby ratified and affirmed in all respects. To the extent of any conflict or inconsistency between this ordinance and Charter Ordinance No. 40, the terms and conditions of this ordinance shall control.

Section 3. 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 _____, 2023.

Jermaine Wilson, Mayor

{SEAL}

ATTEST:

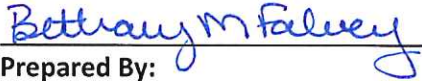
Sarah Bodensteiner, CMC, City Clerk

POLICY REPORT
Development Regulations Article 9 Amendment

APRIL 25, 2023

SUBJECT:

Amendments to Article 9 – Historic Preservation to the Development Regulations



Prepared By:
Bethany Falvey
City Planner



Reviewed By:
Paul Kramer
City Manager

DISCUSSION:

The City Commission adopted the Development Regulations in June 2016 after a year-long comprehensive update process. The Historic Preservation section, Article 9, has not had a comprehensive update since that time. This update will ensure it remains up to date and comprehensive. The proposed amendments update the code to reflect current practice and laws, adds clarification to current practices and policies, and reorganizes the existing Article for better flow.

- Changes the number of commission member from seven to five and clarifies background requirements.
- Removes references to the Environs portion of the Kansas State Preservation Law, which has been removed from the law.
- Removes inconsistent language and corrects language throughout to match current practices.
- Adds clarification and language to differentiate between review processes.
- Combines the section regarding “Alteration, Expansion or Demolition – Major” with Section 9.16 “Procedure for Demolition, Alteration or Expansion.”

The Planning Commission reviewed the proposed text amendments on April 3, 2023 and they moved to recommendation approval. The Leavenworth Preservation Commission reviewed the proposed text amendments on April 5, 2023 and they moved to endorse the Planning Commission’s recommendation of approval.

ACTION/OPTIONS:

Place an ordinance on first consideration to amend Article 9 of the Development Regulations as presented.

ARTICLE 9. HISTORIC PRESERVATION

9.01. Purpose

The purpose of this article of the development regulation is to:

- A. Preserve buildings and sites of historic and architectural importance and safeguard the heritage and culture of Leavenworth;
- B. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- C. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- D. Foster civic pride in Leavenworth and the appearance of the community; thereby protecting and enhancing the city's attraction to tourists and visitors and providing support and stimulus to business and industry;
- E. -Promote the restoration and productive use of historically and architecturally significant structures, property and areas for the culture, education, enjoyment and economic welfare of the city's citizens and visitors; and
- F. Promote the study of history, culture, and architectural design.

9.02. General

- A. A historic resources preservation code establishing the Leavenworth Preservation Commission, providing for the designation of Leavenworth landmarks and historic property districts, and regulating improvements to and demolition or clearance of buildings, sites, structures, or objects listed as landmarks or located in historic districts.
- B. The City is authorized, under the Kansas Historic Preservation Act, KSA 75-2724, to participate in the Certified Local Government (CLG) program by establishing a partnership with the State Historic Preservation Office (SHPO), Kansas State-Historical Society,
- C. The City Commission finds and determines that it is desirable to identify and promote the City's prehistoric, historic and cultural heritage, to enhance the attractiveness of the City, thereby promoting business and tourism,
- D. The Code is intended to enhance and promote Leavenworth's contribution to the history of the State of Kansas as well as to this nation.

9.03. Applicability

This Code shall apply to all historically and architecturally important structures, properties, and districts located within the City limits, which have demonstrated and have been determined to be significant through nomination and placement on local, state, or national registers of historic ~~places~~properties.

9.04. Leavenworth Preservation Commission

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- A. **Creation:** The Leavenworth Preservation Commission (hereafter in this article "commission") is created to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the City that have special significance of an architectural, archaeological, cultural or historical sense. The commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- B. **Membership:** The commission shall consist of ~~seven-five~~ Leavenworth residents by appointment by the mayor with concurrence by the City Commission. The membership will to every extent possible include a minimum of three of the Board members with either a professional or amateur background in: history, architecture, architectural history, historical architecture, archaeology-prehistoric, archaeology-historic, landscape architecture -at least one architect, one real estate professional, estate, or one planning commissioner, and one historian (amateur or professional), as well as members-at-large. Appointments shall be for a term of three years, ~~except that the first commission shall be appointed as follows: three for three-year terms, two for two-year terms and two for one-year terms.~~ The mayor may reappoint, as above, persons who have met the minimum attendance requirement and who otherwise have served adequately. The mayor may remove any member of the commission, for cause. Vacancies shall be filled by appointment as above within 60 days, such appointment for the remainder of the unexpired term.
- C. **Rules of Procedure:** The commission shall adopt bylaws or rules of procedure, which specify attendance requirements, conflict of interest, officer/selection process, quorum, agenda formulation, notice, and such other appropriate matters. Minutes of the meeting will be distributed to commission members, the City Manager and the State Historic Preservation Officer ~~(SHPO).~~
- D. **Annual Report:** The commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year and a record of current and appointed commission members. The report should also assess progress in preserving historically important structures and assess the need for future changes to the Code. The report shall conclude with a statement of goals for the ensuing year and shall be duly authorized by majority vote of the commission.
- E. **Authority and Responsibilities:**

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

1. *Jurisdiction:* The geographic area of authority shall be the area contained within the Leavenworth corporate limits.
2. *Mission:* The commission's central purpose is the designation and the protection of historic properties in compliance with the Kansas Historic Preservation Act (KSA 75-2724 et seq.). Matters arising under the statute shall require notification of the SHPO.
3. *Nomination Reviews:* The commission shall review all proposed nominations for local, state, and national registers of historic ~~places~~properties. All nominations shall be evaluated by a professional in a specific discipline, if not represented on the commission, prior to commission recommendation.
4. *Certified Local Government (CLG):* The SHPO may, by mutual agreement with the City, delegate responsibilities to the commission.
5. *Training:* Each commission member shall attend at least one information or training meeting each year as approved by the SHPO.
6. *Historic Inventory:* The commission shall review and maintain the historic property inventory to add properties, which may be eligible for designation as landmarks or districts in accordance with procedures established by the SHPO. In addition to the Kansas Historic Structures Inventory form, the City shall use the ~~Survey~~Urban Study Unit Manual prepared by the SHPO for the preservation planning process. Copies of all inventory materials shall be submitted to the SHPO.
7. *Transparency:* The City shall provide for adequate public participation in all aspects of the implementation of this Code. All meetings shall be open to the public pursuant to KSA 75-4318. The commission shall meet at least four times each year. Agenda materials provided to commission members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection. Minutes shall be considered notice of any action or decision.
8. *Programming:* The commission shall have the discretion to establish other programs and services, including but not limited to: create public information programs, use of City funds to promote preservation activities, review other departmental plans being considered that may affect historic structures or properties, and cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places.
9. *Participation Incentives:* The commission shall review and recommend local incentives that may encourage Landmark designation in Leavenworth. These may be in the form of retail discounts, tax rebates, permit fee waivers, utility reductions, and other means to stimulate interest in historic preservation available only to designated Landmark properties. Such incentives shall be by agreement between the city, the Landmark owner and the respective business or utility providing the reduction or rebate.
10. *Review of Public Projects:* The commission shall review and recommend policies regarding historic structures, public streetscape, lighting, and signage in historic

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

- districts to encourage their development. Resources available to create such places may include general or special tax authority as well as assessment processes.
11. *Grants and Gifts:* The commission shall prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of preservation, including state, federal, or corporate grants or bequests.
 12. *Code Review:* The commission shall review the provisions of this Code at least every five years to make comprehensive or individual changes deemed appropriate. The commission may make recommendations for amendment at any time deemed necessary to improve the enforceability of the Code.
 13. *Compensation and Expenses:* Commission members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

9.05. Administration

- A. *Department:* The Planning and ~~Community Development~~Zoning Department shall be responsible for the administration of this Code and performing the staff function for the commission. The department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code. The department shall process all applications for Landmark designations in accordance with Section 9.10 as described herein.
- B. *Department Staff Director:* The ~~Staff Planning and Zoning Department Director~~ shall review all building permit applications to determine if a Landmarks ~~or listed~~ property may be affected by a proposed development. If so, ~~they~~the Director shall follow the procedure to either issue a certificate of appropriateness or begin a state preservation law review process in accordance with the provisions further described herein. -The ~~Staff Director~~ shall forward the commission's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the commission.
- C. *Historic Landmark Impact Determination:* No historic property may be occupied or used in a different manner unless/until the ~~Staff Director~~ has made a Historic Landmark Impact Determination, which shall be attached to a certificate of appropriateness ~~or permit~~ (see Sections 9.10 through 9.16). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and ~~Staff's~~the Director's recommendation to approve or deny ~~a certificate of appropriateness~~.

9.06. Enforcement

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.06 Enforcement

- A. **Building Permit Required:** It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed ~~in~~ the National Register of Historic Places/Register of Historic Kansas Places, or located within a ~~listed~~registered Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.
- B. **Maintenance:** Normal property maintenance which does not require a permit from the City shall be exempt from the provisions of this Code, unless and/or until a permit for work to be done is required by other City development regulations.
- C. **Sufficient Documentation Required:** No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings and material lists in sufficient detail to enable the City to conclude that the project meets the appropriateness test as set by the Secretary of the Interior's ~~Standards~~standards for ~~Rehabilitation~~historic-preservation and the special terms of this Code.
- D. **Compliance with Plans Presented Required:** Building construction shall be halted if inspection staff notes that the project description presented to the City for approval differs in any way from the construction practices being performed on-site. During this stop-construction period, the City shall require compliance with the original approved depiction. The owner may appeal the order to the Leavenworth Preservation Commission by submitting amendments to the original plan and construction may proceed upon their approval. If the Leavenworth Preservation Commission denies the amendment, the owner may appeal to the City Commission.
- E. **Orders to Cease Construction:** The ~~Staff~~Director, upon discovery that a demolition or improvement to a property is being made without review of the appropriate permit, shall issue notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within 30 days or an appropriate action to comply with the provisions of this Code will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner.
- F. **Assessment of Compliance Costs:** If the City has filed proper notice and the time has elapsed for correction by the owner, the City may take corrective action and any and all costs incurred by the City under the provisions of this article shall be assessed against each lot or piece of ground, chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

9.07. Appeals

Any property owner aggrieved by any section of this Article may apply for an appeal. Appeals shall be to the Leavenworth Preservation Commission. Any decision of the commission may be further appealed to the City Commission. All rulings by the City Commission shall be final and binding on all parties unless appealed to a court of valid jurisdiction.

9.08. Variances

Any property owner, or authorized representative, may apply for a variance from specific guidelines ~~for historic preservation~~ as set and amended by the Secretary of Interior's Standards for Rehabilitation, the Interior Department. Variance applications shall be made to the Leavenworth Preservation Commission whose decisions are final. Before the commission may grant a variance from the specific regulation, it must make a finding that all five conditions below are affirmed:

- A. Such variance would not be contrary to the health, safety or best interest of the public;
- B. A literal enforcement of the provision will result in an unnecessary hardship to the property owner;
- C. There is a condition unique to the property which was not created by the property owner;
- D. There is no adverse effect on surrounding properties, and,
- E. The variance would not be contrary to the general spirit or intent of this Article.

9.09. Historic Resources Survey

The commission shall annually update the historical resources survey to identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural, or architectural importance to the community. As part of the survey, the commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by the SHPO.

9.10. Identification of Landmarks and Historic Districts

The commission shall identify the most significant resources with potential for designation as a local Landmark or historic district, devise and adopt procedures to initiate and consider their nomination to local, state and national registers and prepare and adopt a heritage conservation and promotion plan containing goals, objectives and policies to preserve the community's historic resource.

9.11. Leavenworth Landmarks Register

The commission shall establish a register of local historic places to be called the Leavenworth Landmarks Register. The register will contain a complete description of all buildings, structures, sites, and objects designated as landmarks and a description of boundaries of any area designated a historic district. All landmarks and districts shall be identified on the Landmarks Register Map, on file in the office of the City

Clerk and the Community Development Department. Updated copies of the map will be provided to the reference section of the Leavenworth Public Library.

9.12. Nomination of Landmarks and Historic Districts

Using the required public hearing process nominations for landmark or historic district designation shall be made by application submitted by the owner of a landmark or by written consent signed and acknowledged by seventy-five percent of all property owners within the defined boundaries of a proposed historic district. Each owner or owners of any legal parcel of record shall have one vote in the district per parcel, regardless of parcel size to determine this threshold. Lots that have been historically combined to create one parcel or building site shall be considered one parcel for this purpose. The commission shall review each application and shall apply the following criteria to determine eligibility to the local register:

- A. Character, interest, or value as part of the development, site, or structure that contributes significantly to the heritage or cultural characteristics important to the development of the city, state, or nation.
- B. Identification with a person or persons who significantly contributed to the development of the city, state, or nation.
- C. Architectural style valuable to the study of a period, or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure, or identification with a master builder, architect or craftsman whose work influenced the development of the city, state or nation.
- D. Location of a prehistoric or historic site, occupation, or activity possessing significant archeological value.
- E. The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination, which may render the nomination sufficient for placement on the register. All applications shall be submitted to the Community Development Department, City Hall, 100 N. 5th Street, Leavenworth, KS (Department).

9.13. Report and Recommendation

Within thirty (30) days after close of the public hearing, the commission shall adopt and submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the register with the following considerations: significance or lack of significance of the nominated property as it relates to the above stated criteria and integrity or lack of integrity of the nominated property as it relates to historical features. Recommendations will be accompanied by a

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.12 Nomination of Landmarks and Historic Districts

locator map of the subject property and such other photographs or renderings deemed pertinent to the nomination process.

9.14. City Commission Designation

The City Commission shall consider the nomination at the next available regular commission meeting, after the protest petition period has elapsed. The City Commission shall approve acceptable nominations by Code approved by roll call vote. Denials may be by simple motion as recorded in the minutes of the meeting. Any landmark or historic district nomination denied by the City Commission shall not be reconsidered for a period of one year. The Commission may take any of the following actions:

- A. Accept the recommendation of the commission, or reverse the recommendation of the commission.
- B. Amend by reduction or enlargement of the landmark or historic district.
- C. Amend or rescind previous placements on the register (after following the procedure for placement).

9.15. Designation

Within seven (7) days after approval, the City Commission shall forward notice of designation of any landmark or historic district to the SHPO, ~~in the format necessary to request placement on the state and national registers of historic places.~~ All appropriate state and local officials shall receive notice of the designation as well. Designation shall not alter the uses permitted by the existing zoning classification or district regulations affecting the property.

9.16. Procedure for Demolition, Alteration or Expansion

Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district, the commission and department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, issued, or denied in accordance with the process outlined herein.

- A. **Determination of Appropriateness:** Department staff shall prepare a certificate of appropriateness or conduct a state law review before any alteration or demolition permit may be issued for any landmark or historic district property. Certificates shall be classified as either a minor or certificate of appropriateness of a major certificate of appropriateness. All certificates or permits shall include the Director's landmark impact determination.

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

B. **Minor (Administrative) Reviews: City staff Certificates of Appropriateness:** Minor certificates shall have the authority to approve at the administrative level be issued for any demolition or alteration work involving the following list of project types:

1. Repair of architectural elements such of permits which can be demonstrated by the owner to have no adverse effect on a landmark or historic district: demolition of non-contributing structures, most interior improvements except those noted as porches, fascia, windows, doors, with like-kind replacement materials. This includes all roofing.
2. Installation of mechanical plumbing, or electrical systems that require minimal/pertinent to a landmark designation, changes
3. Installations of awnings and signs on commercial properties
4. Interior modifications that do not affect character-defining elements of the structure
5. Installation of fire safety equipment, or minor alterations to meet the Americans with Disabilities Act
6. Public improvements including improvements to fences, public walkways, public streets, curbs, sidewalks, parking areas, parks, utilities, and public alleys, public retaining walls and public utilities that do not contribute to the historic character of a landmark or historic district
7. Minor zoning changes (e.g. subdivision of property, vacation of streets or alleys, variances)
8. Minor exterior building changes including installation of decks, patios, and pools, not visible from the public right-of-way, the addition of mechanical or electrical equipment, when not affecting character-defining features of historic properties.
9. Sidewalk dining
10. Minor exterior additions to accessory structures
11. Demolition of non-contributing structures
12. Interior modifications that do not affect or remove character-defining elements of interior space. Including installation of mechanical, plumbing, or electrical systems that require minimal changes to existing features.
13. Changes to existing signs (e.g. sign reface)

If the proposed project meets the Secretary of the Interior's Standards for Rehabilitation, then City staff will administratively approve the proposed project. If staff determines that the proposed project may "damage or destroy" a listed property, then the proposed project will be forwarded to the Leavenworth Preservation Commission.

C. **Major (Commission) Reviews:**

Alteration, expansion, or demolition applications requiring a Major State Law Review or Certificate of Appropriateness shall be processed as follows:

1. The department receives application for a permit which triggers the determination warranting a major review and notifies the applicant within 24 hours that a Commission review is required before a permit can be issued [allow one-two days for this process].
2. Applicant submits request for review in writing within seven days [allow one-seven days for this process].

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DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

3. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.
4. The commission conducts the public hearing and determines if the certificate of appropriateness or permit can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness or permit can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate or "damages or destroys" the historic resource in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling]
5. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.
6. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness or permit is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].

DC. Monthly Reports: Minor (Administrative) Review ~~Such certificates~~ shall be authorized by ~~Staff~~ ~~the Director~~ and reported monthly to the commission. ~~-Such review certificates~~ may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.

ED. Major Reviews ~~Certificate of Appropriateness~~: Major certificates ~~or reviews~~ shall be subject to review and approval by the ~~Commission~~ ~~commission~~ and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within a historic district; and demolition of part or all of a landmark or building or structure in a historic district.

FE. Criteria to Determine Appropriateness: The commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving, and demolition of landmarks or properties in an historic district, including but not limited to, the following:

1. Non-binding conceptual reviews are encouraged and the Leavenworth Preservation Commission shall wherever possible provide written and graphical examples of similar suitable projects.

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.16 Procedure for Demolition, Alteration or Expansion

2. Specific design criteria for ~~appropriate exterior~~ alterations of landmarks or historic district properties shall be based on the ~~US~~-Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require;
3. New construction and additions to existing structures shall be sensitive to and take into account the special historic district or landmark characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, architectural detail, roof forms, vertical or horizontal elements, walls, fences, landscaping and other features;

GF. **Demolition Delay:** Demolition applications for landmarks or historic district properties shall be denied for a period not to exceed 180 days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the landmark or historic district property. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the landmark or historic district before demolition of a contributing or landmark structure may proceed. This section also applies to properties nominated or landmark or historic district designation. Once redevelopment plans are known, the commission will determine appropriateness.

9.17. Signs

The commission ~~and/or staff~~ shall review and approve or deny all requests for signs to be located on a landmark or within an historic district in accordance with the following criteria:

- A. Signs shall be designed and placed to be an integral part of the property design, in proportion to the landmark and compatible with the environment in historic districts.
- B. Signs should be relative to the services and shall not block, obscure or distract from the landmark's or historic district's significant design elements.
- C. Wherever possible, actual historic signage should be maintained and restored to original significance regarding design, materials, craftsmanship, or placement.
- D. In Commercial and Industrial Zoning Districts, illuminated signs shall be designed to reduce glare and shall not detract from the landmark's or district's historic character.
- E. Freestanding signs and monument placards explaining the landmark's or district's significance or age shall be compatible with the landmark or district, but are otherwise encouraged. Signs shall be regulated for a distance of not more than 300 feet from a landmark or historic district.
- F. Signs to be placed upon a National Register ~~Landmark~~-property shall not be subject to the public hearing process and may be approved as a minor ~~review certificate of appropriateness~~ if the terms of Section 11.19 are met. ~~National Register Landmark~~ signs which do not meet

all of the stated terms shall be set for review by the Leavenworth Preservation Commission at its next regular meeting with appeal to the City Commission if denied.

- G. Signs within Commercial or Industrial Historic Districts shall not be subject to the public hearing process and may be processed as a minor certificate of appropriateness if the terms of Section 11.19 are met. Signs within Commercial or Industrial Historic Districts which do not meet all of the terms of this Section shall be set for review by the Leavenworth Preservation Commission at its next regular commission meeting with appeal to the City Commission if denied.

- H. Signs within Residential Historic Districts shall be subject to the following procedure:

~~1. Any sign larger than two square feet proposed to be located within a Residential Historic District or within 300 feet of such District shall require a review by the Leavenworth Preservation Commission prior to issuance of any sign permit.~~

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12. The commission and/or staff shall review the sign for compliance with the terms of this sub-section and shall modify, approve or deny the permit following a scheduled informal hearing set for its next regular meeting. Such informal hearing shall be preceded by written notice to each of the properties within the affected historic district.

23. This is not a formal public hearing process as described elsewhere in this Code for appeals. No notice is required to be advertised. Letters shall be sent by regular mail. Failure to receive notice of such informal hearing shall in no way void the hearing process. The letter mail distribution shall be based upon the addresses of the properties within the district as filed with the nomination for the district in records kept and maintained by the Planning and Zoning Department, City of Leavenworth, Kansas. Such notice shall be mailed at least five workdays prior to the date set for the informal hearing. It shall state the date, time and place of the informal hearing and that the Leavenworth Preservation Commission will meet to discuss a sign permit request and shall give the address where the sign may be located.

34. Should a legal, non-historic commercial or industrial zoned property be located within 300 feet of a Residential Historic District, then the Leavenworth Sign Code shall be used to issue sign permits and no further Historic review shall be required.

45. During the informal hearing the chair may elect to hear public testimony in favor of or opposed to the sign as designed. The commission may encourage modification of the sign to assure historic integrity and compatibility with the character of the historic landmark or district, or the commission may grant or deny the sign permit as presented. The owner of the sign may appeal the decision of the commission to the City Commission, if denied.

56. Appeals shall be in writing received by City staff within seven days of the date of denial.

9.18. Retention of Accessory Structures and Landscaping

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.18 Retention of Accessory Structures and Landscaping

- A. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the landmark or district's significance shall be retained and protected from demolition or alteration.
- B. Landscaping shall be appropriate to the scale and feature of the landmark or historic district.
- C. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-~~contributing~~~~contributory~~ structures shall not distract or detract from the landmark or historic district properties.
- D. Design criteria shall be applied more stringently to projects of greater significance than those of lesser impact. Accessory facilities are not subject to the public hearing process and will be reviewed at the next regular commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within seven days of date of denial.

9.19. Public Properties

Existing historically or architecturally significant public properties shall be nominated to local, state, and federal registers upon authorization by the City Commission after review and approval by the commission of appropriate nominating materials. Unless specifically required elsewhere, normal nomination procedures may be waived.

- A. Normal property maintenance shall be exempt from the provisions of this Code unless or until a permit for work to be done is required by other City development regulations
- B. Demolition, exterior alteration, or expansion of landmark properties owned by such entities shall follow the procedures enumerated in these Development Regulations.

9.20. Promotion of Other Functions

To further the purposes of this Code and to assure maximum public knowledge and involvement in the preservation of Leavenworth's history, the City may enter into agreements with other units of government, other agencies and private corporations. Specifically, the City shall negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of building and/or demolition permit applications for compliance with the above stated historical regulations and objectives.

- A. **Types and purposes of grants, or other agreements:** The commission may recommend and the City Commission may authorize such agreements which address:
 - 1. Designation of landmarks and historic districts;
 - 2. Administration and use of preservation fund resources;
 - 3. Improvements to landmarks and historic districts;
 - 4. Maintenance of landmarks and historic district properties;

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.18 Retention of Accessory Structures and Landscaping

5. Other mutually acceptable provisions such as contracts with public or private consultants and acceptance of grants or other resources to further the objectives and functions of the commission.

9.21. Promotion

The commission shall be the City's point of contact for all historic associations and organizations within the City, state and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Leavenworth within the established budget for the operation of the commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the commission and as authorized by the City Commission through the various agreements. The commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

9.22. Public Hearing Process

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed.

- A. Landmark nomination as additionally described above shall be processed as follows:
 1. The commission or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.
 2. The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].
 3. The commission conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].
 4. The City Commission accepts or reverses the recommendation and approves or denies the nomination.
 5. If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].
 6. If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one-year delay before a future nomination may be submitted].

DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.23 Alteration, Demolition, or Expansion - Major

9.23. Alteration, Expansion or Demolition - Major

~~Alteration, expansion, or demolition applications requiring a Major Certificate of Appropriateness shall be processed as follows:~~

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~~A. The department receives application for a permit which triggers the determination warranting a major certificate of appropriateness and notifies the applicant within 24 hours that a formal review is required before a certificate of appropriateness can be issued [allow one two days for this process].~~

~~B. Applicant submits request for review in writing within seven days [allow one seven days for this process].~~

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~~C. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.~~

~~D. The commission conducts the public hearing and determines if the certificate of appropriateness can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling].~~

~~E. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.~~

~~F. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness is issued, the permit may be granted by the building inspector or other regulating department as appropriate [allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].~~

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(Summary Publish in the Leavenworth Times on _____)

ORDINANCE NO. XXXX

AN ORDINANCE AMENDING ARTICLE 9, HISTORIC PRESERVATION, 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 Article 9; 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 Article 9 of the Development Regulations; Appendix A of the City Code of Ordinances, City of Leavenworth, Kansas be and is hereby repealed and amended to read as follows:

9.01. Purpose

The purpose of this article of the development regulation is to:

- A. Preserve buildings and sites of historic and architectural importance and safeguard the heritage and culture of Leavenworth;
- B. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- C. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- D. Foster civic pride in Leavenworth and the appearance of the community; thereby protecting and enhancing the city's attraction to tourists and visitors and providing support and stimulus to business and industry;
- E. Promote the restoration and productive use of historically and architecturally significant structures, property and areas for the culture, education, enjoyment and economic welfare of the city's citizens and visitors; and
- F. Promote the study of history, culture, and architectural design.

9.02. General

- A. A historic resources preservation code establishing the Leavenworth Preservation Commission, providing for the designation of Leavenworth landmarks and historic property districts, and regulating improvements to and demolition or clearance of buildings, sites, structures, or objects listed as landmarks or located in historic districts.
- B. The City is authorized, under the Kansas Historic Preservation Act, KSA 75-2724, to participate in the Certified Local Government (CLG) program by establishing a partnership with the State Historic Preservation Office (SHPO), Kansas Historical Society,
- C. The City Commission finds and determines that it is desirable to identify and promote the City's prehistoric, historic and cultural heritage, to enhance the attractiveness of the City, thereby promoting business and tourism,
- D. The Code is intended to enhance and promote Leavenworth's contribution to the history of the State of Kansas as well as to this nation.

9.03. Applicability

This Code shall apply to all historically and architecturally important structures, properties, and districts located within the City limits, which have demonstrated and have been determined to be significant through nomination and placement on local, state, or national registers of historic places.

9.04. Leavenworth Preservation Commission

- A. **Creation:** The Leavenworth Preservation Commission (hereafter in this article "commission") is created to inventory, promote, list, record, protect, preserve and enhance places, areas, features or sites within the City that have special significance of an architectural, archaeological, cultural or historical sense. The commission shall advise the City Commission and cooperate with other historic agencies and organizations concerning preservation of the City's historic and cultural heritage.
- B. **Membership:** The commission shall consist of five Leavenworth residents by appointment by the mayor with concurrence by the City Commission. The membership will to every extent possible include a minimum of three of the Board members with either a professional or amateur background in: history, architecture, architectural history, historical architecture, archaeology-prehistoric, archaeology-historic, landscape architecture, real estate, or planning. Appointments shall be for a term of three years. The mayor may reappoint, as above, persons who have met the minimum attendance requirement and who otherwise have served adequately. The mayor may remove any member of the commission, for cause. Vacancies shall be filled by appointment as above within 60 days, such appointment for the remainder of the unexpired term.
- C. **Rules of Procedure:** The commission shall adopt bylaws or rules of procedure, which specify attendance requirements, conflict of interest, officer/selection process, quorum, agenda formulation, notice, and such other appropriate matters. Minutes of the meeting will be distributed to commission members, the City Manager and the State Historic Preservation Officer.

- D. **Annual Report:** The commission shall prepare an annual report of its activities to be submitted to the City Commission and SHPO. The report shall include an account of the number and type of cases reviewed and their disposition, a listing of new designations made during the year and a record of current and appointed commission members. The report should also assess progress in preserving historically important structures and assess the need for future changes to the Code. The report shall conclude with a statement of goals for the ensuing year and shall be duly authorized by majority vote of the commission.
- E. **Authority and Responsibilities:**
1. **Jurisdiction:** The geographic area of authority shall be the area contained within the Leavenworth corporate limits.
 2. **Mission:** The commission's central purpose is the designation and the protection of historic properties in compliance with the Kansas Historic Preservation Act (KSA 75-2724 et seq.). Matters arising under the statute shall require notification of the SHPO.
 3. **Nomination Reviews:** The commission shall review all proposed nominations for local, state, and national registers of historic places. All nominations shall be evaluated by a professional in a specific discipline, if not represented on the commission, prior to commission recommendation.
 4. **Certified Local Government (CLG):** The SHPO may, by mutual agreement with the City, delegate responsibilities to the commission.
 5. **Training:** Each commission member shall attend at least one information or training meeting each year as approved by the SHPO.
 6. **Historic Inventory:** The commission shall review and maintain the historic property inventory to add properties, which may be eligible for designation as landmarks or districts in accordance with procedures established by the SHPO. In addition to the Kansas Historic Structures Inventory form, the City shall use the Survey Manual prepared by the SHPO for the preservation planning process. Copies of all inventory materials shall be submitted to the SHPO.
 7. **Transparency:** The City shall provide for adequate public participation in all aspects of the implementation of this Code. All meetings shall be open to the public pursuant to KSA 75-4318. The commission shall meet at least four times each year. Agenda materials provided to commission members shall be open to the public. Decisions shall be made in a public forum and minutes of all meetings shall be kept on file and available for public inspection. Minutes shall be considered notice of any action or decision.
 8. **Programming:** The commission shall have the discretion to establish other programs and services, including but not limited to: create public information programs, use of City funds to promote preservation activities, review other departmental plans being considered that may affect historic structures or properties, and cooperate with local groups or agencies to provide the widest possible promotion of historic programs and places.
 9. **Participation Incentives:** The commission shall review and recommend local incentives that may encourage Landmark designation in Leavenworth. These may be in the form of retail discounts, tax rebates, permit fee waivers, utility reductions, and other means to stimulate

interest in historic preservation available only to designated Landmark properties. Such incentives shall be by agreement between the city, the Landmark owner and the respective business or utility providing the reduction or rebate.

10. *Review of Public Projects:* The commission shall review and recommend policies regarding historic structures, public streetscape, lighting, and signage in historic districts to encourage their development. Resources available to create such places may include general or special tax authority as well as assessment processes.
11. *Grants and Gifts:* The commission shall prepare applications for City Commission approval for any gift, grant, bequest, devise, lease, fee, development right, easement, covenant, or conveyance for the purpose of preservation, including state, federal, or corporate grants or bequests.
12. *Code Review:* The commission shall review the provisions of this Code at least every five years to make comprehensive or individual changes deemed appropriate. The commission may make recommendations for amendment at any time deemed necessary to improve the enforceability of the Code.
13. *Compensation and Expenses:* Commission members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

9.05. Administration

- A. **Department:** The Planning and Community Development Department shall be responsible for the administration of this Code and performing the staff function for the commission. The department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code. The department shall process all applications for Landmark designations in accordance with Section 9.10 as described herein.
- B. **Department Staff:** The Staff shall review all building permit applications to determine if a Landmarks or listed property may be affected by a proposed development. If so, they shall follow the procedure to either issue a certificate of appropriateness or begin a state preservation law review process in accordance with the provisions further described herein. The Staff shall forward the commission's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the commission.
- C. **Historic Impact Determination:** No historic property may be occupied or used in a different manner unless/until the Staff has made a Historic Impact Determination, which shall be attached to a certificate of appropriateness or permit (see Sections 9.10 through 9.16). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and Staff's recommendation to approve or deny.

9.06. Enforcement

- A. **Building Permit Required:** It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed in the National Register of Historic Places/Register of Historic Kansas Places, or located within a listed Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.
- B. **Maintenance:** Normal property maintenance which does not require a permit from the City shall be exempt from the provisions of this Code, unless and/or until a permit for work to be done is required by other City development regulations.
- C. **Sufficient Documentation Required:** No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings and material lists in sufficient detail to enable the City to conclude that the project meets the appropriateness test as set by the Secretary of the Interior's Standards for Rehabilitation and the special terms of this Code.
- D. **Compliance with Plans Presented Required:** Building construction shall be halted if inspection staff notes that the project description presented to the City for approval differs in any way from the construction practices being performed on-site. During this stop-construction period, the City shall require compliance with the original approved depiction. The owner may appeal the order to the Leavenworth Preservation Commission by submitting amendments to the original plan and construction may proceed upon their approval. If the Leavenworth Preservation Commission denies the amendment, the owner may appeal to the City Commission.
- E. **Orders to Cease Construction:** The Staff, upon discovery that a demolition or improvement to a property is being made without review of the appropriate permit, shall issue notice to cease to the owner and shall take all appropriate measures to prevent such unlawful act. Notice shall explain the nature of the violation in clear terms and shall allow the owner to give satisfactory evidence that the action will be corrected within 30 days or an appropriate action to comply with the provisions of this Code will be initiated. Failure to comply may result in citation to municipal court and may result in the City taking corrective action to abate the offense and assess the costs of such abatement to the owner.
- F. **Assessment of Compliance Costs:** If the City has filed proper notice and the time has elapsed for correction by the owner, the City may take corrective action and any and all costs incurred by the City under the provisions of this article shall be assessed against each lot or piece of ground, chargeable therewith as a special assessment, and the City Clerk shall certify the assessment to the County Clerk for collection as other special assessments are collected.

9.07. Appeals

Any property owner aggrieved by any section of this Article may apply for an appeal. Appeals shall be to the Leavenworth Preservation Commission. Any decision of the commission may be further appealed to the City Commission. All rulings by the City Commission shall be final and binding on all parties unless appealed to a court of valid jurisdiction.

9.08. Variances

Any property owner, or authorized representative, may apply for a variance from specific guidelines as set and amended by the Secretary of Interior's Standards for Rehabilitation. Variance applications shall be made to the Leavenworth Preservation Commission whose decisions are final. Before the commission may grant a variance from the specific regulation, it must make a finding that all five conditions below are affirmed:

- A. Such variance would not be contrary to the health, safety or best interest of the public;
- B. A literal enforcement of the provision will result in an unnecessary hardship to the property owner;
- C. There is a condition unique to the property which was not created by the property owner;
- D. There is no adverse effect on surrounding properties, and,
- E. The variance would not be contrary to the general spirit or intent of this Article.

9.09. Historic Resources Survey

The commission shall annually update the historical resources survey to identify buildings, structures, sites, neighborhoods and areas that may have historical, cultural, or architectural importance to the community. As part of the survey, the commission shall evaluate studies by other organizations and compile appropriate descriptions, facts, and photographs. All such materials shall be documented in accordance with the survey manual prepared by the SHPO.

9.10. Identification of Landmarks and Historic Districts

The commission shall identify the most significant resources with potential for designation as a local Landmark or historic district, devise and adopt procedures to initiate and consider their nomination to local, state and national registers and prepare and adopt a heritage conservation and promotion plan containing goals, objectives and policies to preserve the community's historic resource.

9.11. Leavenworth Landmarks Register

The commission shall establish a register of local historic places to be called the Leavenworth Landmarks Register. The register will contain a complete description of all buildings, structures, sites, and objects designated as landmarks and a description of boundaries of any area designated a historic district. All landmarks and districts shall be identified on the Landmarks Register Map, on file in the office of the City Clerk and the Community Development Department. Updated copies of the map will be provided to the reference section of the Leavenworth Public Library.

9.12. Nomination of Landmarks and Historic Districts

Using the required public hearing process nominations for landmark or historic district designation shall be made by application submitted by the owner of a landmark or by written consent signed and acknowledged by seventy-five percent of all property owners within the defined boundaries of a proposed historic district. Each owner or owners of any legal parcel of record shall have one vote in the district per parcel, regardless of parcel size to determine this threshold. Lots that have been historically combined to create one parcel or building site shall be considered one parcel for this purpose. The commission shall review each application and shall apply the following criteria to determine eligibility to the local register:

- A. Character, interest, or value as part of the development, site, or structure that contributes significantly to the heritage or cultural characteristics important to the development of the city, state, or nation.
- B. Identification with a person or persons who significantly contributed to the development of the city, state, or nation.
- C. Architectural style valuable to the study of a period, or to the type, method of construction, materials used, design elements, detailing materials, or craftsmanship embodied in the structure, or identification with a master builder, architect or craftsman whose work influenced the development of the city, state or nation.
- D. Location of a prehistoric or historic site, occupation, or activity possessing significant archeological value.
- E. The weight of any one criterion may be sufficient to accept the nomination and criteria not listed above may be contributed in the nomination, which may render the nomination sufficient for placement on the register. All applications shall be submitted to the Community Development Department, City Hall, 100 N. 5th Street, Leavenworth, KS (Department).

9.13. Report and Recommendation

Within thirty (30) days after close of the public hearing, the commission shall adopt and submit its recommendation to the City Commission that the nominated property does or does not meet the criteria for placement on the register with the following considerations: significance or lack of significance of the nominated property as it relates to the above stated criteria and integrity or lack of integrity of the nominated property as it relates to historical features. Recommendations will be accompanied by a locator map of the subject property and such other photographs or renderings deemed pertinent to the nomination process.

9.14. City Commission Designation

The City Commission shall consider the nomination at the next available regular commission meeting, after the protest petition period has elapsed. The City Commission shall approve acceptable nominations by Code approved by roll call vote. Denials may be by simple motion as recorded in the minutes of the meeting. Any

landmark or historic district nomination denied by the City Commission shall not be reconsidered for a period of one year. The Commission may take any of the following actions:

- A. Accept the recommendation of the commission, or reverse the recommendation of the commission.
- B. Amend by reduction or enlargement of the landmark or historic district.
- C. Amend or rescind previous placements on the register (after following the procedure for placement).

9.15. Designation

Within seven (7) days after approval, the City Commission shall forward notice of designation of any landmark or historic district to the SHPO. All appropriate state and local officials shall receive notice of the designation as well. Designation shall not alter the uses permitted by the existing zoning classification or district regulations affecting the property.

9.16. Procedure for Demolition, Alteration or Expansion

Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district, the commission and department shall initiate a process to determine if such permitted action is appropriate. All applications shall be reviewed, issued, or denied in accordance with the process outlined herein.

- A. **Determination of Appropriateness:** Department staff shall prepare a certificate of appropriateness or conduct a state law review before any alteration or demolition permit may be issued for any landmark or historic district property. Certificates shall be classified as either a minor or major. All certificates or permits shall include the Director's landmark impact determination.
- B. **Minor (Administrative) Reviews:** City staff shall have the authority to approve at the administrative level the following list of project types:
 - 1. Repair of architectural elements such as porches, fascia, windows, doors, with like-kind replacement materials. This includes all roofing.
 - 2. Installation of mechanical plumbing, or electrical systems that require minimal changes.
 - 3. Installations of awnings and signs on commercial properties.
 - 4. Interior modifications that do not affect character-defining elements of the structure.
 - 5. Installation of fire safety equipment, or minor alterations to meet the Americans with Disabilities Act.
 - 6. Public improvements including improvements to streets, curbs, sidewalks, parking areas, parks, utilities, and retaining walls that do not contribute to the historic character of a landmark or historic district.
 - 7. Minor zoning changes (e.g. subdivision of property, vacation of streets or alleys, variances).
 - 8. Minor exterior building changes including installation of decks, patios, and pools, not visible from the public right-of-way, the addition of mechanical or electrical equipment, when not affecting character-defining features of historic properties.

9. Sidewalk dining.
10. Minor exterior additions to accessory structures.
11. Demolition of non-contributing structures.
12. Interior modifications that do not affect or remove character-defining elements of interior space. Including installation of mechanical, plumbing, or electrical systems that require minimal changes to existing features.
13. Changes to existing signs (e.g. sign reface).

If the proposed project meets the Secretary of the Interior's Standards for Rehabilitation, then City staff will administratively approve the proposed project. If staff determines that the proposed project may "damage or destroy" a listed property, then the proposed project will be forwarded to the Leavenworth Preservation Commission.

C. Major (Commission) Reviews

Alteration, expansion, or demolition applications requiring a Major State Law Review or Certificate of Appropriateness shall be processed as follows:

1. The department receives application for a permit which triggers the determination warranting a major review and notifies the applicant within 24 hours that a Commission review is required before a permit can be issued [allow one-two days for this process].
2. Applicant submits request for review in writing within seven days [allow one-seven days for this process].
3. Department prepares and publishes notice of time, date, place and purpose of public hearing, such notice to be published at least twenty days prior to the date of the hearing [allow 30-45 days for this process]. Notice is also sent by regular mail to all property owners within an affected historic district.
4. The commission conducts the public hearing and determines if the certificate of appropriateness or permit can be issued and submits its decision, in writing with appropriate documentation to the applicant within 10 days. If the certificate of appropriateness or permit can be issued, the permit may be granted by building inspector or other regulating department as appropriate [allow 1-5 days for this process for residential projects, allow 30-60 days for major residential (more than four units per building), commercial or industrial projects]. If the requested action is determined inappropriate or "damages or destroys" the historic resource in order to protect the historic character or integrity of the property, then the applicant may file an appeal, in writing, within seven days asking that the application be reconsidered by the City Commission [allow 5-10 days for this process]. A protest period of at least 14 days must elapse from the date of the public hearing until the appeal may be heard by the City Commission [this time runs concurrently with the notification process, allow an additional 5-10 days for scheduling]
5. The City Commission holds a regularly scheduled meeting and upholds or reverses the decision of the commission.
6. The decision of the City Commission is conveyed, in writing, to the applicant [allow 5-10 days for this process]. If the certificate of appropriateness or permit is issued, the permit may be granted by the building inspector or other regulating department as appropriate

[allow 1-5 days for residential or 30-60 days for major residential (more than four units per building), commercial or industrial projects].

- D. **Monthly Reports:** Minor (Administrative) Review shall be authorized by Staff and reported monthly to the commission. Such reviews may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.
- E. **Major Reviews:** Major certificates or reviews shall be subject to review and approval by the Commission and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within a historic district; and demolition of part or all of a landmark or building or structure in a historic district.
- F. **Criteria to Determine Appropriateness:** The commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving, and demolition of landmarks or properties in an historic district, including but not limited to, the following:
 - 1. Non-binding conceptual reviews are encouraged and the Leavenworth Preservation Commission shall wherever possible provide written and graphical examples of similar suitable projects.
 - 2. Specific design criteria for appropriate alterations of landmarks or historic district properties shall be based on the Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require;
 - 3. New construction and additions to existing structures shall be sensitive to and take into account the special historic district or landmark characteristics including height, scale, orientation, site coverage, spatial separations, facade and window patterns, entrance and porch size and general design, materials, texture, architectural detail, roof forms, vertical or horizontal elements, walls, fences, landscaping and other features;
- G. **Demolition Delay:** Demolition applications for landmarks or historic district properties shall be denied for a period not to exceed 180 days if a proposed public or private re-use of the property is unknown. The maximum period of delay may be reduced whenever the commission determines the owner will suffer extreme hardship or will be deprived of all beneficial use of the property by virtue of the delay. In either instance, the commission shall use the delay to negotiate with the owner and interested parties to find a means to preserve the landmark or historic district property. If the proposed re-use of the property is known, the use will be examined for relationship and compatibility with the landmark or historic district before demolition of a contributing or landmark structure may proceed. This section also applies to properties nominated or landmark or historic district designation. Once redevelopment plans are known, the commission will determine appropriateness.

9.17. Signs

The commission and/or staff shall review and approve or deny all requests for signs to be located on a landmark or within an historic district in accordance with the following criteria:

- A. Signs shall be designed and placed to be an integral part of the property design, in proportion to the landmark and compatible with the environment in historic districts.
- B. Signs should be relative to the services and shall not block, obscure or distract from the landmark's or historic district's significant design elements.
- C. Wherever possible, actual historic signage should be maintained and restored to original significance regarding design, materials, craftsmanship, or placement.
- D. In Commercial and Industrial Zoning Districts, illuminated signs shall be designed to reduce glare and shall not detract from the landmark's or district's historic character.
- E. Freestanding signs and monument placards explaining the landmark's or district's significance or age shall be compatible with the landmark or district, but are otherwise encouraged. Signs shall be regulated for a distance of not more than 300 feet from a landmark or historic district.
- F. Signs to be placed upon a National Register property shall not be subject to the public hearing process and may be approved as a minor review if the terms of Section 11.19 are met. National Register signs which do not meet all of the stated terms shall be set for review by the Leavenworth Preservation Commission at its next regular meeting with appeal to the City Commission if denied.
- G. Signs within Commercial or Industrial Historic Districts shall not be subject to the public hearing process and may be processed as a minor certificate of appropriateness if the terms of Section 9.17 are met. Signs within Commercial or Industrial Historic Districts which do not meet all of the terms of this Section shall be set for review by the Leavenworth Preservation Commission at its next regular commission meeting with appeal to the City Commission if denied.
- H. Signs within Residential Historic Districts shall be subject to the following procedure:
 1. The commission and/or staff shall review the sign for compliance with the terms of this sub-section and shall modify, approve or deny the permit following a scheduled informal hearing set for its next regular meeting. Such informal hearing shall be preceded by written notice to each of the properties within the affected historic district.
 2. This is not a formal public hearing process as described elsewhere in this Code for appeals. No notice is required to be advertised. Letters shall be sent by regular mail. Failure to receive notice of such informal hearing shall in no way void the hearing process. The letter mail distribution shall be based upon the addresses of the properties within the district as filed with the nomination for the district in records kept and maintained by the Planning and Zoning Department, City of Leavenworth, Kansas. Such notice shall be mailed at least five workdays prior to the date set for the informal hearing. It shall state the date, time and place of the informal hearing and that the Leavenworth Preservation Commission will meet to discuss a sign permit request and shall give the address where the sign may be located.
 3. Should a legal, non-historic commercial or industrial zoned property be located within 300 feet of a Residential Historic District, then the Leavenworth Sign Code shall be used to issue sign permits and no further Historic review shall be required.

4. During the informal hearing the chair may elect to hear public testimony in favor of or opposed to the sign as designed. The commission may encourage modification of the sign to assure historic integrity and compatibility with the character of the historic landmark or district, or the commission may grant or deny the sign permit as presented. The owner of the sign may appeal the decision of the commission to the City Commission, if denied.
5. Appeals shall be in writing received by City staff within seven days of the date of denial.

9.18. Retention of Accessory Structures and Landscaping

- A. Existing characteristics such as trees, walls, stairs, paving materials, fencing, walkways, and other site features that reflect the landmark or district's significance shall be retained and protected from demolition or alteration.
- B. Landscaping shall be appropriate to the scale and feature of the landmark or historic district.
- C. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure. Non-contributing structures shall not distract or detract from the landmark or historic district properties.
- D. Design criteria shall be applied more stringently to projects of greater significance than those of lesser impact. Accessory facilities are not subject to the public hearing process and will be reviewed at the next regular commission meeting with appeal to the City Commission if denied. Appeals must be submitted in writing within seven days of date of denial.

9.19. Public Properties

Existing historically or architecturally significant public properties shall be nominated to local, state, and federal registers upon authorization by the City Commission after review and approval by the commission of appropriate nominating materials. Unless specifically required elsewhere, normal nomination procedures may be waived.

- A. Normal property maintenance shall be exempt from the provisions of this Code unless or until a permit for work to be done is required by other City development regulations
- B. Demolition, exterior alteration, or expansion of landmark properties owned by such entities shall follow the procedures enumerated in these Development Regulations.

9.20. Promotion of Other Functions

To further the purposes of this Code and to assure maximum public knowledge and involvement in the preservation of Leavenworth's history, the City may enter into agreements with other units of government, other agencies and private corporations. Specifically, the City shall negotiate an agreement with the SHPO whereby the state may delegate certain responsibilities to the City, including, but not limited to, the review of building and/or demolition permit applications for compliance with the above stated historical regulations and objectives.

- A. **Types and purposes of grants, or other agreements:** The commission may recommend and the City Commission may authorize such agreements which address:
1. Designation of landmarks and historic districts;
 2. Administration and use of preservation fund resources;
 3. Improvements to landmarks and historic districts;
 4. Maintenance of landmarks and historic district properties;
 5. Other mutually acceptable provisions such as contracts with public or private consultants and acceptance of grants or other resources to further the objectives and functions of the commission.

9.21. Promotion

The commission shall be the City's point of contact for all historic associations and organizations within the City, state and nation and shall provide such assistance as practical to promote and develop historical, archeological, or prehistoric interest in Leavenworth within the established budget for the operation of the commission. Activities such as submitting pass-through grants on behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the commission and as authorized by the City Commission through the various agreements. The commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

9.22. Public Hearing Process

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed.

- A. Landmark nomination as additionally described above shall be processed as follows:
1. The commission or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.
 2. The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].

3. The commission conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].
4. The City Commission accepts or reverses the recommendation and approves or denies the nomination.
5. If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].
6. If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one-year delay before a future nomination may be submitted].

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 _____ day of _____, 2023.

Jermaine Wilson, Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
2023-09-SUP
728 POTTAWATOMIE**

APRIL 25, 2023

SUBJECT:

Place on first consideration an ordinance to approve 2023-09-SUP



Prepared By:

Julie Hurley,
Director of Planning and
Community Development



Reviewed By:

Paul Kramer,
City Manager

NATURE OF REQUEST

The applicant, Depaul USA, Inc., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 728 Pottawatomie. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The property was previously occupied by a four-plex apartment building, which was demolished in January 2017. It is currently a vacant lot. The applicant is proposing construction of a two-family residential structure on the property.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

Currently the property is a vacant lot. If approved, the property will fill a need in the community by providing a two-family housing option. Constructing a residential property on a vacant lot will continue to fill that need.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not feel that the proposed use will cause any substantial injury to the value of other property in the neighborhood.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

A new construction of a residential duplex is proposed as part of this special use permit. The proposed use will be of a lower intensity than the previous 4-plex unit which occupied the property, and will not prevent development and use of any neighboring properties.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Since notifications were mailed, staff has received no inquiries or comments regarding the proposed residential home stay.

The Planning Commission considered this item at their April 3, 2023 meeting and voted 5-0 to recommend approval of the Special Use Permit.

ACTION:

- Place an ordinance on first consideration to approve the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 728 Pottawatomie.
- Deny the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 728 Pottawatomie.
- Remand the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 728 Pottawatomie to the Planning Commission for further consideration.



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2023-09 SUP

Application No.	12760
Fee (non-refundable)	\$350.00
Filing Date	
Received By	
Hearing Date	4-3-23
Publication Date	3-9-23

As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a: Residential duplex

in accordance with the attached site plan on the following described property:

Subject Property:	728 Pottawatomie, Leavenworth, KS		
Legal Description:	(Attach a full legal description provided by the Register of Deeds Office)		
Real Estate PID #:	052-077-26-0-41-07-018.00-0		
Zoning:	RI-6	Historic District:	N/A

I/We, the undersigned, depose and state we are the owners of the above described property:

Name(s) of Owner (print):	Depaul USA, Inc.		
Owner Address:	PO Box 750 CHICAGO, IL 60690		
Contact No.	C.W. Levesque	Email:	Charles.levesque@depausa.org
Signature of Owner(s):	<i>Charles W. Levesque for Depaul USA</i>		

State of ILLINOIS

County of COOK (SEAL)



Signed or attested before me on: February 14, 2023

Notary Public: T. Moore

My Appointment Expires: 07/14/2025

If business is operated by someone other than the owner, provide name and address of operator(s).

Name of Lessee:	
Address:	
Contact No.	
Email:	

NOTE: All signatures must be in ink. Signature of owner(s) must be secured and notarized.

Check list below...

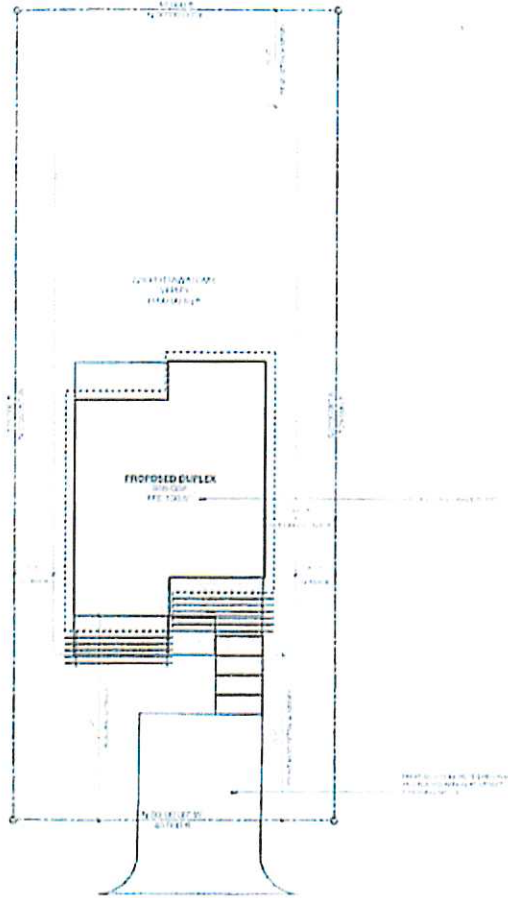
<input type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input type="checkbox"/>	Attach full legal description obtained through the Register of Deeds Office
<input type="checkbox"/>	Site Plan drawn to scale (See General Instructions)
<input type="checkbox"/>	Supporting documentation (See General Instructions)

primary contact Sr. Vickie

913-530-4535

vperkins@scL@gmail.com

Special Use Permit July 2020



POTTAWATOMIE

1 ARCHITECTURAL SITE PLAN
NOV 19 2014



A1.1

DEPAUL USA
NEW DUPLEX
DEVELOPMENT

221 Pottawatomie
Pottawatomie, Kansas

ROGUE
architecture

ARCHITECTURAL SITE PLAN
NOV 19 2014

ROGUE Architecture PLLC
201 S Spring Street
1410 West, Atchison KS 66315
Tel: 785-934-2222
info@roguearch.com

REGISTERED ARCHITECT
KANSAS

(Summary Published in the Leavenworth Times on _____)

ORDINANCE NO. XXXX

AN ORDINANCE ALLOWING A SPECIAL USE FOR A TWO-FAMILY DWELLING IN A HIGH DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT ZONING DISTRICT LOCATED AT 728 POTTAWATOMIE STREET IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the Appendix A of the City Code of Ordinances, Development Regulations, of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to locate special uses in each zoning district by ordinance within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 3rd day of April 2023 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 and mailed to all property owners within 200 feet of the said property on the 9th day of March 2023; and

WHEREAS, the City Planning Commission did hear on the 3rd day of April 2023 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas and upon a motion made, duly seconded, and passed, the City Planning Commission adopted findings of fact and recommended approval of the request for a two-family dwelling in a High Density Single Family Residential District zoning district located at 728 Pottawatomie Street, Leavenworth, Kansas; and

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to allow special use for a two-family dwelling for the property described herein in Section 1.

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

Section 1. That a special use permit be issued for a two-family dwelling on the following described property:

Lots 14 and 15, Block 98 lying partly in WESTERN ADDITION and partly in DAY AND MACAULAY'S SUBDIVISION, a subdivision in the City of Leavenworth, Leavenworth County, Kansas; and more **commonly referred to as 728 Pottawatomie Street**, Leavenworth, Kansas.

Section 2: That this Ordinance shall take effect and be in force from and after its passage by the Governing Body, and its publication once in the official City newspaper.

PASSED AND APPROVED by the Leavenworth City Commission of the City of Leavenworth, Kansas on this ____ day of _____ 2023.

Jermaine Wilson, Mayor

{Seal}

ATTEST:

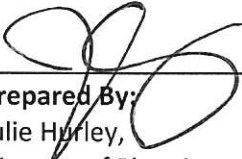
Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
2023-10-SUP
1906 5TH AVENUE**

APRIL 25, 2023

SUBJECT:

Place on first consideration an ordinance to approve 2023-10-SUP



Prepared By:
Julie Hurley,
Director of Planning and
Community Development



Reviewed By:
Paul Kramer,
City Manager

NATURE OF REQUEST

The applicant, TFP Holds, LLC, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1906 5th Ave. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The property is currently an existing legal, non-conforming use as a two family dwelling. Section 1.05.D of the adopted Development Regulations states:

Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continue, so long as otherwise lawful.

The applicant is seeking the Special Use Permit to make the use conforming, specifically because “without a special use permit as a loss of 50% or greater must be rebuilt as a single family home,” due to the zoning.

COMMISSION FINDINGS

The Commission may recommend issuance of a special use permit whenever it finds that:

1. The proposed special use complies with all applicable provisions of this ordinance.

Staff believes that this application complies with all provisions of City of Leavenworth Development Regulations.

2. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public.

Currently the property is functioning as legal, nonconforming two-family dwelling. If approved, the property will fill a need in the community by continuing to provide a two-family housing option. Continuing the use as a two family dwelling will fill that need.

3. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

Staff does not feel that the proposed use will cause any substantial injury to the value of other property in the neighborhood.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.

No new structures or building modifications are proposed as part of this special use permit. The property will continue to function as it is currently.

Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Since notifications were mailed, staff has received no inquiries or comments regarding the proposed residential home stay.

The Planning Commission considered this item at their April 3, 2023 meeting and voted 5-0 to recommend approval of the Special Use Permit.

ACTION:

- Place an ordinance on first consideration to approve the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 1906 5th Avenue.
- Deny the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 1906 5th Avenue.
- Remand the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district at 1906 5th Avenue to the Planning Commission for further consideration.



SPECIAL USE PERMIT
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

CASE NO.: 2023-10 SUP

Application No.	<u>12762</u>
Fee (non-refundable)	\$350.00
Filing Date	<u>2/16/23</u>
Received By	
Hearing Date	<u>4-3-23</u>
Publication Date	<u>3-9-23</u>

As provided in Section 2.04 of the 2016 Development Regulations, application is hereby made for a SPECIAL USE PERMIT for the operation of a:
Residential duplex currently legal, but nonconforming as the zoning is R1-6 (single family)

in accordance with the attached site plan on the following described property:

Subject Property:	<u>1906 5th Ave, Leavenworth, KS 66048</u>		
Legal Description:	<u>(Attach a full legal description provided by the Register of Deeds Office)</u>		
Real Estate PID #:	<u>052-101-01-0-20-24-001.01-0</u>		
Zoning:	<u>R1-6</u>	Historic District:	

I/We, the undersigned, depose and state we are the owners of the above described property:

Name(s) of Owner (print):	<u>TFP Holds LLC by Andrew Dewhurst (owner)</u>		
Owner Address:	<u>22489 Venido Rd, Woodland Hills, CA 91364</u>		
Contact No.	<u>765-438-8930</u>	Email:	<u>terrafirmaprop@gmail.com</u>
Signature of Owner(s):	<u>[Signature] ANDREW DEWHURST, OWNER of TFP Holds LLC</u>		

State of _____
County of _____ (SEAL)

SEE ATTACHED CERTIFICATE

Signed or attested before me on:	
Notary Public:	
My Appointment Expires:	
If business is operated by someone other than the owner, provide name and address of operator(s).	
Name of Lessee:	
Address:	
Contact No.	
Email:	

NOTE: All signatures must be in ink. Signature of owner(s) must be secured and notarized.

Check list below...

<input checked="" type="checkbox"/>	Non-Refundable Fee of \$350.00 is due at time of application
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property
<input checked="" type="checkbox"/>	Attach full legal description obtained through the Register of Deeds Office
<input checked="" type="checkbox"/>	Site Plan drawn to scale (See General Instructions)
<input checked="" type="checkbox"/>	Supporting documentation (See General Instructions)

February 16, 2023

**TFP Holds LLC
22489 Venido Road
Woodland Hills, CA 91364**

Planning Commission and City Commission,

I am applying for a special use permit for my property at 1906 5th Avenue, Leavenworth, KS 66048. The building is an existing duplex, but currently zoned as R1-6 which is only for single family homes. The home is currently legal, but non-conforming. I am attempting a refinance, but lenders will ^{not} approve the loan without a special use permit as a loss of 50% or greater must be rebuilt as a single family home.

Thank you for your consideration in granting this special use permit.

Sincerely,



**Andrew Dewhurst
Owner of TFP Holds, LLC**

**STREET ADDRESS, CITY, ST / ZIP CODE:
T (123) 456-7890 U WWW.COMPANY.COM**

(Summary Published in the Leavenworth Times on _____)

ORDINANCE NO. XXXX

AN ORDINANCE ALLOWING A SPECIAL USE FOR A TWO-FAMILY DWELLING IN A HIGH DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT ZONING DISTRICT LOCATED AT 1906 5th AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the Appendix A of the City Code of Ordinances, Development Regulations, of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to locate special uses in each zoning district by ordinance within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 3rd day of April 2023 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 and mailed to all property owners within 200 feet of the said property on the 9th day of March 2023; and

WHEREAS, the City Planning Commission did hear on the 3rd day of April 2023 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas and upon a motion made, duly seconded, and passed, the City Planning Commission adopted findings of fact and recommended approval of the request for a two-family dwelling in a High Density Single Family Residential District zoning district located at 1906 5th Avenue, Leavenworth, Kansas; and

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to allow special use for a two-family dwelling for the property described herein in Section 1.

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

Section 1. That a special use permit be issued for a two-family dwelling on the following described property:

The South 24 feet of Lot 2 and all of Lot 3, Block 20, REES, DONIPHAN & THORNTON ADDITION, City of Leavenworth, according to the recorded plat thereof, Leavenworth County, Kansas; and more **commonly referred to as 1906 5th Avenue**, Leavenworth, Kansas.

Section 2: That this Ordinance shall take effect and be in force from and after its passage by the Governing Body, and its publication once in the official City newspaper.

PASSED AND APPROVED by the Leavenworth City Commission of the City of Leavenworth, Kansas on this _____ day of _____ 2023.

Jermaine Wilson, Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk