

(Summary Publish in the Leavenworth Times on June 11, 2021)

ORDINANCE NO. 8164

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

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

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

Section 1. That the following amendments to sections 2.02, 4.03, 4.04, 5.03, 8.04, 8.08, 8.09, 8.10, 8.12, 8.15, 11.03, and Appendix A of the Development Regulations; Appendix A of the City Code of Ordinances, City of Leavenworth, Kansas be and are hereby repealed and amended to read as follows:

Sec. 2.02. Platting.

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

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

- (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) The application results in five or fewer new lots, including any remainder parcel.
 - (4) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (5) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights-of-way, and the degree of deviation from previous development shall be considered.
 - (6) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
- b. *Filing requirement.* A minor subdivision shall include all applicable information required for final plats.
 - c. *Review and approval.* Within 60 days after submission of a plat, the planning commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the plat. If the planning commission approves the plat, the plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.
 - d. The plat shall be recorded with the Register of Deeds within 18 months of approval by the Planning Commission. Plats which are not recorded within said time period shall be deemed null and void.
5. *Major subdivision.*
- a. *Preliminary plat.* A preliminary plat shall be processed according to the following criteria and procedures.
 - (1) *Development review committee.* At least seven days prior to the planning commission review, the development review committee shall review the preliminary plat and submit their recommendation to the planning commission.
 - (2) *Planning commission review.* Within 60 days after the submission of a preliminary plat, the planning commission shall approve, disapprove or, with the approval of the applicant, table the plat. Action by the planning commission shall be conveyed to the applicant in writing within ten days after the official planning commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the planning commission.
 - (3) *Effect of decision.* The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed an authorization to proceed with the preparation of the final plat. If the planning commission rejects or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the city commission and the planning commission shall forward the proposed plat, together with their report, stating the reason or reasons for the action taken. The city commission may make such finding and determinations as are deemed proper.

- (4) *Effective date.* The approval of the preliminary plat shall be effective for one year.
- b. *Final plat.* After approval of the preliminary plat, the applicant may submit a final plat for all or portions of the preliminary plat area.
 - (1) *Planning commission.* Within 60 days after submission of a final plat, the planning commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the final plat. If the planning commission approves or conditionally approves the final plat, it shall be forwarded to the city commission with a recommendation that they accept dedication of easements and rights-of-way.
 - (2) *Dedication of land for public purposes.* The city commission shall approve or disapprove the dedication of land for public purposes within 30 days after the first meeting of the city commission following the date of the submission of the planning commission action to the clerk. The city commission may defer action for an additional 30 days to allow modifications to comply with requirements established by the city commission. If the city commission defers or disapproves such dedication, it shall advise the planning commission of the reasons therefor.
 - (3) *Recording.* If the city commission accepts the proposed easements and rights-of-way, the final plat shall have house numbers assigned and shall be recorded with the office of the county register of deeds.
 - (4) *Effective Date.* Final plats shall be recorded with the Register of Deeds within 18 months following City Commission approval of land dedicated to public purposes. Final plats which are not recorded within said time period shall be deemed null and void
- c. *Disposition of final plats.* After the plat has been recorded, the secretary of the planning commission is responsible for distribution of the final plat as follows:
 - (1) Original Mylar and one print to register of deeds, reproducible Mylar and one print to director of public works.

C. *Improvement procedures.*

1. *General.* After the approval, but prior to the recording of the final plat, the applicant may do the grading and any drainage work that is required, all according to plans approved by the director of public works. Prior to the issuance of building permits, all street paving, sanitary sewer, storm drainage, and utility lines must be installed in accordance with the most recent version of the engineering and public works department's infrastructure design and construction manual and plans approved by the appropriate utility company.
2. *Plans and specifications.* Upon the approval of the final plat, the applicant shall have a licensed professional engineer prepare engineering drawings for proposed required improvements which will be constructed by the developer containing information and details required by the Infrastructure Design and Construction Manual or public works department standards. The director of public works shall review all engineering drawings in order to determine whether such drawings are consistent with the approved final plat and comply with their design standards.
3. *Construction of improvements.* No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a final plat and the engineering drawings accompanying it have been approved and there has been compliance with all of the

requirements relating to an agreement, bond or deposit specified in these regulations. The developer may install six inches by five feet sidewalks in conjunction with the street paving and forgo the required sidewalk bond.

4. *Inspections.* All improvements constructed or erected shall be subject to inspection by the city or its designated representative responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this regulation shall be charged to and paid by the applicant. Before any required inspections take place, the applicant may be required to post a deposit with the city clerk to cover the cost of such inspections. On-site inspections may be conducted at any times and work may be terminated if it does not comply with standards of final drawings.
5. *Final inspection.* Upon completion of all improvements within the area covered by the final plat, the applicant shall notify the director of public works who shall conduct a final inspection of all improvements installed. If the final inspection indicates that there are any defects or deficiencies in any the improvements as installed, or if there are any deviations in the improvements as installed from the final engineering plans and specifications, he shall notify the applicant in writing of such defects, deficiencies, or deviations, and the applicant shall, at his sole cost and expense, correct the defects or deviations. When the defects, deficiencies, or deviations have been corrected, the applicant shall notify the official that the improvements are ready for final re-inspection.
6. *Acceptance.* Upon receipt by the city commission of the certificate of the director of public works that all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all other applicable statutes, ordinances and regulations, the city commission and/or such appropriate utility shall thereupon, by letter or motion, formally accept such improvements. The improvements shall become the property of the city commission or appropriate utility company involved.

Sec. 4.03. Property development standards.

A. *Dimension table.* Lot and building dimension standards for zoning districts shall be according to table 4-01.

TABLE 4-01. ZONING DISTRICT DIMENSION STANDARDS

	Lot Standards			Minimum Setbacks				Building Height
	Min. Size	Min. Width	Max. Coverage	Front	Interior Side	Corner Side	Rear	
R1-25	25,000 s.f.[1]	160'	50%	25'	10'	25'	25'	35'
R1-9	9,000 s.f.	75'	50%	25'	6'	25'	25'	35'
R1-7.5	7,500 s.f.	75'	50%	25'	6'	15'	10'	35'

R1-6	6,000 s.f.	48'	50%	25'	6'	25'	25'	35'
R-MF	6,000 s.f.[2]	48' (1 to 2 units) 72' (3 units) 96' (4+ units)	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	40'
R4-16	6,000 s.f.[3]	48' (1 to 2 units) 96' (3 to 4+ units)	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	40'
RMX	See table 4-2							
MP	10 acres	300'	50%	25'	6'	25'	25'	35'
NBD	6,000 s.f.	48'	50%	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	45'
OBD	6,000 s.f.	48'	80% [8]	25'	6' (1-story) 10' (2-story) 15' (3-story)	25'	25'	45'
CBD	2,000 s.f.	48'	100%	0'[4]	0'[4]	0'[4]	0'[4]	none
GBD	6,000 s.f.	48'	80% [8]	25'	0'[5]	25'	25'	45'
ROD	See section 4.05							
I-1	15,000 s.f.	160'	80% [8]	30'	10'[6]	20'[6]	25'	50' or 4 stories
I-2	15,000 s.f.	160'	80% [8]	30'	10'[7]	20'[7]	25'	none

- [1] Only with public water and sewer. See KDHE 4-2 and the county sanitary code: minimum lot size is two acres without public water or sewer.
- [2] Lots in the R-MF District shall have 3,000 square feet per dwelling unit.
- [3] Lots in the R-4-16 District shall have 4,000 square feet per dwelling unit.
- [4] There are no yard requirements in the CBD except that a 25-foot setback shall be provided on any side of a lot which abuts a residential district.
- [5] There are no interior side yard requirements in the GBD except that a 25-foot setback shall be provided on any side of a lot which abuts a residential district.
- [6] In the I-1 District a 25-foot setback shall be provided abutting any dedicated street or residential district.
- [7] In the I-2 District a 100-foot setback shall be provided abutting residential district, unless the use was located and platted prior to adoption of these regulations in which case a 25-foot setback shall be provided. Setbacks abutting any dedicated street shall be 25 feet.
- [8] Maximum lot coverage requirements shall be subject to stormwater quality and quantity requirements as determined by Public Works Department for individual projects.

B. *Dimension standards for RMX.* The dimension standards for the RMX district shall be:

TABLE 4-02. DIMENSIONS FOR THE RESIDENTIAL MIXED-USE DISTRICT

Dwelling/Building Type	Lot Standards			Minimum Setbacks				Building Height
	Min. Size	Min. Lot Width	Max. Lot Cov.	Front	Interior Side	Corner Side	Rear	
SF detached and duplex	2,400 sf	40'	80%	10'	0'[1]	10'[1]	10'[2]	35'
Townhouse/ multifamily, mixed-use	[3]	48'	80%	10'	0'[1]	10'[1]	10'[2]	38'
Commercial, mixed-use	[3]	n/a	80%	0'	0'[1]	10'[1]	5'[2]	38'

- [1] An RMX use abutting a residential district shall match the side yard setback standards of that district.
- [2] When abutting a public street, alley, or public right-of-way. The rear setback for RMX abutting a residential district shall be 20 feet, regardless of the location of any street, alley, or ROW.
- [3] Must meet setback requirements.

C. *Yard regulations.*

1. *Front yards.* In areas where parcels were created previous to the adoption of subdivision regulations in July 1966, where structures have been built observing a setback other than the setback required by the applicable zoning district, new structures shall observe the following setback:
 - a. Front setbacks may be the average setback of all lots within 150 feet of either side of the lot, but along the same block.
 - b. If only two buildings exist within 100 feet of either side of the lot, the front setback may be the average of those buildings.
2. *Structural projections.* Every part of a required yard shall be open to the sky unobstructed, except:
 - a. The ordinary projection of skylights, sills, belt courses, cornices, and ornamental features projecting not to exceed 12 inches.
 - b. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a rear yard not more than five feet.
 - c. The ordinary projection of chimneys and flues.
 - d. The projection of roof overhangs up to four feet into any front or rear yard and two feet into any side yard. In no case may an overhang project into an easement.
 - e. An open unenclosed deck or paved terrace may project into a required rear yard for a distance not exceeding ten feet, but no closer to the property than 15 feet in any case. A deck or paved terrace under this exception may not be more than 36 inches above grade surrounding the structure and shall be opened to the sky with no roof or wall structure (except reasonable railing).
 - f. An open and unenclosed porch or stoop may project into a required front setback a distance not exceeding ten feet, but no closer to the property line than 15 feet in any case. A porch or stoop under this exception shall be no higher than the first-floor elevation of the front entry feature, may include a single-story roof structure integrated with the materials and style of the building, but shall only include support posts or pillars and railings or low walls up to three feet, but no windows, screens or other enclosures in the front-setback encroachment.
3. *Yard requirements for open land.* If a lot is, or will be, occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required for the lots shall be provided and maintained unless some other provision of these regulations requires or permits a different minimum front or side or rear yard setback. The front, side, and rear yards shall not be required on lots used for garden purposes without structures, or lots used for open public recreation areas. If the permitted use is the display of new or used automobiles or other vehicles for sale that display may be allowed in the front yard setback, except the first five feet thereof.

D. *Height regulations.*

1. In all districts, one additional foot of height above the specified height limitations shall be permitted for commercial or industrial buildings for each one foot of additional setback on all sides provided over the minimum requirements, if no such building exceeds 100 feet in height.

2. Single-family, two-family, and multiple-family dwellings in the residential districts may be increased in height by one foot for each one foot of additional setback on all sides, provided that no residential building may exceed 50 feet in height.
3. Chimneys, cooling towers, elevator hothouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, may be erected to a height not to exceed 25 percent above the maximum height for the district in which it is located.

E. *Accessory structures.*

1. No accessory buildings shall be erected in any required front or side yard, or at any other place forward of the main building line.
2. No accessory use except for permitted signs, fences, and permitted off-street parking shall be permitted in any required front or side yard.
3. All accessory buildings in the rear yard shall maintain a three-foot setback from the side and rear property lines as measured from the nearest part of the structure, including any overhangs
4. If the accessory structure has a vehicular alley entrance the sum of the right-of-way width and the setback of the structure shall not be less than 20 feet.
5. Accessory structures located elsewhere on the lot shall maintain setbacks applicable to the principal structure.
6. All accessory buildings in residential districts shall be five feet from any primary building on the site. In all other zoning districts accessory structures and uses shall not occupy required setbacks and are not subject to size restrictions except that all other requirements of the development regulations must be met.
7. All accessory structures shall be constructed from material customary to detached structures.
8. In no case shall an accessory structure be constructed from materials or equipment originally designed for another use, such as, but not limited to, packing crates or a part of a motor vehicle truck or trailer regardless if wheels, axles, etc., have been removed and the structures are placed on more permanent foundations.
9. No shipping containers may be used as accessory buildings.
10. Accessory structures which are equal to or more than 15 percent of the footprint of the main structure shall be architecturally compatible or complementary to the architectural style of the principal building, with similar materials, color, arrangement of massing, roof forms and other details and ornamentation.

Sec. 4.04. Use standards.

- A. *Permitted and special uses.* Permitted and special uses for each zoning district are identified in appendix [attachment] A use table.
- B. *Accessory uses.*
 1. *Principal use required.* Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
 2. *Accessory uses.* Accessory uses are a structure or use which:

- a. Is subordinate to and serves a principal building and principal use;
 - b. Is subordinate in area, extent, or purpose of the principal use or building served;
 - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
 - d. Is located on the same lot as the principal building or principal use served; and
 - e. The total square footage of all detached structures, including second stories of any such structures, functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area.
3. *Permitted accessory uses.* Any structure or use that complies with the terms of these development regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples), provided that in each case such structure must fit the general definition:
- a. *Private garages or carports.* Not to exceed the following capacity:
 - (1) *For single-family residences.* A garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the Code.
 - (2) *For multifamily residence.* Two cars per dwelling unit. Not to exceed 600 square feet per unit.
 - (3) *[Garage requests; approval.]* Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger, may be approved by the board of zoning appeals.
 - b. *Storage buildings.* A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
 - c. *Play structures.* A child's playhouse, including tree houses.
 - d. *Pools and courts.* A private swimming pool, bathhouse, or tennis court.
 - e. *Miscellaneous yard decor.* Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges, and solar collectors.
 - f. *Shelters.* Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 - g. *Signs.* Signs, when permitted by article 8, sign regulations.
 - h. *Parking.* Off-street parking and loading spaces as required by these regulations.
 - i. *Recreational vehicles, campers, trailers, and boats.* Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these development regulations.

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

5. *Accessory uses permitted by special use permit.* The following accessory uses shall only be permitted upon approval of a special use application by the city commission:
- a. Commercial communication towers and antennas. Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in article 10, supplemental standards.
 - b. Renewable energy facilities, including wind or solar energy facilities, subject to the provisions included in article 10, supplemental standards.
 - c. Childcare centers for seven or more children:
 - (1) Shall not be located along an arterial street as designated on the major street plan map unless indirect vehicular access to that street, such as with a frontage road is available. The city planner, with the advice of the DRC, shall determine if the drop off and pick up arraignments of a childcare center or business appear safe. Appeal of any negative decision shall be to the city commission.
 - (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100 percent enclosed by a minimum four-foot-high fence or wall.
 - (3) Shall provide a loading zone capable of accommodating at least two automobiles for the easy picking up and discharging of passengers.
 - (4) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas childcare center license.
 - (5) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
 - (6) Childcare centers in residential districts may have one non-illuminated monument sign with no more than three square feet per side and a maximum of two sides, or one non-illuminated sign affixed to the structure of three square feet.
 - d. Accessory dwelling units. Accessory dwelling units (ADUs) may be approved by special use permit in any residential zoning district subject to the following conditions:
 - (1) Shall be compatible with the design of the principal dwelling unit.
 - (2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.
 - (3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.
 - (4) Shall be 900 square feet or smaller in size, not to exceed 33 percent of the floor area of the principal dwelling unit.
 - (5) Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.
 - (6) Shall meet all building code requirements for a single-family dwelling unit.
 - (7) Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.

- e. Massage therapy establishments as a home occupation may be allowed with issuance of a special use permit. Such establishments are subject to all requirements of home occupations as provided in these regulations, as well as all requirements for massage establishments as provided in the City of Leavenworth Code of Ordinances, chapter 12, article VII.
6. *Home occupations.* A home occupation may be established provided:
- a. That no one, other than members of the immediate family residing on the premises, be employed;
 - b. That no use will occupy more than 25 percent of the gross floor area on one floor nor more than 400 square feet of gross floor area;
 - c. That a carport, garage, or any accessory structure may only be used for home occupations with issuance of a Special Use Permit;
 - d. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
 - e. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than one-half square foot on a vertical wall below the roof soffit;
 - f. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
 - g. That the home occupation shall be conducted entirely within the principal residential building except with issuance of a Special Use Permit;
 - h. That no machinery or equipment shall be installed which interferes with radio or television reception, and which is not customarily incidental to the practice of such occupation or profession, but in no case shall any machine exceed one rated horsepower;
 - i. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
 - j. That two off-street parking spaces are provided;
 - k. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales;
 - l. Permitted home occupations shall not in any event be deemed to include:
 - (1) Automobile and vehicular repair on any other than the property owner's personally-owned and currently registered vehicle(s).
 - (2) Antique sales.
 - (3) Equipment rental business.
 - (4) Stables, kennels, veterinarian services, pet shops, and animal hospitals.
 - (5) Eating or drinking places.
 - (6) Mortuaries and embalming establishments.
 - (7) Private clubs, including fraternity and sorority houses.
 - (8) Retail sales (over the counter).
 - (9) Repair of home appliance and electronic equipment.

C. *Temporary uses permitted.*

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

Sec. 5.03. General.

- A. Use. Required parking used only for parking operable motor vehicles using the site or use. Any other use of parking areas for outside storage, display or commercial activity shall be permitted by different provisions of these regulations
- B. Surfaces and Markings. All off-street parking areas and driveways shall be surfaced and provided with a minimum of:
 - 1. Residential Parking: (All dwelling units) Four inches of Portland Cement concrete, reinforced, or four inches of stone and two inches of asphaltic concrete.
 - a. A gravel parking pad in the rear yard may be installed with a border to contain the gravel. Such gravel parking pad must be accessed directly off the alley.
 - b. For lots over 2 acres in size on which the primary structure will be set back a minimum of 100 feet from the front property line, a gravel driveway may be installed past the required 25' front setback, provided that all other applicable building and fire codes are met.
 - 2. Commercial and Industrial Loading and Parking: Six inches of Portland Cement concrete, reinforced, or six inches of stone and two inches of asphaltic concrete.
 - 3. Parking Lot Marking: Parking spaces in lots of more than six spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
 - 4. Bumper Guards: Wheel or bumper guards when used shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways, or come in contact with walls, fences, or plantings.
- C. Drainage:
 - 1. Off-street parking facilities shall be drained to eliminate ponding water and prevent damage to abutting property and/or public streets and alleys.
 - 2. No surface water from such parking area shall be permitted to drain onto adjoining private property without adequate drainage precaution being taken by the developer.
 - 3. All new and redeveloped parking areas shall be required to present a drainage study prepared by an engineer licensed in the State of Kansas.

Sec. 8.04. Permits.

A. *Permits required.*

- 1. Except as otherwise provided in this chapter[appendix], it shall be unlawful for any person to erect, construct, enlarge, move, modify, alter, or convert any sign in the city, or cause the same to be done, without first obtaining a sign permit for such sign as required by this

chapter. Issuance of a permit is contingent upon the sign being in compliance with all applicable laws and regulations of the city.

2. Every sign permit issued by the director shall become null and void if installation is not commenced within 120 days from the date of approval of such permit. If work authorized by such permit is suspended or abandoned for 120 days from the date of permit approval, a new permit shall be required for such work, even if no changes have been made to the original sign plan.
 3. Required information. Application shall be made upon forms furnished by the planning and community development department and shall be accompanied by such information as may be required to ensure compliance with all appropriate laws and regulations of the city.
- B. *Fee increase for failure to obtain permit.* If the director discovers or is informed of a sign constructed or being constructed that requires a permit that has been constructed, installed, or erected without a permit according to this sign code, s/he shall collect three times the permit fee specified for the type of sign in question.
- C. *Signs excluded from permit.* The following signs are not required to have a permit; however, these signs shall otherwise comply with this section and all other applicable provisions of the sign code.
1. Directional signs.
 2. Holiday decorations.
 3. Home security and neighborhood watch signs.
 4. Identification signs.
 5. Official signs.
 6. Name plate signs. Where multiple tenants share the same rear door, the sign may display the name and address of each tenant. These signs shall not exceed four square feet.
 7. Window signs, as further described in section 8.10 F[E]. of this chapter.
 8. Contractor signs: One free-standing, non-illuminated contractor's sign, not to exceed eight square feet of sign surface, shall be permitted for each contractor if the property is zoned residential, or not to exceed 32 square feet if the property is zoned other than residential. The sign shall not be installed before commencing work on the project or the issuance of a building permit for the project and the sign shall be removed upon completion of the project.
 9. Public interest signs that do not exceed the size limitations.
 10. Address signs.
 11. Commercial real estate signs not exceeding 32 square feet in area per sign face with two faces permitted. Signs shall not exceed eight feet in height. Signs are limited to one sign per street frontage, with a maximum of two signs for each project. Signs must be located at least ten feet from the edge of the curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.
 12. Residential real estate signs not exceeding three square feet in area. Signs are limited to one on-premises sign per street frontage, and two off-premises signs permitted only with permission of property owner. Signs must be located at least ten feet from the edge of the

curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.

13. Garage sale signs may only be placed at the site of the sale. All garage sale signs shall be removed immediately upon completion of the sale. Garage sale signs include sample and yard sale signs. Garage sale signs shall not exceed four square feet per sign, with two faces per sign permitted. A garage sale permit shall be obtained as required by [the] city code of ordinances.
14. Signs carried by a person.
15. Costumed people promoting a business or event.
16. Flags, pennants, emblems, memorial tablets, cornerstone etches, monuments and insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device, provided that not more than three flags, pennants or insignia shall be displayed on any building, structure or premises, unless specifically herein provided. Any other provisions as applicable regarding display of the American flag as contained in Title 4, U.S. Code.
17. Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
18. Decorative landscape markers, which may include logos or trademarks.
19. Signs attached to a currently licensed, operational and legally parked or legally moving vehicle.
20. Temporary signs containing noncommercial messages at churches, synagogues and other similar places of worship, community centers, public and private schools and buildings or structures owned or leased and used by other public, semi-public, or public service organizations.
21. Special event signs shall be exempt from a permit as follows: Signs of a temporary nature for campaigns, drives, seasonal events of civic or philanthropic organizations not to exceed 32 square feet. These signs must be placed on private property and must be removed within three days after the event.
22. A new sign permit shall not be required unless, (a) the existing sign base, pole, or face is nonconforming to these regulations, or (b) the existing sign base or pole is going to be relocated, changed, or enlarged.
23. Political signs may be placed on private property only after permission has been granted by the owner of the property or his or her authorized agent. In commercial or industrial areas, signs shall not exceed 32 square feet in area per face. In residential areas, signs shall not exceed three square feet per face.
24. Contractor signs as further defined in section 8.07 C.
25. Decorative light pole banners, which may not include any business or advertising information.

Sec. 8.08. Signs permitted in residential districts (R1-25, R1-9, R1-6, R1-7.5, R4-16, R-MF).

TABLE 8-01. RESIDENTIAL SIGNAGE STANDARDS

	Maximum Number	Height	Area
Home-based business signs	1	N/A	6 s.f.
Temporary signs	3	N/A	3 s.f.
Real estate signs	1	6'	6 s.f.
For sale signs (undeveloped land over 5 acres)	2	10'	40 s.f.
Open house signs	1	6'	6 s.f.
Neighborhood identification signs	1 per entrance	8'	50 s.f.
Public and semi-public buildings	See table 8-02		

The following types of signs are permitted in all residential districts, in accordance with the requirements set forth or referred to herein.

- A. All signs as regulated and permitted in section 8.07, signs permitted in all districts.
- B. A six (6) square foot home-based business sign.
- C. Temporary signs, not specifically otherwise identified by sign type, conforming to the restrictions set forth herein are allowed as follows;
 - 1. Three temporary signs are permitted on any lot.
 - 2. These temporary signs may be double faced, and have a sign face no larger than three (3) square feet.
- D. In lieu of the temporary signs permitted herein a real estate sign not exceeding six square feet per sign face, with two faces per sign are permitted. The maximum height of the sign shall not exceed six feet. A maximum of one sign per street frontage shall be permitted.
- E. Undeveloped land over five acres in size shall be allowed two "for sale" signs not to exceed 40 square feet in area per sign face, with two sign faces permitted. No sign shall exceed ten feet in height.
- F. In lieu of the temporary signs permitted a sign designating an open house may be erected at the site of an open house. No open house sign shall exceed four square feet per sign face with two faces per sign permitted. One sign face shall be allowed in lieu of each one of the temporary signs permitted by subsection B. [of this section]. The maximum height of the sign shall not exceed six feet. Open house signs shall be removed immediately upon

completion of the open house. Such signs shall comply with the real estate sign restrictions except as specifically restricted herein.

- G. Permanent property identification signs may be permitted at each entrance to a neighborhood, subdivision, or residential development in accordance with subdivision plat approval.
- H. Public and semi-public buildings. Churches, schools, libraries, community centers, hospitals, or other public/semi-public facilities located in a residentially zoned district shall be allowed signage as regulated and permitted in section 8.10, signs permitted in the neighborhood business district (NBD).

Sec. 8.09. Signs permitted in the MP (mobile home park).

The following signs shall be permitted in the MP Zoning District as set forth herein.

- A. All signs as regulated and permitted in section 8.07, signs permitted in all districts.
- B. For rental and/or management offices, one identification sign not exceeding 12 square feet in sign surface, attached flat against the wall is allowed.
- C. Other signs as reviewed and approved as part of a rezoning request may be allowed.

Sec. 8.10. Signs permitted in the neighborhood business districts (NBD) and residential mixed use district (RMX).

TABLE 8-02. NBD SIGNAGE STANDARDS

	Maximum Number	Maximum Size	Maximum Height
Attached signs	1 per side	96 s.f. or 10% of wall surface[1]	N/A
Free-standing signs	1	32 s.f.	15
Sandwich board (A-frame) Signs	1	6 s.f.	N/A
Window signs	N/A	32 s.f. or 33% of window area	N/A

[1] Projecting signs are allowed as regulated by section 8.10 B.2

The following signs shall be permitted in the neighborhood business district and residential mixed use district:

- A. All signs as regulated and permitted in section 8.07, signs permitted in all districts.
- B. Signs attached to a building shall be allowed as follows:
 - 1. One wall sign shall be allowed for each side of the structure. A structure with multiple businesses may have one sign for each separate business. Each separate business shall

have clearly defined exterior wall space and the size of that wall space shall be the determining factor on sign size allowance. The sign surface shall not exceed 96 square feet or ten percent of the wall surface, whichever is less. This wall sign may be an electronic changeable message sign, provided it complies with the applicable standards for same.

2. A projecting sign that does not project from a building greater than a distance of six feet, does not encroach in the public right-of-way, and maintains eight feet of clearance from grade is permitted. In computing the square foot allowance for a projecting sign, the total area of the sign surface shall be included in the total area allowed for all wall signs, but shall not be larger than 24 square feet. Projecting signs do not reduce the number of wall signs as regulated by the zoning district, however, only one projecting sign shall be allowed per business.
- C. One free-standing sign shall be allowed per parcel, regulated as follows:
1. Free-standing signs shall not exceed 15 feet in height.
 2. No part of a free-standing sign face, frame, or base shall be closer than five feet to the public right-of-way or side or rear property line and shall not obstruct traffic vision.
 3. Free-standing signs may have two faces and shall not exceed 32 square feet per face, or one square foot of sign per linear foot of lot frontage, whichever is less.
 4. No free-standing sign face, frame or base shall be closer than 50 feet to another free-standing sign.
 5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on the street frontage that is used for computation. (No accumulation is allowed for unused street frontages.)
 6. The allowed free-standing signs may be electronic changeable message signs, provided they comply with all other standards in this article addressing lighting, safety, and electronic changeable messages.
- D. One sandwich board (A-frame) sign that meets the following requirements per street frontage is allowed as follows:
1. A permit shall be required for sandwich board signs. Permits are good for the life of the sign.
 2. Sandwich boards signs shall be on-premises signs.
 3. The sign may be located on the public sidewalk or the planting strip adjacent to the edge of the street on which it fronts. Signs shall not be placed in any raised streetscape or publicly-owned planters.
 4. The sign may not exceed six square feet in area per side and may have no more than two sides for the display of messages.
 5. The spread of the "A" at the open end shall be sufficient to ensure stability and no wider.
 6. Signs shall be adequately weighted to resist wind gusts.
 7. Chalkboard, whiteboard, changeable letters, and any other non-electronic changeable or erasable surfaces are permitted.

8. All signs shall be in good repair and neatly painted. No attachments to signs are permitted, other than brochure pockets.
 9. Creative shapes that reflect the theme of the business are encouraged (e.g., ice cream shops may display a sign in the shape of an ice cream cone).
 10. The sign must be constructed of materials that present a finished appearance. Rough-cut plywood is not acceptable. The sign lettering should be professionally painted or applied; a "yard sale" or "graffiti" look with hand-painted or paint-stenciled letters is not acceptable.
 11. The sign shall not be an electronic changeable message sign or be an illuminated sign.
 12. The sign shall be displayed only during business hours and stored inside after hours.
 13. The placement of the sandwich board sign shall not impede pedestrian or wheelchair travel in the vicinity of the sign or otherwise create a traffic or other safety hazard by obstructing vision or otherwise, as determined by the person designated by the director to enforce the provisions of this sign code.
 14. The owner must assume liability for damage or injury resulting from the use of a sandwich board sign and provide the city with an appropriate legal document satisfactory to the city clerk holding the city harmless and indemnifying it for any resulting loss or injury.
 15. Except as otherwise provided in this sign code, a sandwich board sign may be posted for so long as it remains in good condition. Once a sandwich board sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced.
 16. If the director determines that a sandwich board sign is not in good condition, the property owner shall be notified of that determination and shall remove, repair or replace the sign within three days of that notification. Signs that are not removed, repaired, or replaced within three days of the notification shall be deemed a nuisance and shall be subject to abatement or removal by city staff. The director's determination that a sandwich board sign is not in good condition may be appealed to the city commission under the procedures set forth in this article.
 17. One temporary sign, as otherwise restricted and permitted herein this sign code, is allowed on any lot.
- E. Window signs shall be allowed as follows:
1. The window sign shall not obstruct more than 33 percent of the window area for each front, side or rear wall, provided that the total sign surface shall not exceed 32 square feet, per side of the building. For the purposes of this subsection, the term "window area" includes the non-opaque parts of any doors or other fenestrations.
 2. The allowable window sign area as defined herein may be illuminated.
 3. Window signs constructed of neon, stained glass, gold leaf, cut vinyl, and etched glass are allowed.
 4. Painted signs shall display the highest level of quality and permanence, as determined by the director.

5. No message or identification (i.e., the name of establishment or the services offered) may be displayed more than once within the permitted total sign surface area per each front, side or rear wall.
6. The listing of an establishment's hours of operation shall be exempt from these regulations, provided that the area of the sign containing hours of operation shall be no greater than two square feet.
7. The listing of directional information (i.e., "parking in rear" or "use other door") shall be exempt from these regulations; provided that the area of the sign containing directional information is no greater than three square feet.
8. The use of window framing (i.e., a continuous light source illuminating the perimeter of an individual windowpane or a group of windowpanes) is prohibited.
9. Accessible doors to a business establishment shall be limited to the following types of window signage:
 - (a) Business name;
 - (b) Hours of operation;
 - (c) Phone number;
 - (d) Building or tenant address;
 - (e) Website; and
 - (f) The use of dark, opaque background panels for internally illuminated signs or letter faces is required to reduce the glare or glow of such signs.

Sec. 8.12. Temporary signs.

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

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

B. *Excluded temporary signs.*

1. Temporary commercial signs carried by a person(s) are not regulated in these development regulations. However, if the sign is affixed to any structure or the ground at any time it becomes a regulated sign. Carried signs are not permitted within the public right-of-way.
2. People dressed in costumes to further business or civic activities are not regulated in these development regulations.

C. *Specified types of temporary signs.* In addition to the posting of temporary signs allowed by other sections of this sign code, the following specified types of temporary signs shall be permitted, as set forth herein, and shall be subject to permit fees unless otherwise exempted by this sign code.

1. *Special event banners.* On private property used in commercial and industrial zoning districts banners may be used to announce a grand opening of a new business, special sale,

or promotion. Banners may be used for 30 days after which time they must be removed. A new banner may be installed after the lapse of 60 days upon obtaining a new permit. Banners shall be attached securely to a building or structure and shall not create a nuisance as determined by the duly authorized representative.

2. *Searchlights.* Searchlights may be used for announcing a grand opening and may be located on private property for a period not to exceed three consecutive days unless special circumstances authorized by the director warrant a longer duration. Special circumstances shall be described in writing by the owner or the agent associated with the grand opening promotion and shall be approved by the director prior to the establishment of the search light(s) on the business premises. No light emanating from such a device shall be cast on any adjacent property or building. Lasers are not searchlights and the use of lasers is prohibited.
3. *Balloons.* Gas-filled balloons and figures up to 1,000 cubic feet in mass may be displayed to announce a grand opening of a new business in a commercial or industrial district, but shall be displayed on or above private property. The balloon or figure may be tethered and shall be permitted to rise to a height not to exceed 50 feet above mean ground level. The balloon or figure shall not be permitted to float above any public right-of-way, and shall not interfere with traffic vision or public safety as determined by the city planner. Any vision or safety interference shall be immediately corrected by the owner or agent upon notice from the director. A partially deflated balloon or figure shall be considered a public safety hazard and shall require immediate removal by the owner or his agent.
4. *Pennants, flags and light strings.* Flags, pennants, or strings of electric lights or strings of pennants may be strung or hung across or above parking areas on private property used commercially and zoned GBD, but shall not interfere with vision clearance triangles or public safety as determined by the director or the duly authorized representative.
5. *Banners.* Banners over public rights-of-way or other public property announcing a parade, celebration, festival, play, fund drive or other public promotional activity are allowed as follows:
 - a. Application to install the hanging banner shall be made to the city clerk in accordance with current city procedures. No sign permit shall be required in addition to this application;
 - b. The banner shall maintain a clearance of at least 20 feet as measured from the bottom-most portion of the banner to the highest elevation of the street or land surface below;
 - c. The banner shall be perforated sufficiently to reduce wind resistance and shall be anchored sufficiently to prevent a traffic or safety hazard as determined by the city;
 - d. Banners may be installed up to 14 days prior to an event and shall be removed within 72 hours of the closing of the event. The city reserves the right to reduce the time frame to accommodate multiple requests for a location; and
 - e. Not more than the ten percent of a banner's face may be devoted to a commercial space of sponsor's logo.
6. *Portable signs.* Portable signs, except sandwich board signs as otherwise restricted and permitted by this sign code, shall be subject to the following:

- a. Portable signs may only be used in conjunction with special promotions of a temporary nature. The allowable size of a portable sign shall not exceed 40 square feet;
- b. Portable signs shall only be permitted in GBD, I-1 and I-2 Zoning Districts and shall not interfere with vision clearance triangles or public safety as determined by the director;
- c. Portable signs shall be located on private property only; and
- d. A portable sign may be used for 30 consecutive days and a 90-day period must elapse between the use of a portable sign and its next use. A new permit shall be required each time the sign is erected.

Sec. 8.15. Nonconforming, hazardous, illegal, and prohibited signs.

- A. *Nonconforming.* A nonconforming sign existing lawfully at the time of the passage of this sign code may be continued under the terms as hereinafter provided that such nonconforming signs shall be modified to conform, replaced with a conforming sign or removed according to the following:
 - 1. If there is a change in business ownership, tenant, name or type of business.
 - 2. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 25 percent of the current value of the sign as of the date of alteration or repair.
- B. *Hazardous, dangerous, or illegal signs.*
 - 1. *Notification.* If the director shall find that any sign or other advertising structure regulated herein is unsafe and insecure, or is a menace to the public or has been constructed or erected or is being maintained in violation of this sign code, he or she shall give written notice to the owner thereof, to remove or alter the structure so as to comply with the standard herein set forth.
 - 2. *Abatement.* Failure to abate the same shall cause the city to abate such sign with costs assessed to the property owner.
 - 3. *Emergency abatement by city.* When, in the opinion of the city engineer, there is actual or immediate danger to the public caused by a hazardous or dangerous sign, the city shall cause the same to be abated with no written notice or hearing. Costs for such emergency abatement shall be assessed to the property owner.
- C. *Vacated and abandoned signs.* Within six months following discontinuance of the business or usage to which the sign relates, the sign face and structure shall be removed in [its] entirety.
- D. *Reuse.* Reuse of a vacated, nonconforming sign, or any of its appurtenances shall require altering the sign to comply with this sign code. A new business use intending to reuse a conforming sign base or pole properly capped and vacated shall obtain a sign permit in accordance with this sign code.
- E. *Signs for Nonconforming Uses:* Nonconforming uses which are otherwise permitted by these regulations may obtain permits for signage in conformance with the least intensive zoning district in which the use is permitted by right.

Sec. 11.03. Powers and jurisdiction.

The board shall have those powers and duties authorized by this ordinance and by K.S.A. 12-759 and any amendment thereto.

- A. *Appeals.* After proper hearing to decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of these regulations, except where the city commission is specifically empowered to hear an appeal.
1. Appeals to the board may be taken by the person aggrieved, or by any officer or department of the city government affected by the rigid enforcement of these development regulations. Such appeal shall be filed with the secretary of the board, as shall be herein prescribed. The administrative official shall forthwith transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.
 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the secretary of the board certifies to the board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record.
- B. *Variances.* To authorize in specific cases a variance from the specific terms of these development regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these development regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these development regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the development regulations of the city in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.
1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the zoning ordinance, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the development regulations actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
 2. A request for a variance may be granted, upon a finding of the board that all of the following conditions have been met:
 - a. The board shall make a determination on each condition, and the finding shall be entered in the record.
 - b. That the variance requested arises from such condition which is unique to the property in question and is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
 - c. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - d. That the strict application of the provisions of the development regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

- e. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;
 - f. That granting of the variance desired will not be opposed to the general spirit and intent of the development regulations.
3. In granting a variance, the board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these development regulations.
- C. *Exceptions.* To grant exceptions which are specifically listed as permitted in these development regulations. In no event shall exceptions to the provisions of the development regulations be granted where the exception contemplated is not specifically listed as in the development regulations. An exception is not a variance. Further, under no conditions shall the board have the power to grant an exception when the conditions of this exception, as established by these development regulations, are not found to be present.
- D. *Conditions of determination.* In exercising the foregoing powers, the board, in conformity with the provisions of these development regulations, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the administrative official and may attach appropriate conditions, restrictions or safeguards necessary to protect public interest and welfare.

APPENDIX A. - USE TABLE (Attachment A)

Appendix A Use Table shall be attached to Ordinance No. 8164 and amended.

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

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

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

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

Passed by the Leavenworth City Commission on this 8th day of June 2021.

/s/ Nancy D. Bauder
Nancy D. Bauder, Mayor

{SEAL}

ATTEST:

/s/ Carla K. Williamson
Carla K. Williamson, CMC, City Clerk

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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Specific Use Type																		
Community Centers											P	P				P		P
Government Offices and Facilities	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
Historic and Monument Sites	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Jails and Prisons													S	S				
Library	S	S	S	S				S	P	P	P	P				P	P	P
Post Office Branches								P	P	P	P	P				P	P	P
Religious Assembly	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Safety Services	P	P	P	P				P	P	P	P	P				P	P	P
Day Care																		
Day Care Center/Preschool	S	S	S	S	S	S	S	S	P	P	P	P				P	P	P
Day Care, Home (6 or less children)	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Day Care, Home (7 or more children)	S	S	S	S	S	S	S	S	P	P	P	P				S	P	P
Educational Facilities																		
College or University	S	S	S	S						P	P	P				S	S	S
School, Elementary and Middle (Public and Private)	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Senior High	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Vocational-Technical and Trade									S	P	P	P						S
Health Care Facilities																		
Hospitals									S	S	P	P						S
Medical and dental clinics and offices								P	P	P	P	P				P	P	P
Parks and Open Space																		
Arboretum or botanical garden	S											P				P	P	P
Campground	S																	
Community playfields, playgrounds, and parks	P	P	P	P				P	P	P	P	P				P	P	P
Golf course, public	S	S	S	S											S			S
Golf course, private	S	S	S	S											S			S

DEVELOPMENT REGULATIONS
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Specific Use Type																		
Zoo												P						
Transportation																		
Airport												S	S	S				S
Bus Garage and Equipment Maintenance												P	P	P				
Bus Terminal									S	S	P	P	P	P	P			
Heliport											S	S	S	S				
Railroad Terminal												P						
Taxi Dispatch									S	S	P	P						
Truck Terminal, Freight, Air Courier Services													P	P				
Utility																		
Private Wind Energy Systems	P	P	P	P	P	P	P	P	P	P		P	P	P		P	P	P
Private Solar Collection Systems	P	P	P	P	P	P	P	S	P	P	P	P	P	P		P	P	P
Commercial Wind Energy Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Commercial Solar Collection Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Tower – Alternative Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Facility on Existing Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water Storage	P	S	S	S	S	S	S	S	S	S	P	P				S	S	S
COMMERCIAL USES																		
Animal Sales and Service																		
Kennel												P	P	P				
Pet Shops									P		P	P				P	P	
Pet Grooming	S	S	S	S				S	P		P	P				S	S	S
Veterinary Clinic with Boarding									S	S	P	P	P	P		S	S	P

DEVELOPMENT REGULATIONS
APPENDIX A. USE TABLE

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Specific Use Type									S	S	P	P	P	P	I-1	I-2	FP	P	P	P
Veterinary Clinic without Boarding																				
Assembly																				
Assembly Hall								S	S	P	P	P								
Auction Establishment									S	P	P	P	P						S	
Membership Clubs									S	P	P	P					S	S	S	
Event Venue									S	P	P	P						P	P	
Financial Service																				
Financial Institution, with Drive-thru								P	P	P	P	P					S	S	P	
Financial Institution, without Drive-thru								P	P	P	P	P					P	P	P	
Food and Beverage Services																				
Food and Beverage General								S	P	S	P	P					P	P	P	
Bars or Taverns								S	S	S	P	P					S	P	P	
Restaurant, with Drive-in or Drive-thru								S	P	S	P	P						S	P	
Restaurant, without Drive-in or Drive-thru								S	P	S	P	P					S	S	S	
Office																				
Administrative and Professional Offices								P	P	P	P	P					P	P	P	
Offices for Nonprofit, Community Health, and Welfare Service Organizations								P	P	P	P	P					P	P	P	
Recreation and Entertainment, Outdoor																				
Arena and Field House											S	P						S	S	
Country Club	S	S	S	S								P								
Marina	S										S	S	S							
Outdoor Commercial Recreation and Entertainment	S										S	P	S					S	P	
Racing Facilities	S											S	S	S	S					
Riding Academies/Stables	S												S	S	S					

DEVELOPMENT REGULATIONS
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Specific Use Type																		
Sports/Entertainment Arena or Stadium									S	S	S	P	S					P
Athletic Facilities	S	S	S	S				P	P	P	P	P	S					
Non- Residential Swimming Pools Public or Private Membership	S	S	S	S							P	P				P		P
Recreation and Entertainment, Indoor																		
Art Gallery or Museum								P	P	P	P	P				P	P	P
Auditorium/Exhibition Hall/Convention Center											S	P					S	P
Indoor Commercial Recreation/ Entertainment											P	P	P			P	P	P
Commercial Services																		
Sexually Oriented Business													S					
Building Services										P	P	P				S	S	P
Business Support								P	P	P	P	P				P	P	P
Contracting Services, no storage or yard											P	P	P	P				P
Funeral, Mortuary, Crematory	S	S	S	S						S	P	P				S	S	S
General Personal Services								P	P	P	P	P				P	P	P
Gun Sales and Service								S	P	P	P	P						
Indoor Shooting Ranges											S	S	P	P				
Maintenance and Repair									P	S	P	P					S	S
Tattoo Parlor/Body Art								P	P		P	P						
Radio, Television, and Recording Services										S	P	P					P	P
Studio, Music/Movie/TV								P	P	P	P	P						
Retail (Sales)																		
Building Supplies and Equipment											P	P	P				S	P
Consumer Goods								P	P	P	P	P				P	P	P
Sundries, Pharmaceuticals, Convenience Store								P	P	P	P	P				P	P	P
Food, Beverage, and Groceries								P	P	P	P	P				P	P	P

DEVELOPMENT REGULATIONS
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Specific Use Type																		
Vehicles and Equipment																		
Automobile Repair Shop											P	P	P					
Automobile, Boat, Truck, Motorcycle, RV Sales, Rental, and Service											P	P	S					
Car Wash/Truck Wash									S		S	P	P					
Gas Station									S		P	P	P			S	P	P
Heavy Vehicle/Equipment Sales, Rentals and Service												P	P	P				
Parking Lot or Garage (Commercial, Non-Accessory)	S	S	S	S				S	S	S	P	P	S	S		S	S	S
Visitor Accommodation																		
Bed and Breakfast Inns	S	S	S	S	S	S	S	P	P	P	P	P	P			S	S	S
Bed and Breakfast Guest House	S	S	S	S	S	S	S	P	P	P	P	P	P			S	S	
Bed and Breakfast Home Stay	S	S	S	S	S	S	S	P	P	P	P	P	P			S	S	
Residential Home Stay	S	S	S	S	S	S	S	P	P	P	P	P	P			S	S	
Boarding and Rooming Houses	S	S	S	S	S	S	S	P	S	S	P	P				S	S	
Camp, Private, Overnight	S																	
Health Resort/Spa										P	P	P						
Hotel										P	P	P				P	P	P
Hotel – Limited Service										P	P	P				P	P	P
Residence Hotels								S	S	P	P	P				P	P	P
Retreat House	S	S	S	S														
INDUSTRIAL USES																		
Industrial Service																		
Animal Research Facilities													S					

DEVELOPMENT REGULATIONS
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Specific Use Type																			
Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store)													P	P					
Construction Industry Related Businesses (such as general contractors, electrical contractors, plumbing contractors) /Accessory and Incidental uses													P	P	P				
Educational and Scientific Research, Development, and Testing Services											P	P	P	P	P			P	P
Heavy Industrial															P	S			
Light Industrial														P	P	S			
Petroleum Pipeline and Pressure Control Stations		S	S	S	S	S	S	S	S	S	S	S	S	S	S				
Manufacturing and Production																			
Manufacturing, Fabrication, and Assembly: Custom													S	P	P				
Manufacturing, Fabrication, and Assembly: Light													P	P	P				
Manufacturing, Fabrication, and Assembly: Heavy													S	S	P				
Wholesale, Storage, Warehouse, and Distribution																			
Automobile Towing Service Storage Yard; Impound Lot												S	S	P	P				
Mini-Storage												S	P	P					
Moving and Storage Facilities													P	P					
Warehousing												S	P	P	P				
Wholesale Trade or Storage, General													P	P	P				

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Specific Use Type											P	P	P					
Wholesale Trade or Storage, Light											P	P	P					
Waste and Salvage																		
Automobile Parts Recycling Business												S	P	P				
Junkyard, Salvage Yard												S	P	P				
Neighborhood Recycling Center	S	S	S	S	S	S	S	S	S	S	S	S	S	S		P	P	P
Recycling Collection Station													P	P				
Solid Waste Facility													S	S				
AGRICULTURE																		
Agriculture/Aquaculture																		
Animal Husbandry (other than dairy)	P																	
Apiary	P	P	P	P	P	P	P	P										
Farming	P																	
Fish Farm/Hatchery	S																	
Ranching	S																	
Greenhouse/Nursery	S	S							S	S	P	P	S	S				P
Urban Agriculture/Community Garden	P	P	P	P	P	P	P	P								P	S	P
NOTE 1: In the CBD, Residential is not permitted within the front half or front 30' of space, whichever is greater, on the 1 st floor (Sec 1.17 A,B)																		