



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

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, JUNE 23, 2020 7:00 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 7 p.m. and midnight and available for viewing on YouTube and Facebook Live

- *Due to the restriction of social distancing to mitigate the spread of COVID-19, the City Commission meeting will not be open to the public. In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed live on Channel 2 and via Facebook Live.*
- *Questions on agenda items will be read during discussion on that topic.*
 - *Submit your question to cwilliamson@firstcity.org no later than 6:00 pm on June 23.*
- *Members of the public wishing to receive agenda notifications can contact the city clerk cwilliamson@firstcity.org to be added to the agenda email distribution list. Agendas are available for viewing on the city website www.leavenworthks.org*

Call to Order – Pledge of Allegiance Followed by Silent Meditation

1. Mayor’s Award
2. New Employee Welcome

Amended Agenda:
 Item #15 Added

(pg. 3)

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

3. Minutes from June 9, 2020 Regular Meeting **Action:** Motion (pg. 5)

Second Consideration Ordinance:

4. Second Consideration Ordinance 8129 Vacation Meadow Lane Street Right of Way **Action:** Roll Call (pg. 10)

Other Old Business:

5. Correct Claims Consent Agenda from June 9, 2020 **Action:** Motion (pg. 14)

NEW BUSINESS:

Public Comment: * *emails received by the public for public comment on non-agenda items will be read at this time.*

General Items:

6. 1145 Vilas Right of Way Appeal **Action:** Motion (pg. 15)
7. Consider Request for Cereal Malt Beverage License 501 Limit **Action:** Motion (pg. 21)

Resolutions:

8. Resolution B-2254 Community Development Block Grant 2020-2021 Annual Action Plan **Action:** Motion (pg. 22)
9. Resolution B-2255 Setting Public Hearing for Fire Damaged House – 723 S 10th Street **Action:** Motion (pg. 24)
10. Resolution B-2256 Setting Public Hearing to Consider Establishment of a Redevelopment District (Price Chopper) **Action:** Motion (pg. 28)

Bids Contracts and Agreements:

11. Consider Bids for Cody Park Sewer Crossing & Bank Stabilization Project **Action:** Motion (pg. 43)

First Consideration Ordinances:

12. First Consideration Ordinance – Special Use Permit 1373 Sherman Street Duplex **Action:** Consensus (pg. 47)
13. First Consideration Ordinance – Special Use Permit 625 Pawnee Street Duplex **Action:** Consensus (pg. 53)
14. First Consideration Ordinance – Development Regulations Changes **Action:** Consensus (pg. 63)

Other:

15. Tenant Based Rental Assistance Funds **Action:** Motion (pg. 114)

Consent Agenda:

Claims for June 6, 2020, through June 19, 2020, in the amount of \$2,567,622.33 ; Net amount for Payroll #13 effective June 19, 2020, in the amount of \$336,402.30 (Include Police & Fire Pension in the amount of \$11, 839.36).

Action: Motion

Adjournment

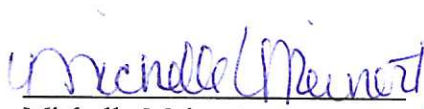
Action: Motion

POLICY REPORT 20-03
New Employee Welcome Ceremony
June 23, 2020

Prepared by:

Reviewed by:

Reviewed by:



Michelle Meinert
HR Specialist



Lona Lanter
HR Director



Paul Kramer
City Manager

ISSUE: To welcome newly hired regular full time and part time City of Leavenworth employees.

BACKGROUND: The City has established a program of welcoming new employees to the City Team. As part of this program, each new employee will be announced/introduced by the Mayor or the Mayor Pro Tem at a regular meeting of the Leavenworth City Commission. Each employee will also be presented with a welcome card and City of Leavenworth pin from their Department. Brief background information of each employee listed below is attached.

EMPLOYEES TO BE WELCOMED:

Sylis Bohannon
Brittany Swanbeck
Timothy Moore
Ronald Gunter
Jesse Breen
Garrett Kruger
Grace Kortchmar
Mitchell Braget
Heidi Walther
Matthew Weis

Police Officer
Police Officer
WPC Operator I
Storm Water Equipment Operator I
Firefighter
Firefighter
Police Officer
GIS Technician
PT HR Administrative Clerk
Police Officer

Sylis Bohannon – Sylis was hired on October 17, 2019, as a Police Officer. He graduated from Lansing High School and previously worked as a landscaper with Beautiful Outdoors of Kansas City.

Brittany Swanbeck – Brittany was hired on November 7, 2019, as a Police Officer. She graduated from Lakes High School and obtained her National Certified Medical Assistant certification from Everest College. She previously worked at St. Luke's as a medical assistant.

Timothy Moore – Timothy was hired on November 14, 2019, as a WPC Operator I. He graduated from Leavenworth High School and was previously employed with FMWR at Fort Leavenworth as a custodian.

Ronald Gunter – Ronald was hired on January 23, 2020, as Storm Water Equipment Operator I. He received his GED from Merryville High School and was previously employed as a landscaper for local contracting companies.

Jesse Breen – Jesse was hired on April 2, 2020, as a Firefighter. He got his GED from Shawnee Mission Northwest and received his Associate of Arts from Johnson County Community College. He was previously employed with American Medical Response as an EMT.

Garrett Kruger – Garrett was hired on April 2, 2020, as a Firefighter. He graduated from Bonner Springs High School and received his EMT Certification through KCK Community College. He was previously employed with Forest Products as a forklift operator.

Grace Kortchmar – Grace was hired on April 16, 2020, as a Police Officer. She graduated from Granby Memorial High School and was previously employed with Chesley Brown International as an armed guard.

Mitchell Braget – Mitch was hired on May 7, 2020, as a GIS Technician. He graduated from Tri-County Public Schools in Minnesota and received a Bachelor of Science in Geography from University of North Dakota and a Master of Arts in Geography from Kansas State University. He was previously employed at the International Water Institute in Fargo, North Dakota as a GIS technician.

Heidi Walther – Heidi was hired on May 7, 2020, as a HR Administrative Clerk. She graduated from Faith Christian Academy. She was previously employed at Edward Jones as a branch office administrator.

Matthew Weis – Matthew was hired on May 21, 2020, as a Police Officer. He graduated from Independence High School and obtained his Bachelor Degree in Criminology from University of Saint Mary. He was previously employed as a delivery driver with Pizza Hut.



CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Myron J. (Mike) Griswold. The following commission members attended via teleconference: Mayor Pro-Tem Nancy Bauder, Commissioners, Mark Preisinger and Jermaine Wilson. Not present Commissioner Camalla Leonhard.

Others present in the commission chambers: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Finance Director Ruby Maline and City Clerk Carla K. Williamson.

Other members participating via teleconference: Public Works Director Mike McDonald, Deputy Public Works Director Mike Hooper, City's Financial Advisor, Greg Vahrenberg with Raymond James, and City Attorney David E. Waters.

Mayor Griswold read the following notice:

Due to the restriction of social distancing to mitigate the spread of COVID-19, the City Commission meeting will not be open to the public. In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed live on Channel 2 and via Facebook Live. Questions on agenda items will be read during discussion on that topic. Submit your question to cwilliamson@firstcity.org no later than 6:00 pm on June 9. Members of the public wishing to receive agenda notifications can contact the city clerk cwilliamson@firstcity.org to be added to the agenda email distribution list. Agendas are available for viewing on the city website www.leavenworthks.org.

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

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Preisinger moved to approve the minutes from the May 26, 2020 regular meeting. Commissioner Wilson seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 4-0.

NEW BUSINESS:

Public Comment: *emails received by the public for public comment on non-agenda items will be read at this time.* None received.

Public Meeting:

Public Hearing to Vacate the Meadow Lane Street Right of Way between Grand Avenue & Meadow Road

- **Open Public Hearing:**

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

- **Staff & Citizen Comments:**

Staff:

Public Works Director Mike McDonald presented a request from Clarence and Martha Elrod to vacate the portion of Meadow Lane Street Right of Way between Grand Avenue and Meadow Road. The subdivisions of Country Acres, Meadow Acres and The Oaks were built in the early 1980s. Meadow Lane was the dividing line between the subdivisions. It is believed that Meadow Lane at this location had been intended to be used as a public pathway to 10th Avenue. The adjoining property owners have maintained and landscaped this area since construction of the houses. There is no current plan to extend Meadow Lane or construct a paved pathway at this location and there is no City infrastructure at this location. Staff supports the request to vacate.

Citizen Comments:

Martha Elrod- Petitioner (owner of 3201 Grand Avenue)

- Has been maintaining the property for quite some time and keeping it looking nice
- Have had issues with people walking though or riding ATVs through and would like legal ownership of the property

- **Close Public Hearing:**

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

- **First Consideration Ordinance:**

There was a consensus by the Commission to place the ordinance on first consideration for the vacation of Meadow Lane Street Right of Way between Grand Avenue & Meadow Road

General Items:

Update Unsafe Structure 228-230 Ottawa Street Damaged by Fire – Release of Insurance Proceeds -

Public Works director Mike McDonald reviewed the repairs to the structure located at 228-230 Ottawa Street that was damaged by fire on June 25, 2019. A public hearing was held on October 22, 2019 and the City Commission adopted Resolution B-2238 requiring the owner to make repairs. The commission has given extension of time for the repairs to be completed. At this time, sufficient progress has been made and Building Inspections Staff recommends removal from the Unsafe and Dangerous Structures list and return of the insurance proceeds being held by the city. All repairs to the exterior have been completed and the interior has been approved for the installation of wall finishes.

Commissioner Bauder moved that the structure from the demolition list, and authorizes the return of the insurance proceeds to the owner. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 4-0.

2020 General Obligation Refunding and Improvement Bonds & Temporary Notes Issuance Proceedings- City Clerk Carla Williamson stated that the General Obligation Refunding & Improvement Bonds and Temporary Notes sale was held at 10:00 a.m. on Tuesday, June 9, 2020.

General Obligation Refunding and Improvement Bonds, Series 2020-A in the amount of \$8,130,000.00, were part of the sale which includes all interest and issuance costs for the following:

Second and Chestnut Stormwater Project	\$2,030,000.00
Independence Court Stormwater Project	\$ 465,000.00
Paving 2019 Temporary Notes (permanent Financing)	\$1,415,000.00
Refunding	\$4,220,000.00

Temporary Notes Series A2020 in the principal amount of \$1,400,000.00 to temporarily finance the 2020 General Improvements (pavement management) until after the projects are complete were also sold.

Ms. Williamson stated that the City’s Financial Advisor, Greg Vahrenberg will address the Commission with details of the bonds and the bids. After his presentation, the following actions are required to complete the proceedings:

1. Motion to accept the proposal for the Temporary Notes, Series A2020
2. Motion to adopt Resolution B-2252 Issuance of Temporary Notes, Series A2020
3. Motion to accept the proposal for the General Obligation Refunding & Improvement Bonds, Series 2020-A
4. Motion to adopt Resolution B-2253 Issuance of General Obligation Refunding & Improvement Bonds, Series 2020-A
5. Roll call vote for Ordinance No. 8128 General Obligation Refunding & Improvement Bonds, Series 2020-A

The City’s financial advisor, Greg Vahrenberg joined the meeting via GoToMeeting to recap the following:

Temporary Notes Series A2020 in the principal amount of \$1,400,000.00 to temporarily finance the 2020 General Improvements (pavement management). The following bids were received:

- Central States Capital Markets, LLC 0.713954%
- Commerce Bank 0.767675%
- UMB Bank N.A. 0.775349%
- Piper Sandler & Co 0.908605%
- Huntington Securities, Inc. 1.007442%

General Obligation Refunding and Improvement Bonds, Series 2020-A in the amount of \$8,130,000.00*, the following bids were received:

- Country Club Bank 1.010247%
- UMB Bank N.A. 1.023982%
- Commerce Bank 1.056491%
- Piper Sandler & Co 1.112280%
- Robert W. Baird & Co 1.131361%
- D.A. Davidson & Co 1.176576%
- KeyBanc Capital Markets 1.294606%

*The winning bidder, Country Club Bank, offered a premium of \$243,920.10. The premium offered reduced the actual bond issuance to 7,900,000.00.

At 7:33 pm, the commission made the following motions and approvals.

Commissioner Preisinger moved to accept the proposal from Central States Capital Markets, LLC for Temporary Notes, Series A2020 as presented. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried 4-0.

Commissioner Bauder moved to adopt Resolution B-2252 Issuance of Temporary Notes, Series A2020. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor declared the motion carried 4-0.

Commissioner Preisinger moved to accept the proposals from Country Club Bank for the 2020-A General Obligation Refunding & Improvement Bonds as presented. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried 4-0.

Commissioner Preisinger moved to adopt Resolution B-2253 Issuance of General Obligation Refunding & Improvement Bonds, Series 2020-A. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 4-0.

Second Consideration Ordinance No. 8128 General Obligation Refunding & Improvement Bonds, Series 2020-A.

Mayor Wilson called the roll and Ordinance No. 8128 was unanimously approved 4-0.

Adopt 2020-2021 City Goals – City Manager Paul Kramer presented the City Commission Goals for 2020-2021 for approval by the City Commission. Mr. Kramer reviewed the goals at the June 2, 2020 Study Session.

Commissioner Wilson moved to adopt the 2020-2021 City Commission Goals. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor then declared the motion carried 4-0.

CONSENT AGENDA:

Commissioner Bauder moved to approve claims for May 23, 2020, through June 8, 2020, in the amount of \$2,707,406.20; Net amount for Payroll #12 effective June 5, 2020, in the amount of \$224,165.26 (No Police & Fire Pension). Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 4-0.

Other:

Commissioner Bauder

- Would like to see the City re-establish Trust Talks
 - Mr. Kramer said to stay tuned; there are discussions on this and more to come soon

Adjournment:

Commissioner Preisinger moved to adjourn the meeting. Commissioner Wilson seconded the motion and the motion was unanimously approved.

Time Meeting Adjourned 7:49 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC

POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8129
VACATING THE MEADOW LANE STREET RIGHT OF WAY
BETWEEN GRAND AVENUE AND MEADOW ROAD

JUNE 23, 2020



Carla K. Williamson, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the June 6, 2020 City Commission special meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE VACATING ALL THAT PART OF THE 30 FOOT WIDE ROAD BEING A PART OF COUNTRY ACRES ADDITION LYING SOUTH AND ADJACENT TO LOT 1 BLOCK 4 AND ALL THAT PART OF MEADOW LANE BEING PART OF MEADOW ACRES ADDITION LYING SOUTH AND ADJACENT TO LOT 1 BLOCK 2, IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, AMENDING APPENDIX B, ARTICLE II, ALLEY VACATIONS OF THE CITY OF LEAVENWORTH CODE OF ORDINANCES.

There have been no other changes since first consideration.

Ordinance No. 8129 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8129

(Summary Published in the Leavenworth Times on June 26, 2020)

ORDINANCE NO. 8129

AN ORDINANCE VACATING ALL THAT PART OF THE 30 FOOT WIDE ROAD BEING A PART OF COUNTRY ACRES ADDITION LYING SOUTH AND ADJACENT TO LOT 1 BLOCK 4 AND ALL THAT PART OF MEADOW LANE BEING PART OF MEADOW ACRES ADDITION LYING SOUTH AND ADJACENT TO LOT 1 BLOCK 2, IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, AMENDING APPENDIX B, ARTICLE II, ALLEY VACATIONS OF THE CITY OF LEAVENWORTH CODE OF ORDINANCES.

WHEREAS, a Petition for a vacation of all that part of the 30 foot wide road being a part of the COUNTRY ACRES ADDITION lying south and adjacent to lot 1, block 4 and all that part of MEADOW ACRES ADDITION lying south and adjacent to lot 1, block 2 in the City of Leavenworth, Leavenworth County, Kansas; and

WHEREAS, the City Clerk of the City of Leavenworth, Kansas gave public notice of the same by publication in the official City newspaper on May 14, 2020 stating that a petition has been filed in the office of the City Clerk praying for such vacation, describing the property fully and setting June 9, 2020 as the hearing date on which the petition shall be presented to the Governing Body of the City for hearing and that at such time and place and giving instructions to all persons interested to be heard under the petition; and

WHEREAS, the petition did proceed to hearing as published and no objections were filed with the City Clerk or received at the time of the hearing; and

WHEREAS, all utility companies were notified and agreed to such vacation; and

WHEREAS, all the requirements of K.S.A. 12-504 *et. seq.* have been complied with;
and

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

Section 1. Vacation of a street/road, previously platted, and being more fully described as:

All that part of Meadow Lane being 30 feet in width being a part of COUNTRY ACRES ADDITION lying South and Adjacent to Lot 1, Block 4 and all that part of Meadow Lane being 30 feet in width being a part of MEADOW ACRES ADDITION lying south and adjacent to Lot 1, Block 2, City of Leavenworth, Leavenworth County, Kansas

(See attached Exhibit).

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after the date of its publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this 23rd day of June 2020.

{Seal}

Myron J. "Mike" Griswold, Mayor

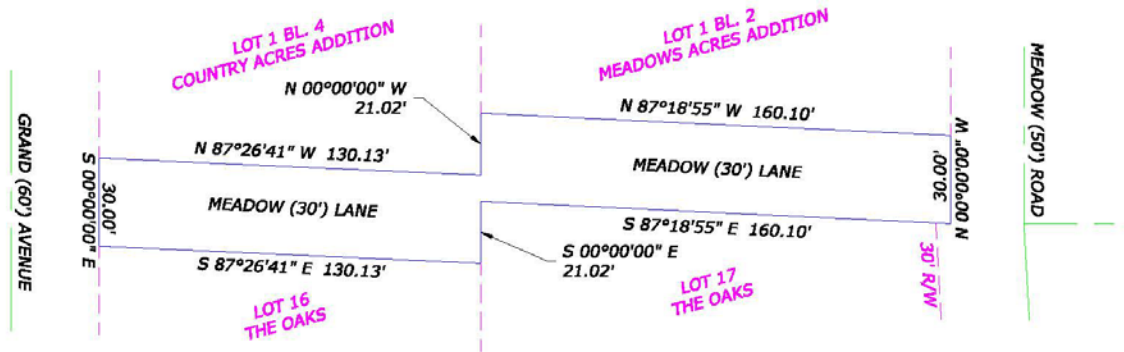
ATTEST:

Carla K. Williamson, CMC, City Clerk

ROAD VACATION EXHIBIT

PREPARED FOR:
CITY OF LEAVENWORTH

ROAD VACATION:
All that part of Meadow Lane being 30 feet in width being a part of COUNTRY ACRES ADDITION lying South and adjacent to Lot 1, Block 4 and all that part of Meadow Lane being 30 feet in width being a part of MEADOW ACRES ADDITION lying south and adjacent to Lot 1, Block 2, City of Leavenworth, Leavenworth County, Kansas.

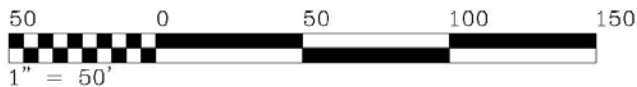


Scale 1" = 50'

Job # K-20-1359
March 30, 2020

HERRING
SURVEYING
COMPANY

315 North 5th Street, Leav., KS 66048
Ph. 913.651.3856 Fax 913.674.5381
Email - survey@teamcash.com



THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY

**Policy Report No. FIN-20-01
Presentation of Claims Adjustment**

June 23, 2020

Prepared By:



Ruby Maline
Finance Director

Approved By:



Paul Kramer
City Manager

Issue:

The Net amount for Payroll #12 effective June 5, 2020 was reported incorrectly. We reported \$224,165.26 which was the amount that we paid in payroll expenses and not direct deposit. The Claims agenda should have been reported as such.

Claims for May 23, 2020, through June 8, 2020, in the amount of \$2,707,406.20; Net amount for Payroll #12 effective June 5, 2020, in the amount of \$ 330,493.75 (No Police & Fire Pension).

Action:

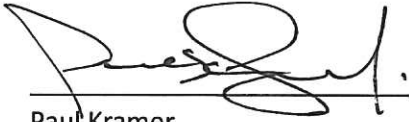
Motion to correct the claims approved on June 9, 2020 to read as follows:
Claims for May 23, 2020, through June 5, 2020, in the amount of \$2,707,406.20; Net amount for Payroll #12 effective June 5, 2020, in the amount of \$330,493.75 (No Police & Fire Pension).

Policy Report

1145 Vilas Right-of-Way appeal

June 23, 2020

Prepared by:



Paul Kramer
City Manager

Background:

On Monday, June 8, it was brought to the attention of the Public Works department that a modular block wall was being constructed in the street right-of-way (ROW) in front of the residence at 1145 Vilas. On that date, the base rock was in place and the first course of block was being placed. The owner was notified by staff on-site that construction of walls for private construction was not allowed within the public ROW and the construction needed to stop. The property owner, Mr. Stewart, was informed of his ability to seek an exception/variance for the construction. Mr. Stewart was also informed that Public Works would not support an exception/variance request for the following reasons;

1. Public right-of-way is reserved for public infrastructure, i.e.; streets, sidewalks, storm sewers, sanitary sewers, streetlights, signage, and all public utilities. The existence of private improvements within the public right-of-way increase repair/replacement costs for the general public and the utilities.
2. Public right-of-ways are designed to provide a buffer between the vehicle and pedestrian traffic on the public improvement and the private improvements on private property. Driving speeds and traffic numbers are typically factored into ROW widths. Collector and arterial streets generally have a wider ROW than residential streets.
3. Private improvements such as walls and other rigid improvements create a safety/liability issue to the public and private property owner.

In addition to being in the right-of-way, Stewart's construction is also located in an easement. Appendix A, Article 3, Sec. 3.03 (Minimum design standards), Subsection D (Easements) of the Ordinances states:

Where alleys are not provided, permanent easements of not less than ten feet in width alongside property lines and ten feet in width along rear property lines, where necessary, for utility poles, wires, conduits, underground conductors, storm and sanitary sewers, gas, water and heat mains, and other public utilities shall be provided. These easements shall provide for a continuous right-of-way. Where the utility company or agency has the need for a wider easement than required above for a specific location, this easement shall be shown on the plat. Permanent easements shall not be obstructed by structures, retaining walls, or trees. A property owner may install fences and landscape the easement with grass and shrubs at their

own risk. A 12-foot temporary construction easement shall be provided on each side of all lot lines for initial construction of water, sewer, and other utility lines.

The ordinance referenced above specifically calls out retaining walls as being prohibited from interfering with the easement, as the ordinance states "permanent easements shall not be obstructed by structures, retaining walls, or trees."

The Leavenworth Public Works Frequently Asked Questions (available at <https://www.leavenworthks.org/publicworks/page/frequently-asked-questions>) state that although retaining walls not over four feet in height do not require a building permit, retaining walls "abutting public right-of-way needs to be reviewed by the Director of Public Works." The existing wall/landscaping feature is both in the right-of-way and abutting the right-of-way, and as such, would have required review by the Director of Public Works.

In order to protect and properly serve all residents, the City has a duty to residents to enforce restrictions on homeowner improvements in rights-of-way and easements. Utilities that may run along these spaces must be clear to allow utility companies unobstructed and quick access to utility lines in the event of an emergency such as a power interruption or a water line break. If the utility must first clear away homeowner improvements on the easement, the utility outage for all residents could be extended and also endanger utility workers trying to maneuver around a potential hazard created by a homeowner.

Furthermore, residents need to understand that permissible landscaping of the easement is at the risk of the property owner under Appendix A, Article 3, Sec. 3.03 (Minimum design standards), Subsection D (Easements) of the Ordinances. The City is not responsible for damage to property owner improvements caused by a utility needing to get access to the easement, and the City wants to protect itself from being subject to requests for reimbursement or damages when a property owner's improvements are demolished by a utility needing access. Rather, in these instances, utilities often charge property owners for the demolition costs utilities incur when needing access. The Ordinances and the Director of Public Works approval process support this by making sure any improvements that are permitted to be constructed won't hinder utility company access.

Staff has met on-site and had correspondence with Mr. Stewart since the initial contact on June 8. On June 16, the Public Works Department was concerned that work was continuing on the wall and a "Stop Work Order" was sent to the property owner.

Recommendation:

The Ordinances and Director of Public Works approval process are in place to maintain safety and continuity of services to all City residents. Since Stewart's improvements fall within the purview of these City processes, Stewart needs to follow the proper procedures for seeking approval of his projects. Based on the above discussion, the Director of Public Works should have the authority to deny the construction for the reasons previously set forth. And, based on the reasons given above to preserve the right-of-way, staff recommends that the Commission deny an appeal to allow construction in the right of way.

Attachments:

- Pictures









**POLICY REPORT
CONSIDER APPROVAL OF A CEREAL MALT BEVERAGE LICENSE FOR
501 LIMIT STREET**

June 23, 2020

Prepared by:



Mariah Lietzen
Receivable/License Coordinator

Reviewed by:



Carla K. Williamson, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

ISSUE:

Consider a request for a 2020 Cereal Malt Beverage License by Shop Smart, LLC located at 501 Limit Street.

BACKGROUND:

Application for an off-premise Cereal Malt Beverage license was received by the office of the City Clerk from Shop Smart, LLC, located at 501 Limit Street due to new ownership.

The application has been approved by the Police Department and by the Fire Department, who also serves as the City Health Inspector.

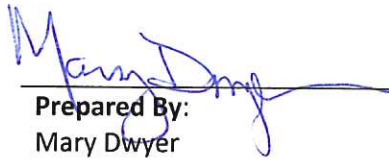
ACTION:

Motion to approve or deny the 2020 off premise Cereal Malt Beverage License for Shop Smart, LLC at 501 Limit Street Leavenworth, Kansas.

POLICY REPORT

Community Development Block Grant Annual Action Plan 2020-21

June 23, 2020



Prepared By:
Mary Dwyer
Community Development
Coordinator



Reviewed By:
Julie Hurley
Director, Planning and
Community Development



Reviewed By:
Paul Kramer
City Manager

DISCUSSION

The Annual Action Plan (AAP) is formulated using an electronic planning tool provided by the Department of Housing and Urban Development (HUD). The report is composed of needs assessments of the community's housing stock, homelessness issues, public facilities, infrastructure, and community development assets.

The Annual Action Plan puts forth the specific details on how the City proposes to spend the federally awarded entitlement funds (award \$342,514 plus estimated residual of \$200,000), for the 2020-2021 year. This year the plan recommends funding for home repair, home ownership, removal of dangerous structures, public service agency funding and an infrastructure project.

The Community Development Advisory Board (CDAB) held an open public meetings to solicit community input on June 8, 2020 and will hold one June 22, 2020. After the public hearing on 6/22/20 the CDAB will vote whether to approve the AAP plan and forward to the City Commission for approval.

The draft Annual Action Plan can be accessed at:
https://www.leavenworthks.org/sites/default/files/fileattachments/planning_amp_community_development/page/8091/aap_2020-21_draft_rev.pdf.

FINAL COPY:

Certifications to be signed by the Mayor will be added to the plan before submission to HUD. The HUD submission will be electronic and printed. Printed copies will be distributed to the Leavenworth Public Library, and Community Development Department. Electronic copies will be sent to City website and recorded in Lazerfische.

RECOMMENDED ACTION

Motion to adopt or modify the attached resolution adopting and authorizing the submission of the 2020-2021 Annual Action Plan.

RESOLUTION NO. B-2254

A RESOLUTION AUTHORIZING AND ADOPTING THE 2020-2021 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 June 8, 2020 and June 22, 2020 to receive input from citizens and agencies having interest in the Community Development Block Grant program; and

WHEREAS, the CDAB recommends approval of the 2020-2021 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, 2020 through June 30, 2021 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 23rd day of June 2020.

Myron J. "Mike" Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC City Clerk

{Seal}

POLICY REPORT PWD NO. 20-31

RESOLUTION SETTING HEARING DATE FOR UNSAFE STRUCTURE
723 S. 10TH STREET


June 23, 2020

Prepared by:

Reviewed by:

Reviewed by:


Harold D. Burdette,
Chief Building Inspector


Michael G. McDonald
Director of Public Works


Paul Kramer,
City Manager

ISSUE:

Consider a resolution setting August 11, 2020 as the date of a public hearing regarding a property containing an unsafe or dangerous structure in the City of Leavenworth.

BACKGROUND:

This structure was significantly damaged by a fire on April 3, 2020. A building permit was issued for the restoration of the structure on May 13, 2020, and the work has commenced.

When structures are damaged by fire or other causes and the damage is severe enough that the settlement from the insurance company exceeds 75% of the face value of the policy covering the structure, the insurance company is required to draft a payment to the City of Leavenworth for 15% of the settlement. This money is to be used to either remove the structure if the owner decides not to repair it, or be returned to the property owner once repairs are completed and the structure is ready for occupancy. The City has received money in regards to this property.

The Chief Building Inspector recommends that proceedings under the provisions of K.S.A. 12-1750, et seq. should be commenced. Approval of this resolution setting the date of the public hearing is the first step in the process. This action will ensure that the City retains control over the proceeds from the fire insurance to assist with efforts to maintain the site.

Pursuant to the provisions of K.S.A. 12-1750, et seq., a public hearing is required to determine if the structure should be demolished or if the owners will commit to making improvements within a time frame acceptable to the City Commission. To establish the hearing date and to begin the legal service of notice process, the City Commission has to establish the hearing date by which assignees and owners must be notified. The legal rights are vested in the hearing and the City Commission should refrain from taking any testimony at this time in order to protect their legal rights in the process.

At the public hearing, the Commission will receive testimony for and against ordering the demolition of the structure. At the conclusion of the August 11, 2020 public hearing, the City Commission findings are adopted by resolution.

RECOMMENDATION: Motion to adopt Resolution No. B-2255 setting August 11, 2020 as the date for the public hearing regarding the unsafe structure located at 723 S. 10th Street.

ATTACHMENTS:

Resolution No. B-2255

Photos of Exterior of 723 S. 10th

(To Be Published in the Leavenworth Times on June 30, 2020 and July 7, 2020)

RESOLUTION B-2255

A RESOLUTION OF THE CITY OF LEAVENWORTH, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING AT WHICH TIME AND PLACE THE OWNER, HIS AGENT, LIEN HOLDERS OF RECORD, AND OCCUPANTS OF THE FIRE DAMAGED STRUCTURE LOCATED AT 723 S 10TH STREET AND HEREIN DESCRIBED MAY APPEAR TO SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS UNSAFE OR DANGEROUS STRUCTURE.

WHEREAS, pursuant to K.S.A 12-1750 et seq., as amended, the enforcing officer of the City of Leavenworth, Kansas, did on the 23rd day of June 2020, file with the governing body of said city a statement in writing that the structure hereinafter described is dangerous and hazardous and should be ordered by the governing body to be demolished or repaired; and

WHEREAS, on April 3, 2020 the hereinafter described structure was damaged by fire; and

WHEREAS, the City of Leavenworth Governing Body is acting under Chapter 20, Article V of the City Code of Ordinances.

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

Section 1. That a Public Hearing shall be held on the 11th day of August 2020, before the Governing Body of the City of Leavenworth, Kansas, at 7:00 p.m. at the City Commission Room, 100 N 5th Street, Leavenworth, Kansas, at which time the owners, their agents, heirs, any lien holders of record and other persons affected by certain structures herein described may appear and show cause why such structure should or should not be condemned as a dangerous or hazardous structure and ordered repaired or demolished.

Section 2. The structure is described as: A single-family structure located at **723 S 10th Street**. The property is legally described as: Lots 22 and 23 Block 19 CENTRAL SUBDIVISION, of the City of Leavenworth, Leavenworth County, Kansas.

Section 3. The City Clerk and/or Chief Building Inspector are hereby authorized and directed to provide for the notice of the public hearing by taking the following action:

- a. A copy of this resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant at the last known address and shall be marked “deliver to addressee only.”

- b. This resolution shall be published for two consecutive weeks; once on June 30, 2020 and once on July 7, 2020.

Section 4. This Resolution shall be effective upon its adoption by the City Commission of the City of Leavenworth, Kansas.

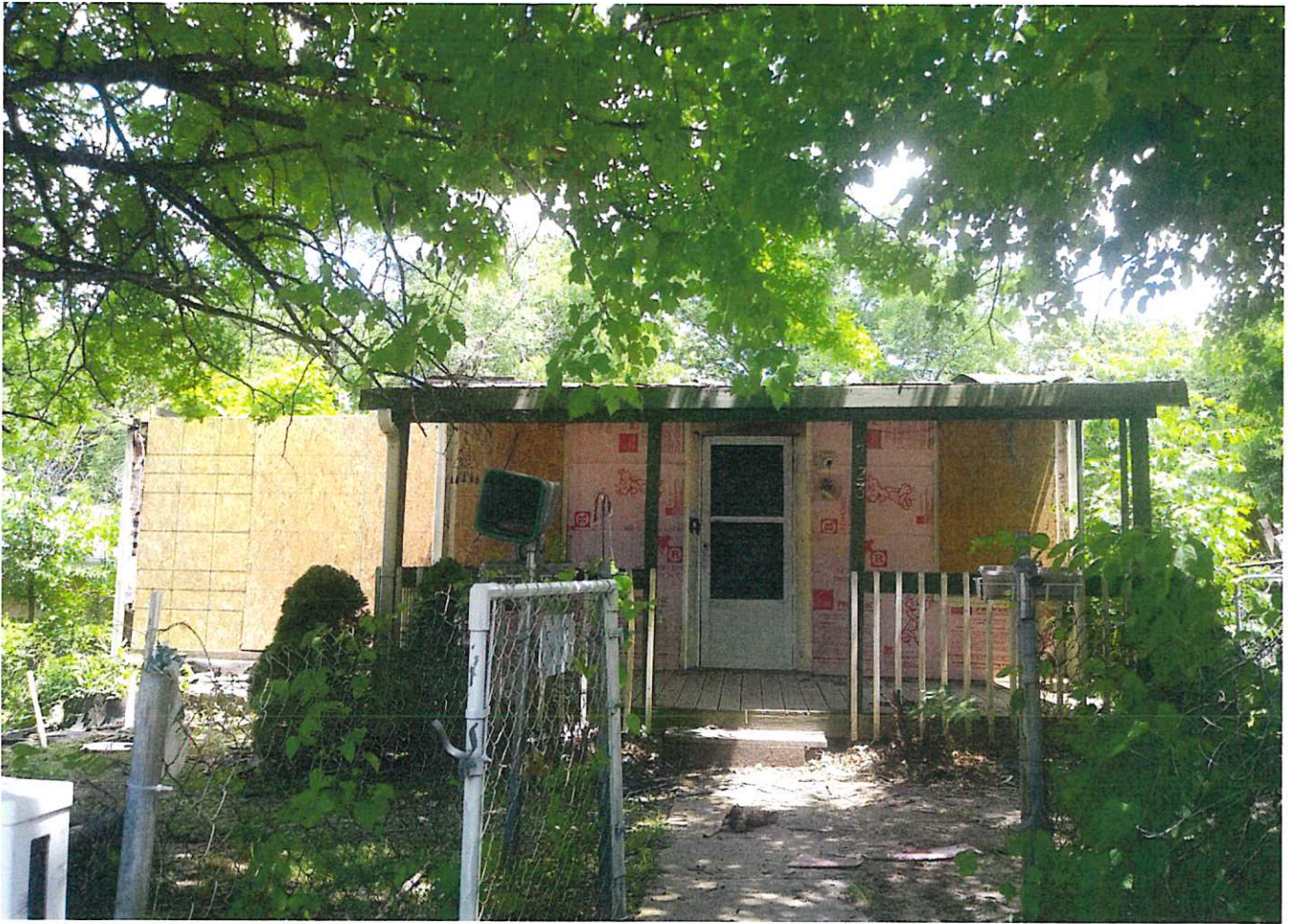
PASSED AND ADOPTED by the City Commission of the City of Leavenworth, Kansas this 23rd day of June 2020.

Myron J. "Mike" Griswold, Mayor

{SEAL}

ATTEST:

Carla K. Williamson CMC, City Clerk



Policy Report
Resolution Providing for a Notice of Public Hearing
Creating of a Redevelopment District - Price Chopper
June 23, 2020

Prepared by:



Paul Kramer
City Manager

Background:

The City entered into a predevelopment agreement on May 6, 2020 with Super Market Developers Inc., (Developer) in reference to the proposed Price Chopper Development Project; specifically outlining the following items:

- Total renovation of the store, inside and out, to include parking lot, machinery, equipment, modern amenities and energy efficient infrastructure;
- The issuance of certain industrial revenue bonds for the purpose of providing Developer with a sales tax exemption on the cost of material and labor (as applicable) for the project;
- The creation of a redevelopment district and redevelopment project;
- The implementation of development incentives (property tax TIF and sales tax TIF); and
- The imposition of a community improvement district

Issue:

Pursuant to KS 12-1771(a) when a City proposes to create a redevelopment district within an eligible area the City shall adopt a resolution stating that the City is considering the establishment of a redevelopment district. Such Resolution shall give notice of the public hearing, describe the proposed boundaries of the redevelopment district, describe the district plan, state that the description and map of the proposal is available for inspection, and state that the City Commission will consider findings for the establishment of the redevelopment district.

The attached resolution B-2256 comprises all of the aforementioned elements required by KS 12-177(a). The public hearing date is scheduled for July 28, 2020 for the consideration of creating the Price Chopper TIF District.

Attachments:

Resolution No. B-2256

Predevelopment Agreement

**PUBLIC INCENTIVES
PREDEVELOPMENT AGREEMENT**

THIS PUBLIC INCENTIVES PREDEVELOPMENT AGREEMENT (this "Agreement") is entered into as of the 6th day of May, 2020 (the "Effective Date"), by and between the **City of Leavenworth, Kansas**, a municipal corporation of the State of Kansas (the "City"), and **Super Market Developers, Inc.**, a Missouri corporation, and its successors and assigns (the "Developer") (the City and Developer are hereby collectively referred to as the "Parties").

RECITALS

A. Reference is hereby made to that certain real property which is more particularly described on Exhibit A which is attached hereto and incorporated herein by this reference (the "Property"), which Property Developer owns.

B. City is authorized by K.S.A. 12-1770 *et seq.*, as amended (the "TIF Act"), to provide tax increment financing ("TIF") for certain qualified projects upon compliance with the procedures set forth in the TIF Act.

C. The City is considering the establishment of, or has previously established, a redevelopment district (as defined in the TIF Act) for an area of the City which is more particularly described and/or generally depicted on Exhibit B attached hereto (the "Redevelopment District"), and which Redevelopment District includes the Property.

D. Developer is proposing a redevelopment project (the "Project") for an area within the Redevelopment District, such area being the same area as the Property (the "Project Area"), and due to a number of factors not commonly encountered in a commercial development, it is Developer's opinion that the Redevelopment Project is not an economically feasible development without TIF assistance.

E. To support the Project, Developer has asked the City to consider the creation of a community improvement district ("CID") pursuant to the Community Improvement District Act, K.S.A. 12-6a26 *et seq.*, as amended (the "CID Act") coterminous with the boundaries of the Project Area.

F. To further support the Project, Developer has asked the City to consider the issuance of certain industrial revenue bonds for the purpose of providing Developer with a sales tax exemption on the cost of materials and labor (as applicable) for the Project (but no property tax exemption as to the Property) (collectively, the "Bonds") pursuant to the City's authority under K.S.A. 12-1740 to 12-1749d, inclusive (the "IRB Act") (the TIF, the CID, and the Bonds may be referred to herein collectively as the "Incentives").

G. In connection with the Project and the Incentives, City must retain outside legal counsel, including bond counsel, and may be required to retain other consultants and incur out-of-pocket costs that are outside the normal administrative and professional expenses provided for in City's annual budget, but City is without a source of funds to pay such outside counsel (including but not limited to the appointed city attorney), consultants, and costs (collectively "City

Expenses").

H. The parties desire to enter into this Agreement in order to designate the Developer as the exclusive developer during the period hereof for the purpose of implementing the Project, provide for the payment of City Expenses, and to set forth matters that may be included in any final redevelopment agreement between the Parties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the City and the Developer agree as follows:

1. Applications for Incentives. Following or contemporaneously with the execution of this Agreement, Developer will complete and submit to the City a petition for the establishment of the Redevelopment District, a draft Redevelopment Project Plan (as defined below), a CID petition in connection with the Project, and an application for the Bonds, all in accordance with the TIF Act, the CID Act, the IRB Act, and City policies, and on such forms as the City may require.
2. Services to be Performed by the City. The City will retain administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to:
 - (a) Consider the establishment of the Redevelopment District and consider Developer's redevelopment plans for the Project (the "Redevelopment Project Plan") in accordance with the TIF Act, give all notices, make all publications, hold all hearings as required by the TIF Act and other applicable laws, prepare the required resolutions and ordinances, and prepare such feasibility studies, analyses, and financing plans as may be required by applicable law or desired by City;
 - (b) Consider the establishment of the CID in accordance with the CID Act, give all notices, make all publications, hold all hearings as required by the CID Act and other applicable laws, prepare the required resolutions and ordinances, prepare such feasibility studies, analyses, and financing plans as may be required by applicable law or desired by City;
 - (c) Consider a proposal and request of the Developer for the City to issue the Bonds, to be purchased and held by the Developer, in order for Developer to obtain a sales tax exemption on materials and labor incorporated in the Project;
 - (d) If the City's governing body approves the Project and the Incentives, prepare and negotiate a "Final Redevelopment Agreement" between the Parties for implementation of the Project and the Incentives, and prepare and negotiate such other definitive agreements and proceedings necessary for issuance of the Bonds; and
 - (e) If the Parties enter into a Final Redevelopment Agreement, administer the Project and the Incentives in accordance therewith.
3. Redevelopment Project Plan. The Redevelopment Project Plan for the Project will include all statutory contents required by the TIF Act, and any Final Redevelopment Agreement

will include, subject to the City's approval in accordance with the TIF Act and with the City's TIF policies, the following:

- (a) Description of the Project Area.
- (b) Description of all private improvements anticipated to be completed in the Project Area.
- (c) Description of all public improvements, including storm water improvements, if any, anticipated to be completed in connection with the Project Area.
- (d) Anticipated schedule for completion of the all Project Area improvements.
- (e) All public financing mechanisms which Developer intends to apply, including but not limited to TIF, CID, and IRB financing, including:
 - (i) Proposed terms of any TIF, CID, and IRB financing;
 - (ii) Proposed property tax increment to be captured under TIF;
 - (iii) Proposed sales tax to be captured under TIF;
 - (iv) Proposed CID sales tax to be imposed;
 - (v) Proposed allocation of TIF and CID revenues among public and private improvements, and timing of reimbursements, if applicable; and
 - (vi) Proposed method of TIF financing as "pay as you go" or bond financing.
- (f) Detailed anticipated sources and uses of funds.

4. Payment of City Expenses. Developer will reimburse and pay the City for the City Expenses incurred following execution of this Agreement, in accordance with the following provisions:

(a) In order to insure the prompt and timely payment of the City Expenses, the Developer will establish a fund (the "Fund") in the amount of Fifteen Thousand Dollars (\$15,000) ("Initial Deposit") by paying such amount to the City contemporaneously with the full execution of this Agreement. Notwithstanding the Effective Date, this Agreement shall not be deemed effective unless and until Developer has established the Fund with the Initial Deposit. The Initial Deposit shall not be deemed to include any separate City application fees for any of the Incentives.

(b) On a monthly basis, the City will pay the City Expenses from the Fund and will submit to Developer monthly statements itemizing the City Expenses paid from the Fund during the preceding month.

(c) If the City determines that the total of the City Expenses will exceed the balance in the Fund, the City will submit an itemized statement to the Developer to replenish the Fund so that there is a cash balance available against which additional City

Expenses may be applied on a current basis, and Developer will have seven (7) calendar days after such submission to pay the City the amount necessary to replenish the Fund.

(d) If not paid from the Fund, all statements of City Expenses will be payable by Developer within thirty (30) calendar days of Developer's receipt thereof. If Developer does not timely pay the City Expenses or replenish the Fund as set forth above, the City will be relieved of its obligations under this Agreement until the City's expenses are paid or the Fund is replenished, as the case may be.

(e) If the Redevelopment Project Plan for the Project Area is adopted, all payments made hereunder are eligible redevelopment costs under the TIF Act and as such are reimbursable out of the special tax increment fund created pursuant to the TIF Act. To the extent such payments are reimbursable under applicable law related to other approved Incentives, such payments may be so reimbursed.

(f) Any unused portion of the Fund shall be returned to Developer in the event that (i) this Agreement is terminated and all of the City Expenses have been paid in full, or (ii) all of the Incentives have been approved and implemented by the City and the Final Redevelopment Agreement has been fully executed and delivered by both parties and all of the City Expenses have been paid in full.

(g) Notwithstanding subparagraph (a) above, all attorneys' fees relating to the redevelopment and financing for the Project Area reasonably incurred by the City prior to the execution of this Agreement shall be reimbursable out of the Fund.

5. Developer of Record. The City acknowledges that there are risks and costs of preliminary planning activities and other requirements associated with the preparation for a project plan under development. As an inducement to Developer to assume those costs and undertake those activities set forth in this Agreement, for so long as Developer is the owner of record of the Property, the City designates Developer as the exclusive developer of record for the Property, and the City will not enter into a Final Redevelopment Agreement with any other person or entity involving the implementation of any redevelopment project or Incentives, in each case related to the Property, without Developer's prior written consent.

6. Basic Terms of Final Redevelopment Agreement. Neither Party is obligated to proceed with the Project or the Incentives except as may otherwise be provided in a Final Redevelopment Agreement as to the development of the Project, satisfactory to both parties in their sole and absolute discretion. Although the Parties have not yet negotiated the specific terms of any Final Redevelopment Agreement, the Parties presently believe that such terms must necessarily address, at a minimum, the following matters:

(a) Determination of Project. The Parties must agree on the proposed square footages of buildings or additions, the exterior design for the Project, or such other massing and design criteria as mutually-agreed to by the Parties in the Final Redevelopment Agreement.

(b) Land Acquisition. Developer represents that it acquired the Project Area on March 11, 2020, and owns same in fee simple.

(c) Performance Criteria. Performance criteria in order for Developer and the Project to remain eligible for Incentives and rights and remedies of the City if Developer does not satisfy timely such criteria or if Developer otherwise defaults under the Final Redevelopment Agreement.

(d) Agreement on Site Work, Infrastructure and Utilities. The Parties must agree on how site work, utilities, street, intersection, sidewalk and similar improvements are to be addressed by the Redevelopment Project Plan.

(e) Agreement on Plans and Specifications. The Parties shall agree on the plans and specifications of the exterior design of the Redevelopment Project.

(f) Agreement on Progress Schedule. The Parties must agree on a progress schedule by which the Redevelopment Project will be undertaken and completed.

(g) Zoning Changes. Zoning is currently adequate for the Redevelopment Project. Nothing contained within this Agreement, nor any future agreement, shall be deemed to bind the City, acting in its governmental capacity, to make any zoning changes.

(h) Project Financing. The amount, timing, and criteria for any Incentives, and requirements for private financing.

(i) Other Matters. Any Final Redevelopment Agreement will also address any other matters that either Party deems appropriate.

7. Obligations of the Parties to Proceed. The obligation of the Parties to proceed beyond this Agreement is dependent upon the Parties entering into a Final Redevelopment Agreement prior to the termination of this Agreement. Nothing contained herein shall: (i) obligate the City to create or approve the Project or a Redevelopment Project Plan for the Project Area; (ii) obligate the City to approve or provide any Incentives; (iii) obligate either party to enter into a Final Redevelopment Agreement; or (iv) obligate the Developer to commence or complete all or any portion of the Project.

8. Default. Whenever any event of default by Developer shall have occurred under this Agreement and continued for a period of thirty (30) days following Developer's receipt of written notice from City specifying such default and requiring it be remedied, the City may take any one or more of the following remedial steps: (a) refuse to consider or schedule for consideration or approval any applications for Incentives submitted by Developer; (b) pursue an action to specifically perform the terms and provisions of this Agreement; or (c) terminate this Agreement. Whenever any event of default by City shall have occurred under this Agreement and continued for a period of thirty (30) days following City's receipt of written notice from Developer specifying such default and requiring it be remedied, the Developer may take any one or more of the following remedial steps: (a) pursue an action to specifically perform the terms and provisions of this Agreement; or (b) terminate this Agreement. In case a lawsuit shall be brought because of the breach or alleged breach of any agreement or obligation contained in this Agreement on the part of either party to be kept or performed, the prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses in connection with such lawsuit.

9. Miscellaneous.

(a) Costs. Except as otherwise provided in this Agreement with regard to the City Expenses, each Party shall be solely responsible for all costs and expenses incurred by such Party in connection with the matters contemplated by this Agreement. Developer will pay to the City all plan review and similar fees of general applicability required by City ordinance; however, Developer understands that payment of such fees does not ensure approval of the Project or any of the Incentives. Some costs may be reimbursable pursuant to the terms of any Final Redevelopment Agreement.

(b) Assignability. Neither party may assign this Agreement without the written consent of the other Party, such consent not to be unreasonably withheld by the City; provided, however, that the foregoing restriction on assignment shall not apply to, and City consent shall not be required for, any of the following, so long as Developer provides the City with prior written notice of the same: (i) collateral assignments of all or a portion of Developer's rights hereunder for financing purposes; (ii) transfers or assignments to any subsidiary or affiliate which is owned or controlled by Developer or one or more of its principals, or to any entity which is owned or controlled, directly or indirectly, by Developer or one or more of its principals; or (iii) transfer or sale of all or a portion of the underlying real property to a third party, provided that any such sale or transfer shall not relieve Developer of any obligation hereunder unless and until the City voluntarily agrees to release Developer from the same.

(c) Amendments. This Agreement may be supplemented or amended only by written instrument executed by both Parties.

(d) Applicable Law. This Agreement shall be deemed to be entered into in the state of Kansas, and shall be enforceable under the laws of that state.

(e) Binding Effect. This Agreement will inure to the benefit of, and be binding upon, the Parties and the permitted successors and assigns of the Parties.

(f) Non-liability of City Officials and Employees. No member of the governing body, official, or employee of the City will be personally liable to Developer, or any successor in interest to Developer, pursuant to the provisions of this Agreement, or for any default or breach of this Agreement by the City.

(g) Not a Partnership. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

(h) Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if it is in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:

City of Leavenworth, Kansas
Attn. City Manager
City Hall
100 North 5th Street
Leavenworth, KS 66048

With a copy to:

David E. Waters
Lathrop GPM LLP
10851 Mastin Boulevard
Suite 1000
Overland Park, Kansas 66210

To the Applicant:

Super Market Developers, Inc.
c/o Joel Riggs
5000 Kansas Avenue
Kansas City, Kansas 66106

With a copy to:

Lewis A. Heaven, Jr.
Spencer Fane LLP
6201 College Boulevard
Suite 500
Overland Park, Kansas 66211

(i) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same agreement. Hand signatures transmitted by electronic mail in PDF or similar format shall also constitute binding signatures to this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the Effective Date.

CITY:

CITY OF LEAVENWORTH, KANSAS

By: _____

Paul Kramer
City Manager

DEVELOPER:

SUPER MARKET DEVELOPERS, INC.

DocuSigned by:

By: _____

David E. Smith
President & Chief Executive Officer

EXHIBIT A

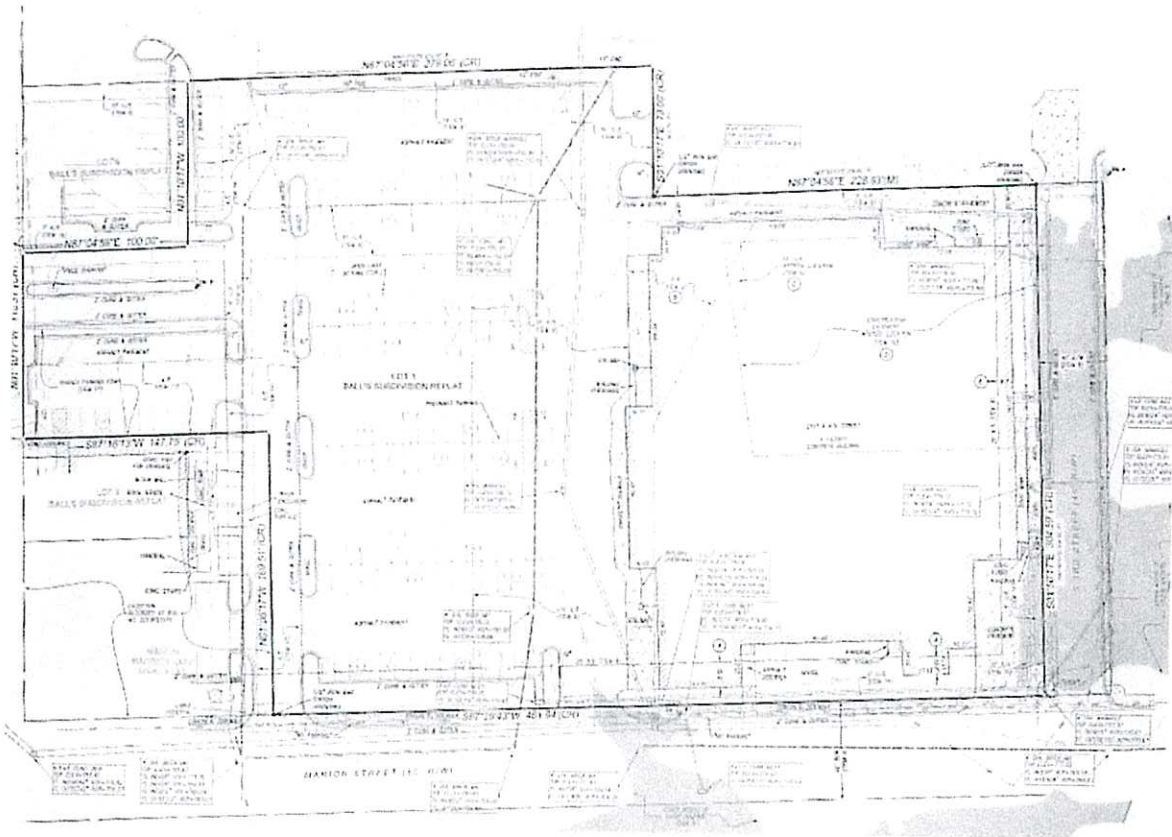
Legal Description of Property

**Lot 1, BALL'S SUBDIVISION REPLAT, a subdivision in the City of Leavenworth,
Leavenworth County, Kansas except that part conveyed by the deed recorded as Doc. No.
2015R03578**

Parcel ID No 1010104002003020

EXHIBIT B

Depiction of Redevelopment District



(To Be Published in the Leavenworth Times on July 16, 2020)

RESOLUTION NO. 2256

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS DETERMINING THAT THE CITY IS CONSIDERING ESTABLISHING A REDEVELOPMENT DISTRICT WITHIN THE CITY, ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING ON SUCH MATTER, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH PUBLIC HEARING (PRICE CHOPPER REDEVELOPMENT).

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 *et seq.*, as amended (the "Act"), cities are authorized to establish redevelopment districts within eligible areas of cities, as said terms are defined in the Act, to approve redevelopment district plans for the completion of redevelopment projects within such redevelopment project areas, and to finance all or a portion of redevelopment project costs from tax increment revenues and various fees collected within such redevelopment district, revenues derived from redevelopment projects, revenues derived from local sales taxes, other revenues described in the Act; and

WHEREAS, in order to promote, stimulate and develop the general and economic welfare of the City of Leavenworth, Kansas (the "City"), the governing body of the City has determined to consider the establishment of a redevelopment district in the City in accordance with the Act;

WHEREAS, the City desires to call and conduct a public hearing under the provisions of the Act in order to determine whether it is advisable to create a redevelopment district within an eligible area of the City pursuant to the Act.

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

Section 1. Findings. The City is considering the establishment of a redevelopment district pursuant to the Act.

Section 2. Proposed Redevelopment District. A description of the property and a map depicting the boundaries of the proposed Redevelopment District are attached hereto as **Exhibit A**, which is incorporated herein by reference.

Section 3. Proposed Redevelopment District Plan. The proposed preliminary plan for the proposed Redevelopment District provides for the redevelopment of the existing Price Chopper grocery store within the Redevelopment District, within one project area, and associated infrastructure improvements and other improvements, including potential environmental improvements, and all related expenses to redevelop and finance the redevelopment project.

Section 4. Public Hearing. Notice is hereby given that a public hearing will be held by the City Commission to consider the establishment of the Redevelopment District on July 28, 2020, at Leavenworth City Hall, 100 N. 5th Street, Leavenworth, Kansas, 66205, the public hearing to commence at 7:00 p.m. or as soon thereafter as the City Commission can hear the matter; provided, that if, as a result of the COVID-19 pandemic, such public hearing may not be held in person but rather via remote meeting, such remote meeting shall be held at the same date and time, and access instructions for remote participation shall be available at the City's website, www.leavenworthks.org, and included with the published agenda for such meeting. At the public

hearing, the City Commission will receive public comment on the creation of the proposed Redevelopment District, and may, after the conclusion of such public hearing, consider the findings necessary for establishment of the Redevelopment District pursuant to the Act.

Section 5. Notice of Public Hearing. The City Clerk is hereby authorized and directed to provide for notice of the public hearing by taking the following actions:

- (a) A copy of this resolution shall be mailed by United States certified mail, return receipt requested, within 10 days of this date to:
 - (i) the Board of County Commissioners of Leavenworth County, Kansas;
 - (ii) the Board of Education of U.S.D. No. 453;
 - (iii) each owner and occupant of land within the proposed Redevelopment District.
- (b) This resolution, specifically including **Exhibit A** attached hereto, shall be published once in the official newspaper of the City not less than one week nor more than two weeks preceding the date of the public hearing.

Section 6. Public Records. Copies of a description and map of the proposed Redevelopment District and a conceptual master plan for the proposed Redevelopment District are public records and are available for public inspection during regular office hours in the office of the City Clerk, City Hall, 100 N. 5th Street, Leavenworth, Kansas, 66205.

Section 7. Further Action. The Mayor, City Manager, Finance Director, City Clerk and other officials and employees of the City, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this resolution.

Section 8. Effective Date. This resolution shall be effective upon its adoption by the City Commission of the City of Leavenworth, Kansas.

ADOPTED this 23rd day of June, 2020.

Myron J. "Mike" Griswold, Mayor

ATTEST:

Carla K. Williamson CMC, City Clerk

{Seal}

EXHIBIT A

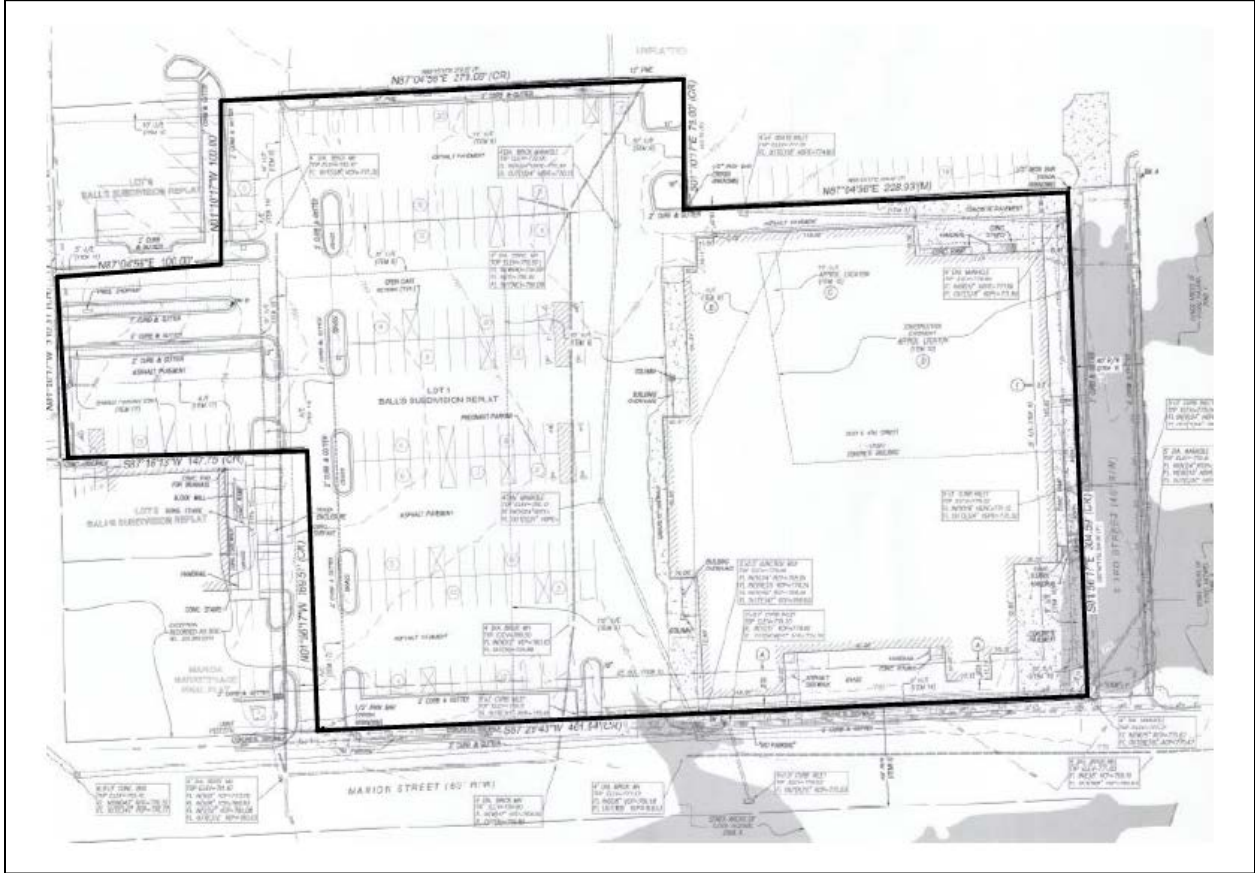
DESCRIPTION OF PROPOSED REDEVELOPMENT DISTRICT

Lot 1, BALL'S SUBDIVISION REPLAT, a subdivision in the City of Leavenworth, Leavenworth County, Kansas except that part conveyed by the deed recorded as Doc. No. 2015R03578

Parcel ID No 1010104002003020

EXHIBIT A CON'T.

MAP OF PROPOSED REDEVELOPMENT DISTRICT



POLICY REPORT PWD NO. 20-32
CONSIDER BIDS FOR THE
CODY PARK SEWER CROSSING
&
STREAM BANK STABILIZATION PROJECT

Project 2017-858

June 23, 2020

Prepared by:

Reviewed by:



Michael G. McDonald
Director of Public Works



Paul Kramer,
City Manager

ISSUE:

Consider bids received for the Cody Park Sewer Crossing & Stream Bank Stabilization Project.

BACKGROUND:

During a quarterly inspection of the sanitary sewer creek crossings, WPC staff found trees and debris piled against one of the columns for the sanitary sewer aerial creek crossing at the east boundary of Cody Park. Upon removal of the debris, it was found that the column had been moved and the sewer line now had a bend in the pipe. All joints were stable and not leaking, but replacement of the concrete column and realignment of the pipe was necessary. Additional investigation of the area found substantial erosion of the creek bank upstream of the crossing. This erosion, if allowed to continue, will jeopardize the stability of another sewer line located in the bank.

In December of 2019, the City contracted with Water Resource Solutions (WRS) to design a project to stabilize the creek bank and repair the sanitary sewer creek crossing. Plans and specifications and the project was advertised for bid in the Leavenworth Times and at Drexel Technologies in May 2020. A pre-bid meeting was held on June 10th and bids were opened on June 17th.

Bids received for the project are listed below. The lowest qualified base bid was from Linaweaver Construction in the amount of \$200,200.

Company	City	Total Bid
Linaweaver Construction	Lansing, KS	\$200,200
Mega KC	North Kansas City, MO	\$203,146
Westland Construction	Basehor, KS	\$213,982
Kissick Construction	Kansas City, MO	\$332,020
Engineer's Estimate:	\$278,660.	

Linaweaver Construction is an established contractor that has done numerous jobs for the City.

The project will be funded with monies from the sewer fund and stormwater fee. The project is anticipated to start in July and will take 75 days to complete. Inspection work will be a combination of City forces and special inspections by WRS for the stream bank stabilization.

POLICY:

The City Commission can reject all bids or award the contract to the lowest qualified bidder if desired.

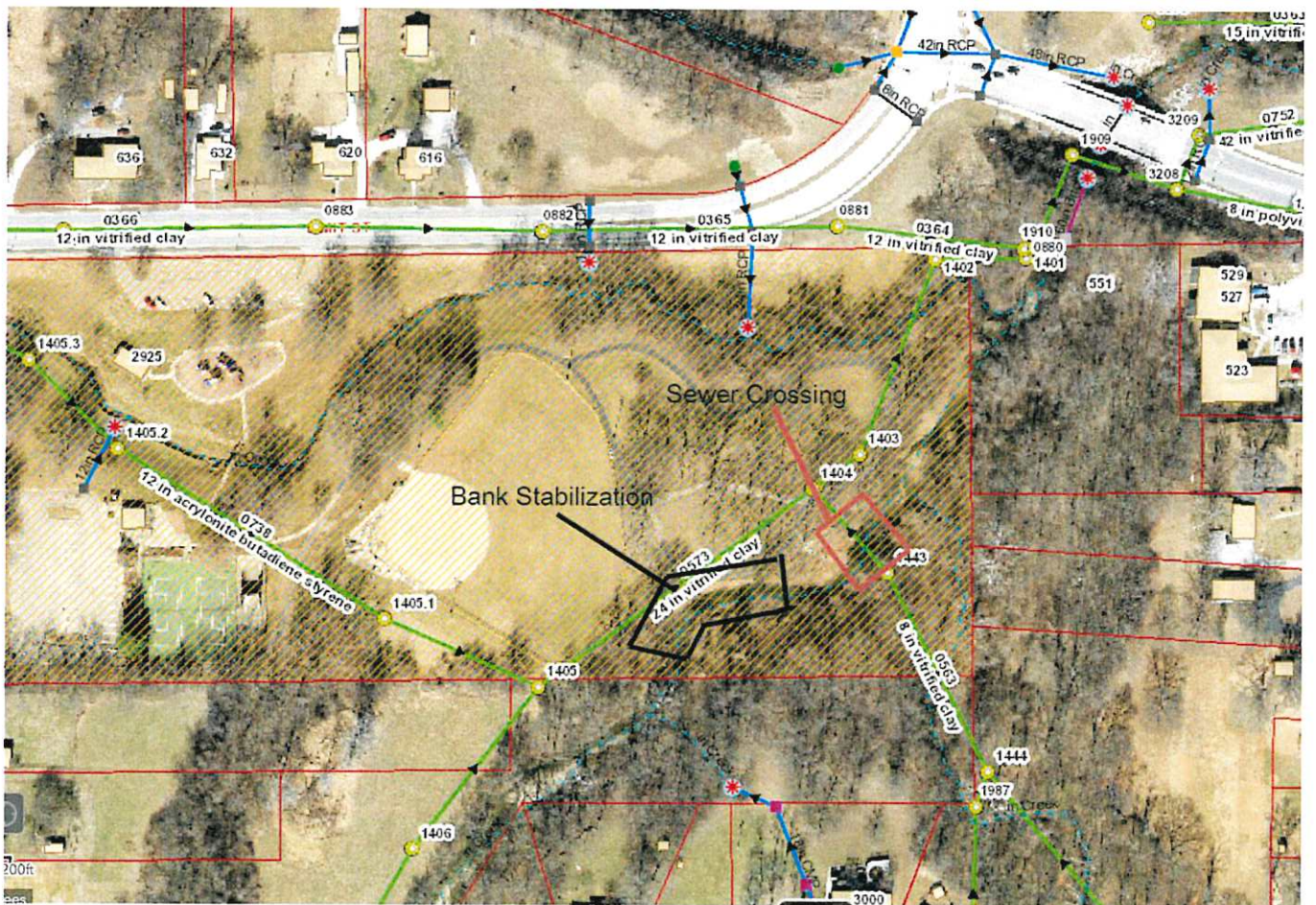
RECOMMENDATION:

Staff recommends that the City Commission accept the low bid received from Linaweaver Construction in the amount of \$200,200 for the Cody Park Sewer Crossing & Stream Bank Stabilization Project.

ATTACHMENTS:

Bid Tabs

Site Pictures





CITY OF LEAVENWORTH
 Project No. 2017-858
Cody Park Sewer Crossing & Stream Bank Stabilization Bid Tab Review
 June 17, 2020

BASE BID													
Item	Description	Unit	Quantity	Engineer's Estimate		Linaweaver Construction		MegaKC Corp.		Westland Construction		Kissick Construction	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Mobilization	LS	1	\$10,000.00	\$10,000.00	\$10,500.00	\$10,500.00	\$18,500.00	\$18,500.00	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00
2	Contractor Construction Staking	LS	1	\$2,500.00	\$2,500.00	\$5,500.00	\$5,500.00	\$3,500.00	\$3,500.00	\$3,000.00	\$3,000.00	\$2,460.00	\$2,460.00
3	Clearing, Grubbing & Site Preparation	LS	1	\$26,500.00	\$26,500.00	\$8,000.00	\$8,000.00	\$27,000.00	\$27,000.00	\$10,000.00	\$10,000.00	\$14,000.00	\$14,000.00
4	Erosion & Sediment Control	LS	1	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$3,800.00	\$3,800.00	\$3,500.00	\$3,500.00	\$2,400.00	\$2,400.00
5	Excavating, Filling & Grading	SY	1,420	\$15.00	\$21,300.00	\$20.00	\$28,400.00	\$17.50	\$24,850.00	\$30.00	\$42,600.00	\$22.00	\$31,240.00
6	Site Restoration – Streambank Seeding	SY	1,420	\$3.00	\$4,260.00	\$2.00	\$2,840.00	\$1.00	\$1,420.00	\$4.50	\$6,390.00	\$1.00	\$1,420.00
7	Site Restoration – Streambank Planting	SY	42	\$50.00	\$2,100.00	\$150.00	\$6,300.00	\$125.00	\$5,250.00	\$71.00	\$2,982.00	\$310.00	\$13,020.00
8	LPSTP (D50=15" Rock)	CY	840	\$80.00	\$67,200.00	\$110.00	\$92,400.00	\$85.00	\$71,400.00	\$100.00	\$84,000.00	\$225.00	\$189,000.00
9	Asphalt Trail	SY	110	\$100.00	\$11,000.00	\$100.00	\$11,000.00	\$45.00	\$4,950.00	\$92.00	\$10,120.00	\$71.00	\$7,810.00
10	Erosion Control Blanket (ECB)	SY	1,420	\$30.00	\$42,600.00	\$3.00	\$4,260.00	\$2.80	\$3,976.00	\$4.50	\$6,390.00	\$7.00	\$9,940.00
11	Sanitary Sewer Crossing Pier Removal/Reconstruction	LS	1	\$25,000.00	\$25,000.00	\$20,000.00	\$20,000.00	\$14,500.00	\$14,500.00	\$25,000.00	\$25,000.00	\$30,800.00	\$30,800.00
12	Ditch Crossing (Construction, Maintenance & Restoration)	LS	1	\$20,000.00	\$20,000.00	\$6,000.00	\$6,000.00	\$24,000.00	\$24,000.00	\$10,000.00	\$10,000.00	\$25,000.00	\$25,000.00
					\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
					\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
	TOTAL - BASE BID				\$235,960.00		\$200,200.00		\$203,146.00		\$213,982.00		\$332,090.00

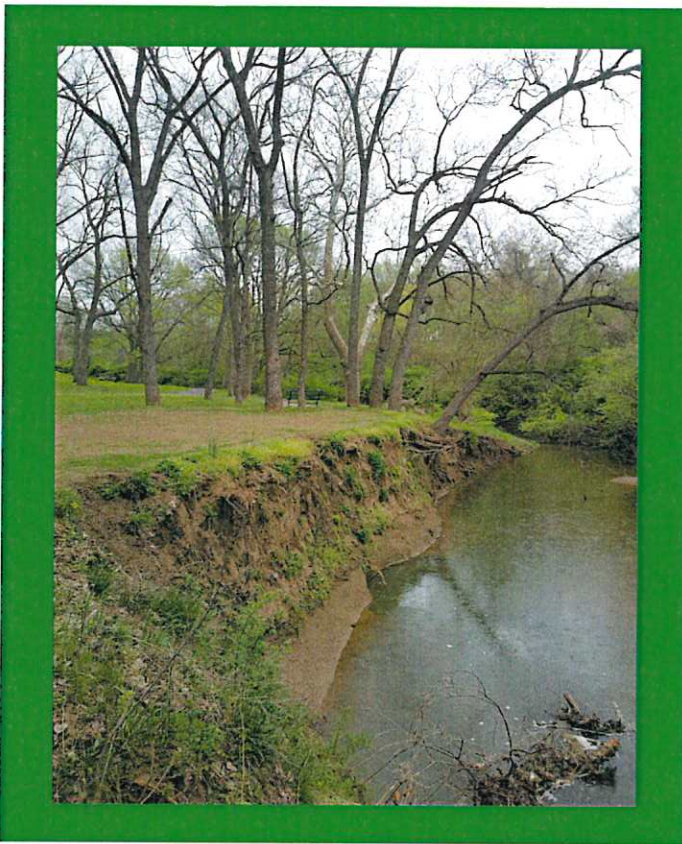
Policy Report No. 20-32

Consider Bids for the Cody Park Sewer Crossing & Stream Bank Stabilization Project

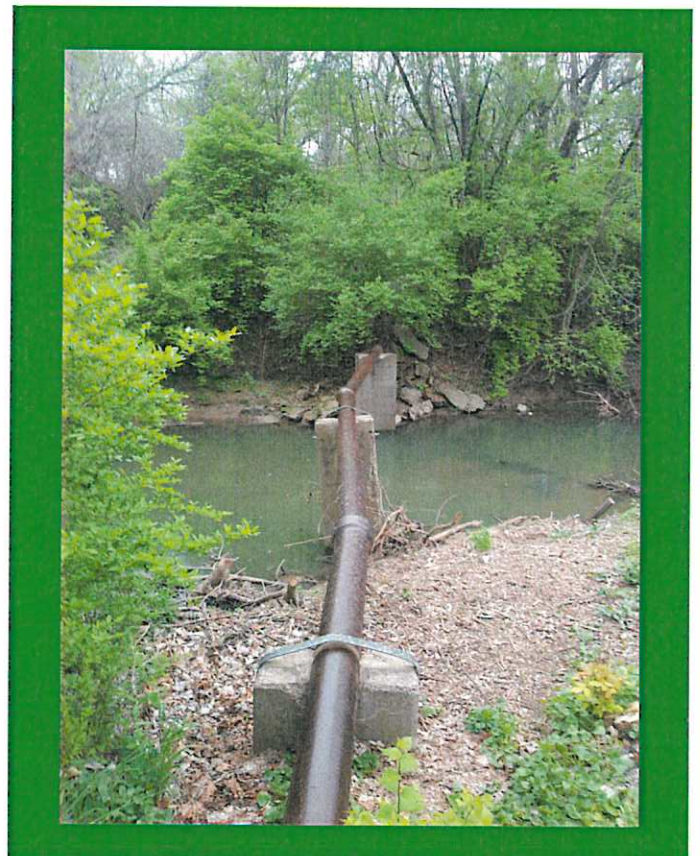
Project 2017-858

June 23, 2020

Stream Bank Erosion



Bent Pipe



POLICY REPORT
First Consideration Ordinance
2020-10-SUP
1373 Sherman Avenue

JUNE 23, 2020

SUBJECT:

Place on first consideration an ordinance to approve 2020-10-SUP



Prepared By:

Julie Hurley,
Director of Planning and
Community Development



Reviewed By:

Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, Vail E. and Pamela S. Fruechting, is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 1373 Sherman. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The structure on the property was originally constructed as a two-family dwelling. The property owner is requesting a Special Use Permit to adequately represent the current use of the 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.

The property fills a need in the community by providing a two-family housing option.

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.

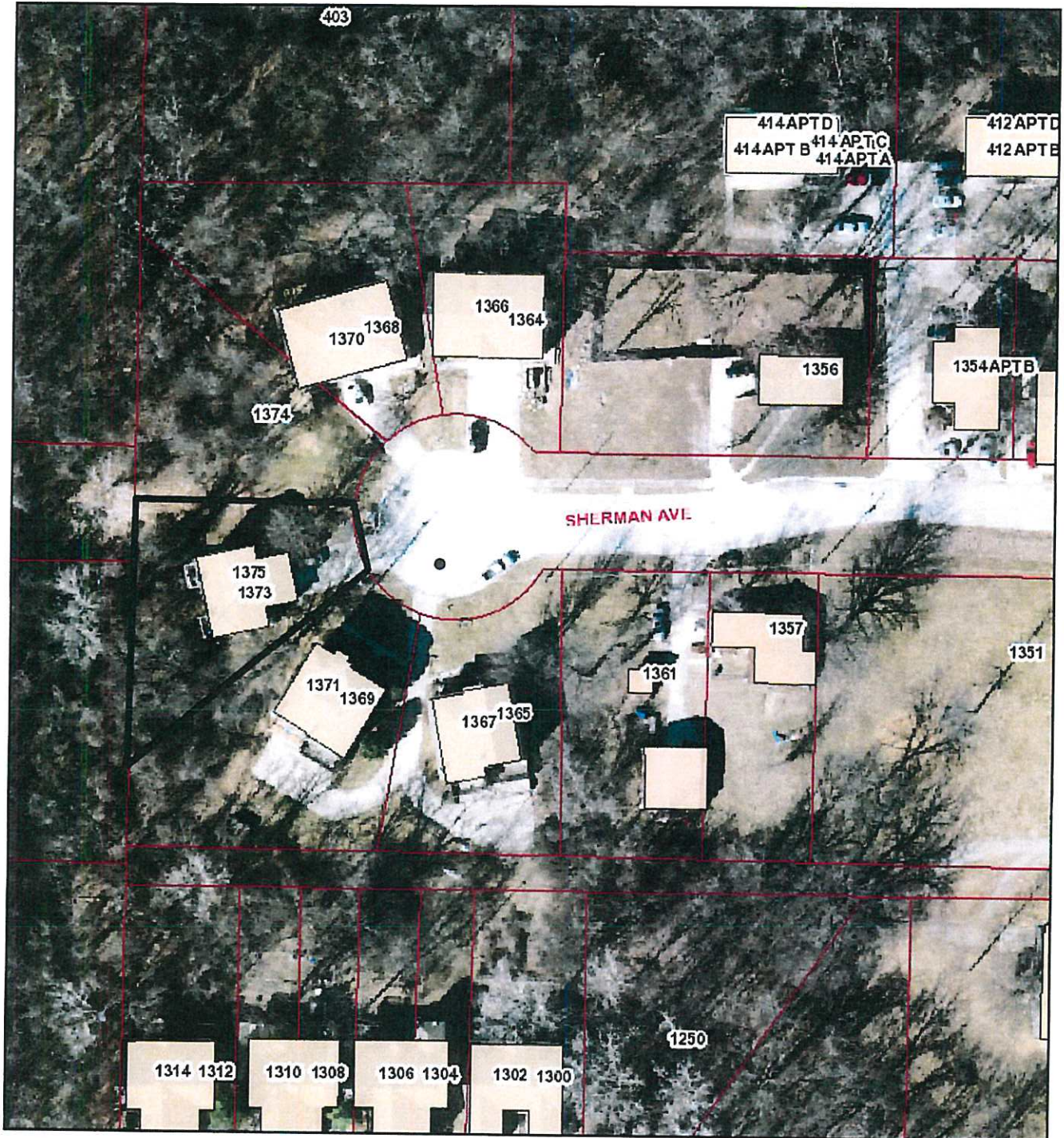
No new structures or building modifications are proposed as part of this special use permit. The property will continue to function as it has in previous years.

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 comments or inquiries. The Planning Commission considered this item at their June 1, 2020 meeting and voted unanimously to recommend approval of the Special Use Permit.

ACTION/OPTIONS:

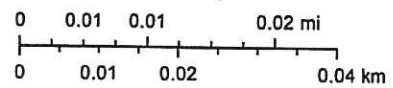
- Place an ordinance on first consideration to approve the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district.
- Deny the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district.

1373 Sherman



5/15/2020, 12:02:00 PM

1:1,128

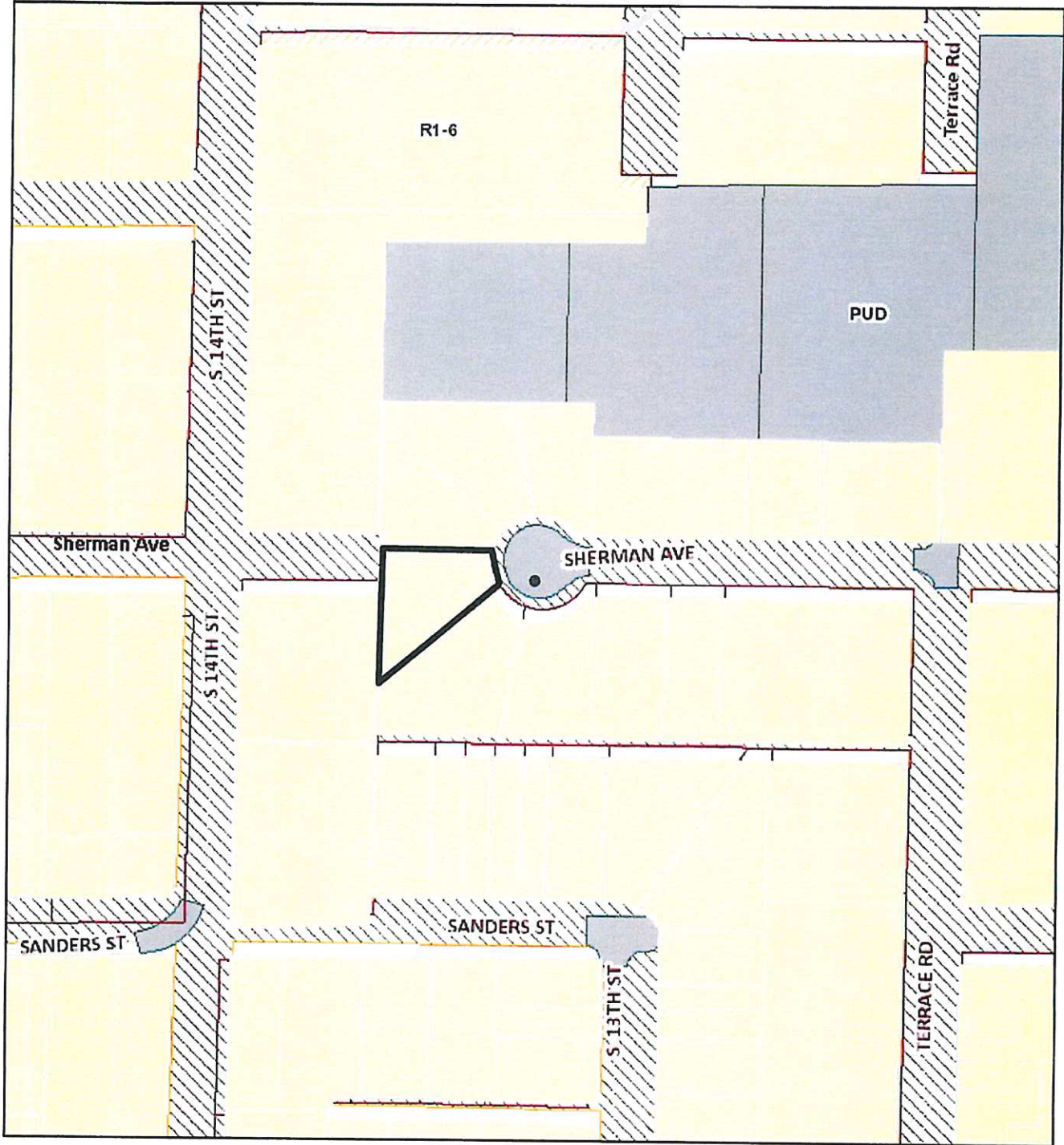


- Override 1
 - Parcels (City Owned)
 - Parcels_Current
 - Buildings
 - Address (Points)
- Ortho 2018
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - East_of_River_Blank
 - Streets

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

Web AppBuilder for ArcGIS
National Weather Service |

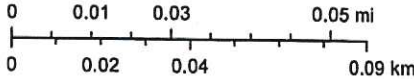
1373 Sherman



5/15/2020, 11:52:39 AM

1:2,257

- Override 1
- Zoning_CURRENT
- CBD
- GBD
- I-1
- I-2
- MP
- NBD
- OBD
- PUD
- R-MF



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National Weather Service |

(Summary Published in the Leavenworth Times on _____2020)

ORDINANCE NO. _____

AN ORDINANCE ALLOWING A SPECIAL USE FOR A TWO-FAMILY DWELLING IN A R1-6 ZONING DISTRICT LOCATED AT 1373 SHERMAN AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the 2016 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 1st day of June, 2020 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 8th day of May 2020; and

WHEREAS, 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 R1-6 zoning district located at 1373 Sherman 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.

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:

Lot 8, BLUFF SUBDIVISION, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. **More commonly known as 1373 Sherman 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 _____ 2020.

Myron J. "Mike" Griswold, Mayor

{Seal}

ATTEST:

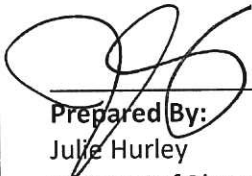
Carla K. Williamson, CMC, City Clerk

POLICY REPORT
First Consideration Ordinance
2020-12-SUP
625 Pawnee

JUNE 23, 2020

SUBJECT:

Place on first consideration an ordinance to approve 2020-12-SUP



Prepared By:
Julie Hurley
Director of Planning and
Community Development



Reviewed By:
Paul Kramer
City Manager

NATURE OF REQUEST

The applicant, Property Management & Maintenance, INC., is requesting a Special Use Permit to allow a two-family dwelling in the R1-6 zoning district, located at 625 Pawnee. Two-family dwellings are allowed in the R1-6 zoning district with the approval of a Special Use Permit.

The current location is an empty lot. The property owner is requesting a Special Use Permit to allow for the development of a two-family (duplex) structure.

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.

The property fills a need in the community by providing a two-family housing option.

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.

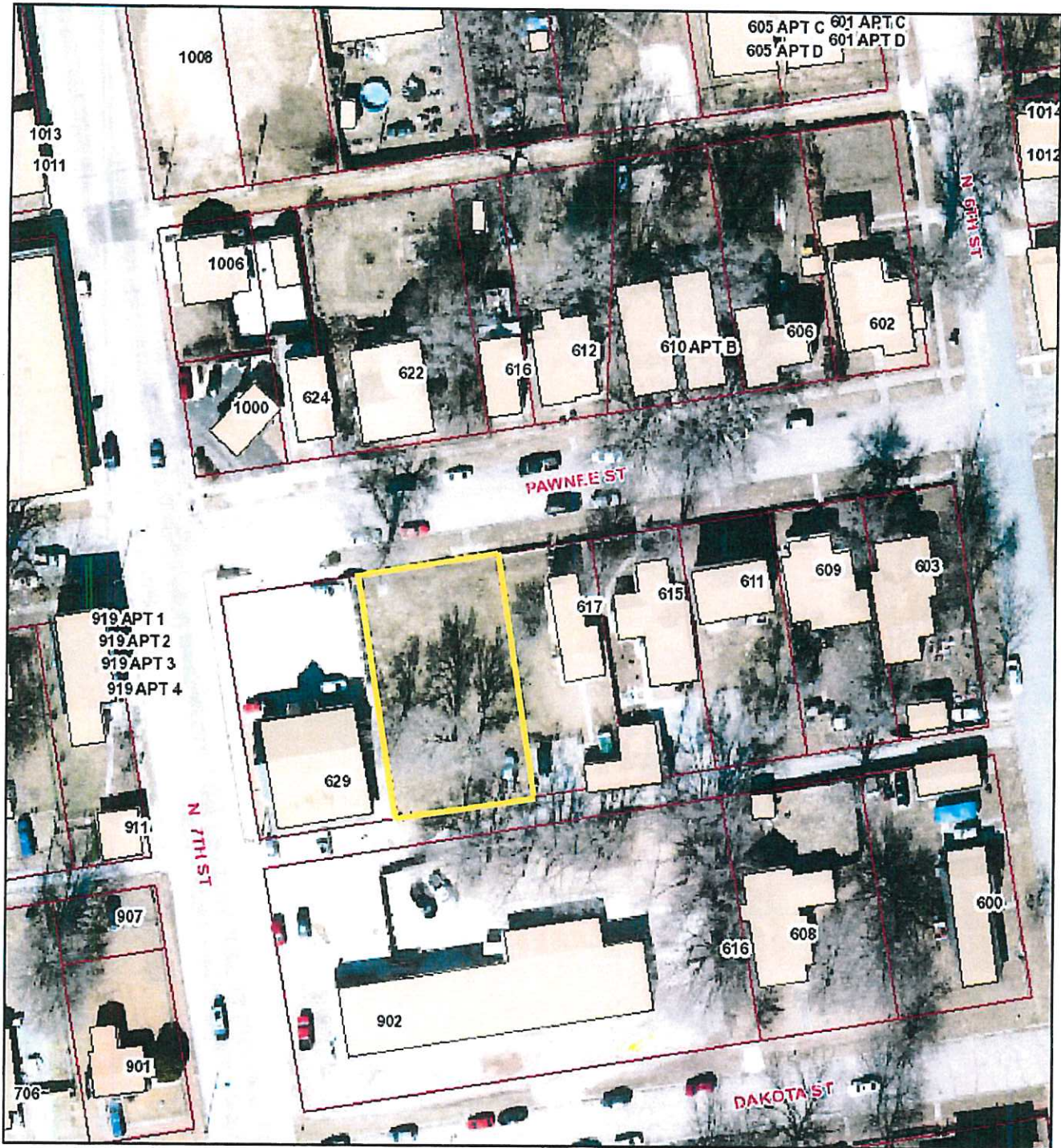
The property currently does not have any structures on it. Any future structure will be required to meet the development regulations of the zoning district.

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 comments or inquiries. The Planning Commission considered this item at their June 1, 2020 meeting and voted unanimously to recommend approval of the Special Use Permit.

ACTION/OPTIONS:

- 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.
- Deny the Special Use Permit request to allow a two-family dwelling in the R1-6 zoning district.

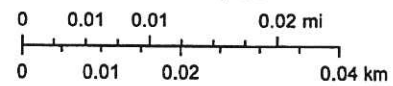
625 Pawnee St



5/15/2020, 11:09:08 AM

1:1,128

- █ Override 1
- Parcels (City Owned)
- Parcels_Current
- Buildings
- Address (Points)
- █ Ortho 2018 Red: Band_1
- █ Green: Band_2
- █ Blue: Band_3
- East_of_River_Blank
- █ Streets



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Web AppBuilder for ArcGIS
National Weather Service |

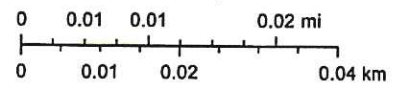
625 Pawnee St



5/15/2020, 11:30:02 AM

1:1,128

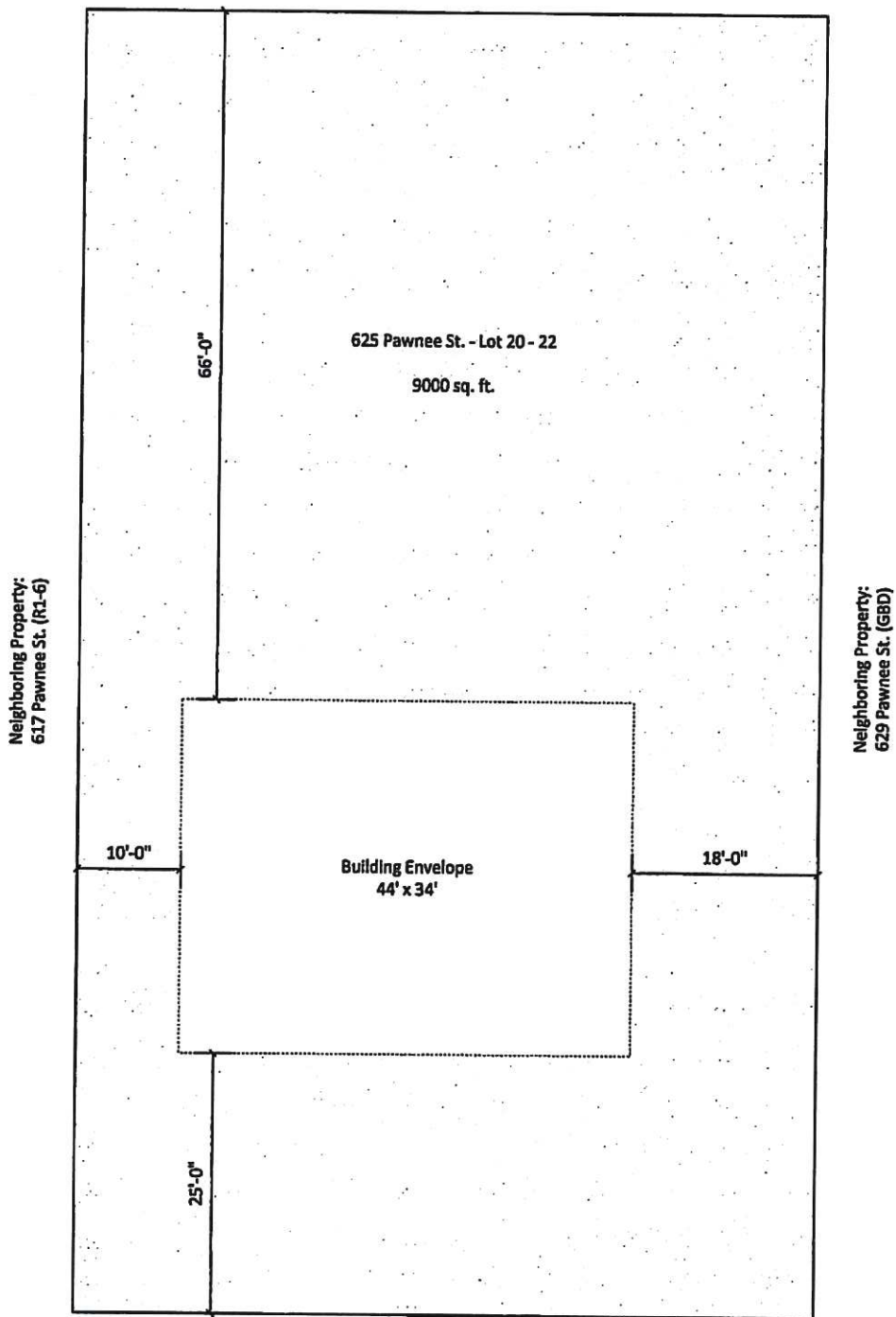
- | | |
|-----------------------|------|
| Override 1 | MP |
| Zoning_CURRENT | NBD |
| CBD | OBD |
| GBD | PUD |
| I-1 | R-MF |
| I-2 | |



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Web AppBuilder for ArcGIS
National Weather Service |

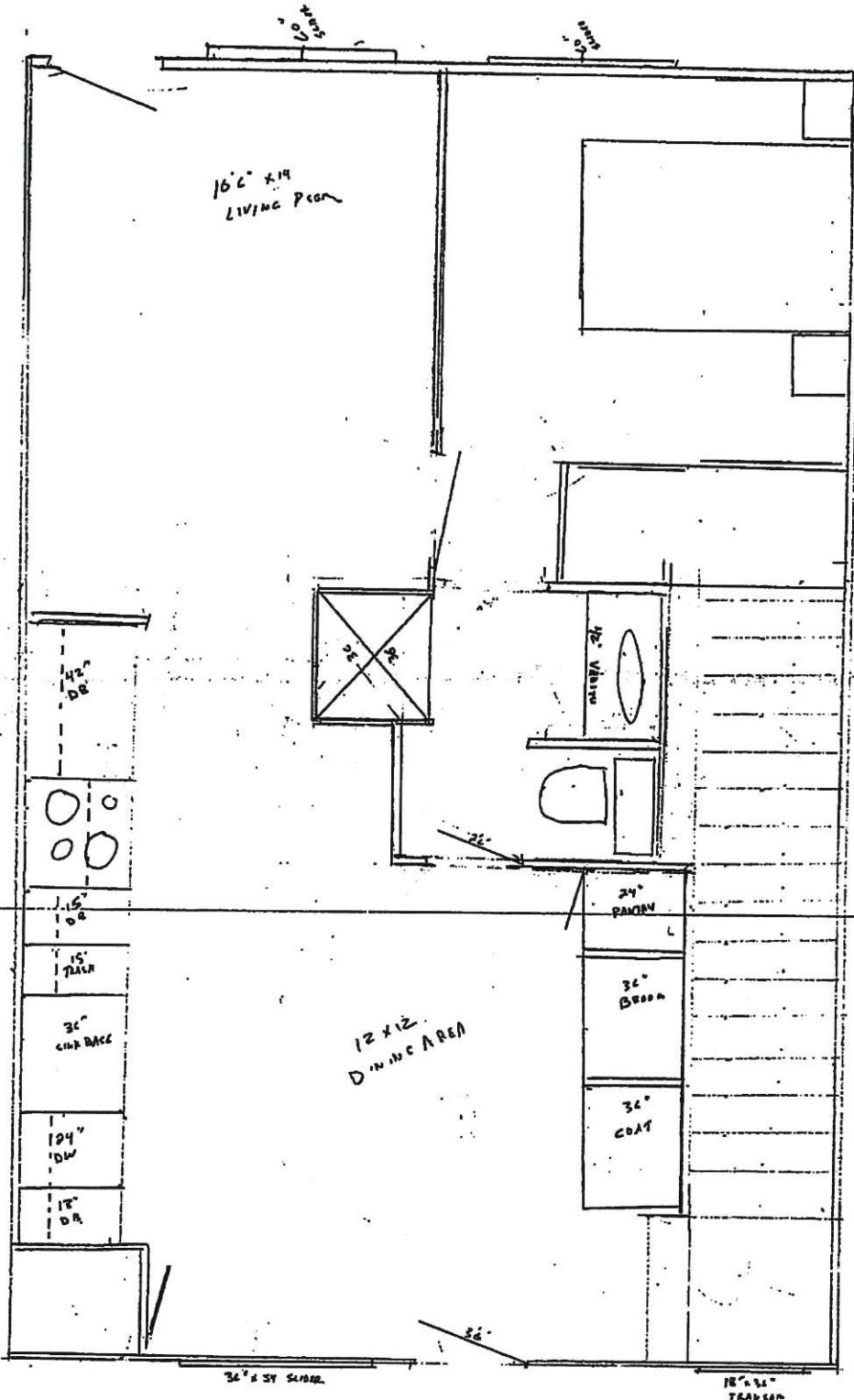
<--- Alley --->



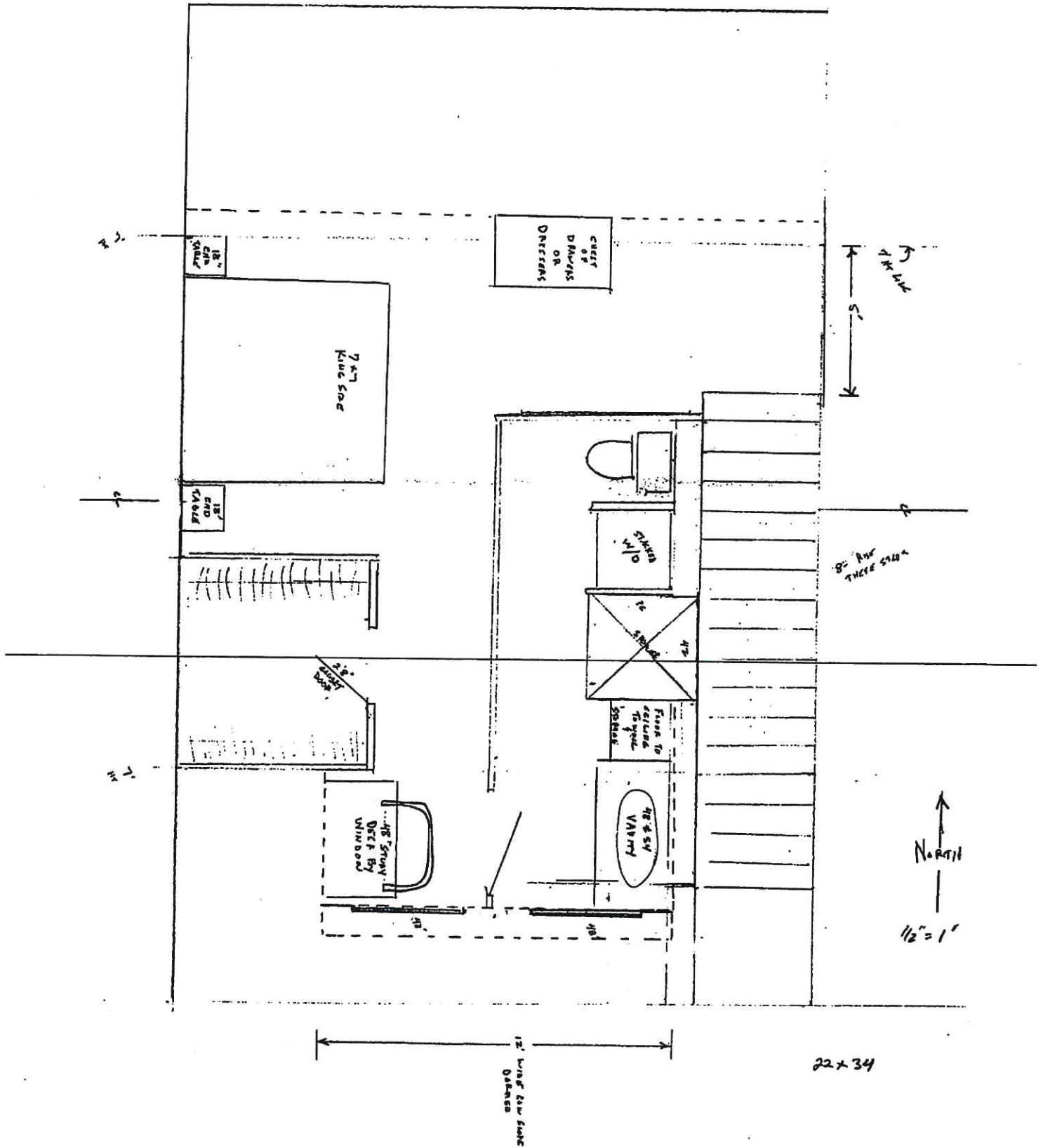
<--- Pawnee St. --->

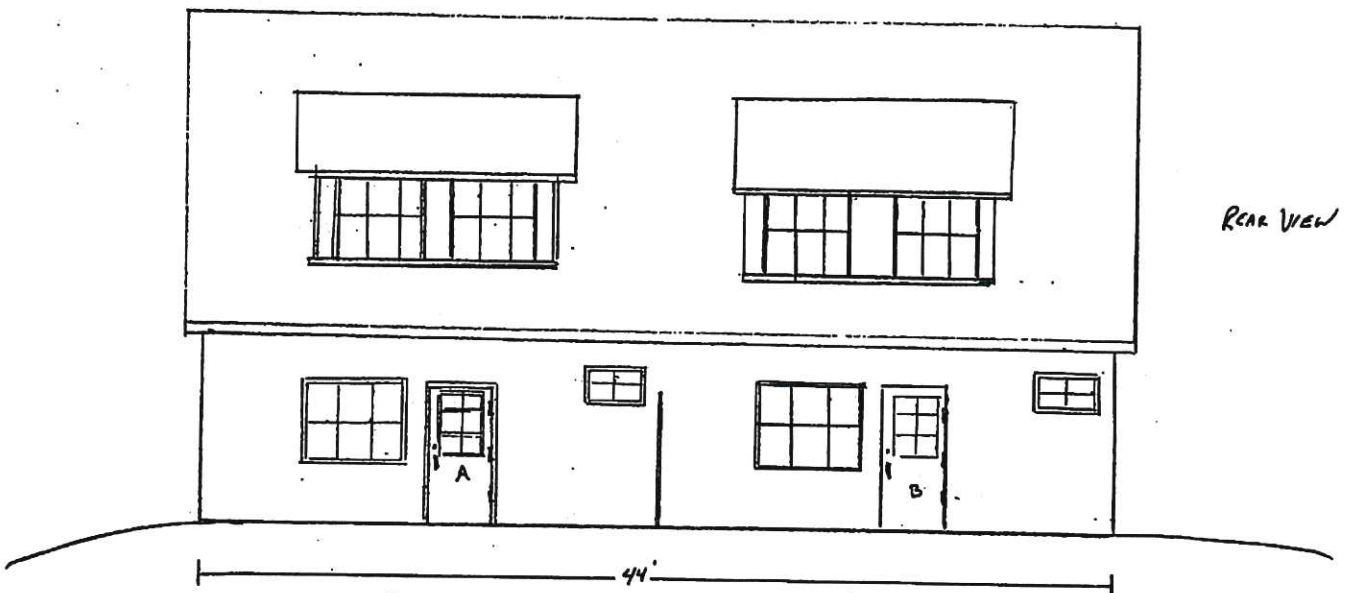
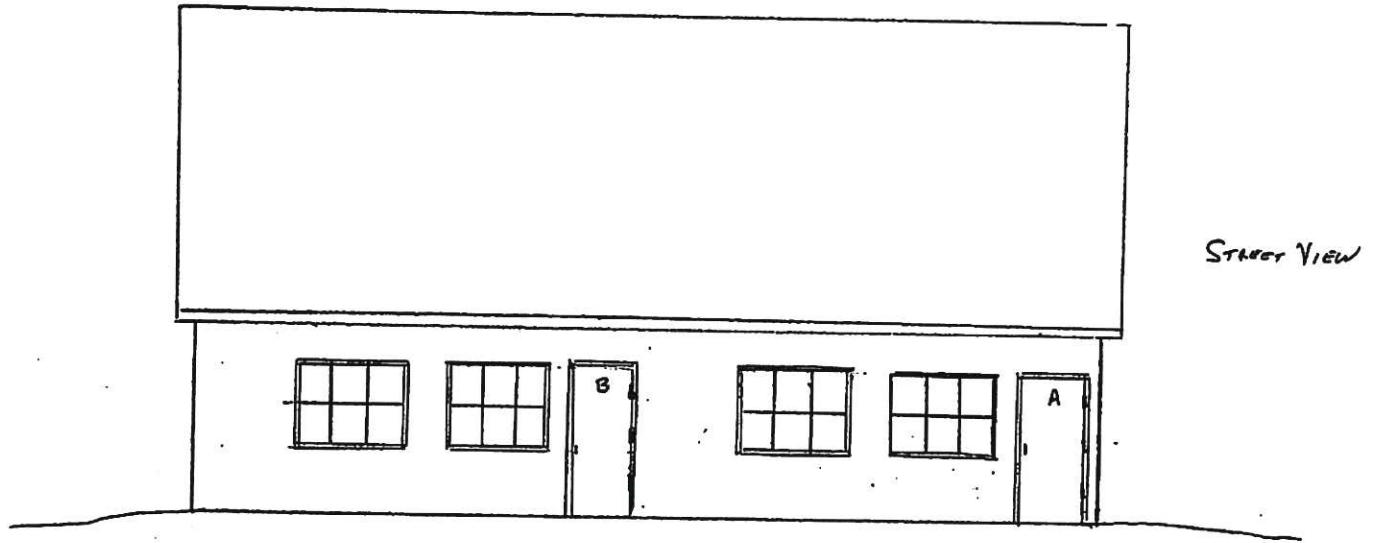


ONE SIDE OF DUPLEX - PAWNEE ; NORTH 7th - EAST OF CSC B206
 22' WIDE - 34' WIDE - TOTAL DUPLEX 44' x 34' DEEP



NORTH ↑
 1/2" = 1'
 Mike G - February 9, 2020





Rear View

(Summary Published in the Leavenworth Times on _____, 2020)

ORDINANCE NO. _____

AN ORDINANCE ALLOWING A SPECIAL USE FOR A TWO-FAMILY DWELLING IN A R1-6 ZONING DISTRICT LOCATED AT 625 PAWNEE STREET IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the 2016 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 1st day of June, 2020 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 8th day of May 2020; and

WHEREAS, 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 R1-6 zoning district located at 625 Pawnee Street with the condition a covered porch shall be added to the front of the dwelling, Leavenworth, Kansas.

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.

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

Section 1. That a special use permit be issued with the condition a covered porch shall be added to the front of the dwelling (or with the condition listed above) for a two-family dwelling on the following described property:

Tract 1 The West half of Lot Twenty-one (21) in Block Ninety-five (95) in Day and Macaulay's Subdivision of the City of Leavenworth, as same would appear if the plat of Leavenworth City Proper, Block 95 were continued West on the same scale as now to the East line of Seventh Street, more particularly described as follows: Beginning at a point Ninety-six (96) feet East from the Southeast corner of Seventh and Pawnee Street, running thence East Twelve (12) feet, thence South one hundred thirty-two (132) feet, thence West Twelve (12) feet; thence North one hundred thirty-two (132) feet to the point of beginning. Also, Commencing Seventy-two (72) feet East from the Southeast corner of Seventh and Pawnee Streets, thence East Twenty-four (24) feet, thence South one hundred thirty-two (132) feet, thence West Twenty-four (24) feet, thence North one hundred thirty-two (132) feet to the point of beginning, said ground would be Lot Twenty (20) in Block Ninety-five (95) in Day and Macaulay's Subdivision of the City of Leavenworth, if said ground was platted and laid out into lots, making a tract 36 feet by 132 feet, less that part in street,

roads or public rights of way. Tract II A part of Block 95 in Day and Macaulay's Subdivision of the City of Leavenworth, as described as follows, to-wit: Commencing at a point on the South line of Pawnee Street, 108 feet East from the Northwest corner of Block 95, Day and Macaulay's Subdivision of the City of Leavenworth; thence East on the South line of Pawnee Street, 36 feet to a point; thence South parallel to Seventh Street, 132 feet to a point, thence West parallel to Pawnee Street, 36 feet to a point; thence North parallel to Seventh Street, 132 feet to a point and the place of beginning. Reference being made to a plat of said Day and Macaulay's Subdivision and to Survey of the above tract of July, 1985, all in Leavenworth County, Kansas, said ground would be Lot 22 and the East half of Lot 21, in said Block 95, Day and Macaulay's Subdivision, of the City of Leavenworth, if ground was platted and laid out into lots. **And more commonly known as 625 Pawnee 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 June 2020.

Myron J. "Mike" Griswold, Mayor

{Seal}

ATTEST:

Carla K. Williamson, CMC, City Clerk

POLICY REPORT
First Consideration Ordinance
Development Regulations Text Amendments
JUNE 23, 2020

SUBJECT:

Public hearing for amendments to the adopted Development Regulations



Prepared By:
Julie Hurley
Director of Planning and
Community Development



Reviewed By:
Paul Kramer
City Manager

DISCUSSION:

The Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. On June 1, 2020 the Planning Commission held a public hearing for the proposed text amendments and voted unanimously to recommend approval of the amendments as presented.

- **Section 2.02; Platting**
Language should set forth procedure for “Administrative Plat” process to be used only in applications for simple lot splits or lot combinations. Any other platting activity should follow Minor Subdivision or Major Subdivision procedures.
- **Section 2.02; Platting**
Add language providing for 18 month time period in which final plats shall be recorded with the Register of Deeds after final approval by the City Commission.
- **Section 4.03; Property Development Standards**
Commercial and Industrial zoning districts should be allowed higher maximum lot coverage requirement than residential districts, subject to stormwater quality and quantity considerations for each individual project.
- **Section 4.03; Property Development Standards**
Clarify language stipulating that no accessory structures shall be located forward of the main building line or in the required side yard setback.
- **Section 4.04; Use Standards**
Clarify language to specify that accessory structure regulations refer to Amateur Radio Towers, Commercial Radio Towers are addressed in a separate Article of the Development Regulations. Clarify setback requirements for Amateur Radio Towers.

- **Section 4.04; Use Standards**

Update regulations for Agriculture Buildings to allow for larger buildings on larger lot sizes, up to 2% of the size of the lot on which the Agriculture Building is located.

The Planning Commission recommended a maximum size of 3,400 square feet. With the suggested allowable size of 2% of the size of the lot on which the Agriculture Building is located, up to a maximum of 3,400 square feet, this would allow for the following sizes of Agriculture Buildings:

On a 2 acre lot: 1,742 sqft

On a 3 acre lot: 2,613 sqft

On a 4+ acre lot: 3,400 sqft

- **Section 4.04; Use Standards**

Per direction of the City Commission, add language to allow for keeping of Apiaries in residential districts.

- **Article 4.04; Use Standards**

Clarify language regarding Prohibited Accessory Uses, proposed language to be removed creates confusion for residents and staff.

- **Section 4.04; Use Standards**

Remove requirement that no separate outside entrance is allowed for home occupations. Provide provision for accessory structures to be used for home occupations with issuance of a Special Use Permit.

- **Section 6.08; Fences**

Modify setback requirement for solid fences installed on corner lots to allow for the fence to be placed 15 feet from the curb or edge of pavement, instead of 15 feet from the property line.

- **Section 8.11; Signs Permitted in Commercial and Industrial Districts**

Correct maximum size allowance for attached signs in the CBD and OBD zoning districts, numbers were inadvertently transposed in last update.

- **Article 12; Definitions**

Add definitions for "Adult Day Center" and "Agriculture Accessory Building".

- **Appendix A; Use Table**

- "Live/Work Dwellings" allowed use in commercial zoning districts

- Add use type for "Adult Day Center"

- "Home Day Care, 6 or less children" allowed by-right in all districts

- "Home Day Care, 7 or more children" allowed with SUP in residential districts

- Modify use of "Kennel" to be allowed only in GBD, I-1 and I-2 districts

- "Apiaries" allowed in all residential zoning districts.

ACTION:

Place an ordinance on first consideration to amend Development Regulations as presented.

(Summary Publish in the Leavenworth Times on _____, 2020)

ORDINANCE NO. _____

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.

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, 6.08, 8.11, Article 12 and Appendix A of the Development Regulations; Appendix A of the City Code of Ordinances, City of Leavenworth, Kansas be and are hereby repealed and amended to read as follows:

Sec. 2.02. Platting.

- A. *Applicability.* Plat applications are required to establish or alter the legal boundaries of property, and may be the owners or agents of any property affected.
- B. *Platting procedures.* Applications for platting shall be proposed on forms established by the director of the planning department and filed with the city clerk. Applications shall be processed according to the following specific procedures:
 - 1. *Types of plats.* Plat applications are classified and processed as one of the following types:
 - a. Administrative plats, which are routine applications for lot splits or 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.
 - 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.
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.
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)	25'	25'	45'

					15' (3-story)			
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 residential districts shall maintain a three-foot side setback and a three-foot rear setback (to the nearest part of the structure, that is no overhang may encroach on the setback).
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 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 arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the city commission.
- (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100 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.

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. 6.08. Fences.

A. *Fence types.*

1. Open fences means those fences constructed of wood, masonry, metal, woven wire, or other material whose surface area is greater than 50 percent open.
2. Solid fences means those fences constructed of wood, masonry, metal, planting, hedge or other material whose surface area is or may become less than 50 percent open.
3. The smooth or most finished side shall be facing outward on all fences.

B. *Permit required.*

1. It shall be unlawful for any person, property owner or fence construction company to erect or install fencing without first paying the permit fee as set out in [the city fee schedule] of the Code, and obtaining a fence or building permit pursuant to the provisions of these development regulations.
2. Masonry fences, or fences which contain a portion of masonry, four feet or more in height, or more than four feet above the nearby grade, shall be designed by an engineer licensed in the state and shall require construction documents and a building permit.
3. A survey by a surveyor licensed in the state may be required by the building official before issuing a permit.

C. *Residential areas.*

1. *Prohibited types.*

- (a) *Barbed wire fence prohibited.* No person shall construct, keep or maintain any barbed wire fence, or fence any part of which is composed of barbed wire, within a residential area of the city except when permitted as a farm use or as a condition to a special use permit for those uses listed as a special use connected with farming or agricultural activities in the R1-25 single-family residential district.
- (b) *Electric fence prohibited.* No person shall construct, keep or maintain an electrically charged fence within a residential area of the city except when permitted as a farm use or as a condition to a special use permit for those uses listed as a special use connected with farming or agricultural activities in the R1-25 single-family residential district of the development regulations. These installations will then only be permitted when the electric fence is installed behind an open fence separated by three feet.

2. *Residential front yard.*

- (a) Open fences and hedges may be installed in all front yards on the property lines but may not exceed 48 inches above the natural contour of the ground.
- (b) No solid fences shall be constructed or reconstructed closer to the street line than the front wall of the residential structure. The front wall of the residential structure shall be determined by excluding porches, roof overhangs, dormers, or other extensions.
- (c) Where a residential property abuts a commercial or industrial property or use and where screening has not been installed or is not required, the residential property owner may install a solid or open screening fence on the property line not to exceed 72 inches in height above the natural contour of the ground along the property line that abuts the commercial or industrial property or use.

3. *Residential side or rear yards.*

- (a) Open fences and hedges may be installed in all side and rear yards on the property line but may not exceed 72 inches above the natural contour of the ground.
- (b) Solid fences may be installed on the rear property line and on the side property line to a point aligning with the front wall of the residential structure as defined in subsection [C]2. of this section not exceeding 72 inches in height above the natural contour of the ground, provided that no solid fence greater than 48 inches above the natural contour of the ground shall be built within six feet of a residential structure on adjoining property; provided further, that if any portion of the adjoining structure is closer than six feet, then such solid fence shall not exceed four feet in height for the entire length of the side or rear yard property line.
 - (1) On corner lots, both yards adjacent to streets are considered front yards. In this instance, the fence on the addressed side must be erected in accordance with subsection 2.; on the other side a solid fence not exceeding 72 inches in height above the natural contour of the ground may be built on the property line, provided that the property line is a minimum of 15 feet from the curb or edge of pavement. If the property line is less than 15 feet from the edge of the pavement, the fence shall be installed a minimum of 15 feet from the curb or edge of pavement, or 50 percent of the existing setback from the house to the property line, whichever is less.
 - (2) For the purpose of determining yard requirements on corner lots, the street the property is addressed from shall be considered the frontage and yards shall be provided as set forth in this section.
- (c) Where a residential property abuts a commercial or industrial property or use, and where screening has not been installed or is not required, the residential property owner may install a solid-type screening fence on the property line no less than six feet nor more than eight feet above the contour of the natural ground along the property line that abuts the commercial or industrial property or use.
- (d) A solid fence may be installed around a private swimming pool or patio not to exceed 96 inches above the natural contour of the ground and not more than ten feet from the edge of the pool or patio, provided all other requirements of this section are met.

D. *Commercial and industrial areas—Types permitted.*

- 1. *Decorative fences.* Decorative fences shall be permitted in the central business district upon approval by the development review committee. Decorative fences shall be designed to contribute to the beauty and principal use of the property and not as a retaining structure.
 - (a) Decorative fences shall not exceed four feet in height.
 - (b) Decorative fences shall be made of aluminum, steel, wrought iron, masonry, wood, or combinations thereof.
 - (c) Decorative fences shall be limited to black, white, and metallic colors.

2. *[Construction type in commercial zoned areas.]* Fences in commercial zoned areas of the city shall be either of open or solid type construction.
 3. *Height restrictions.*
 - (a) Fences for commercial uses may be up to eight feet above the natural contour of the ground. Fences may be installed on the property line, except that no fence adjacent to the right-of-way may exceed six feet in height and no fence may be installed in the vision clearance triangle.
 - (b) Fences for industrial uses shall be no less than six feet or more than eight feet above the natural contour of the ground and may be installed on the property line except in the vision clearance triangle.
 4. *Use of barbed wire.*
 - (a) Fencing of the chain-link type for commercial and industrial properties or uses may be topped with barbed wire on slanted arms. When these slanted arms are used, they shall be slanted outward and upward at an angle of not less than 45 degrees. No barbed wire will be permitted on nonconforming business properties in residential zoning districts.
 - (b) When the commercial or industrial property or use abuts a residential property or use, a chain-link fence with the barbed wire topping may be installed along the abutting residential property line provided the lowest point of the barbed wire is at least six feet above the ground.
 - (c) Chain-link fencing with barbed wire topping shall not be installed any closer than five feet to any street, sidewalk, or pedestrian way.
- E. *Agricultural fence.* The term "agricultural fence" shall apply only to areas conforming to the requirements of the R1-25 District and those activities permitted as a farm use, or as a condition to a special use permit for those uses listed as a special use connected with farming or activities in the R1-25 Single-Family Residential District, development regulations of the city.
1. *Permitted types.* Agricultural fences shall be of the open type construction only.
 2. *Height restriction.* Agricultural fences shall not exceed four feet in height above the natural contour of the ground.
 3. *Use of barbed wire by special permit; prohibited when abutting residential property.* The use of barbed wire in the construction, reconstruction or maintenance of agricultural fences shall be by a special permit issued by the city inspector. The permit shall not be given or renewed if the fence forms a boundary with a residential development.
 4. *Hedges and evergreens along public ways; height restricted.* The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall not permit any such hedge or evergreen fence to grow to exceed four feet in height.
- F. *General restrictions, all fences.*
1. *Sight distance.* No fence shall be constructed nor shall a hedge or evergreen fence be planted or allowed to grow in such a manner as to obstruct the vision triangle at intersections.
 2. *Exposure of solid fences.* When tight-board fences are constructed, the smooth finished surface shall face the exterior of the property.
- G. *Notice to trim.* The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall on 30 days' notice in writing given by the city inspector be required to trim such hedge or evergreen fence to conform to the requirements of the city's property maintenance notice.
- H. *Fence maintenance notice.* Any property owner who fails to maintain any fence or screening structure in a clean, sanitary and inoffensive condition and free and clear of all obnoxious substances, rubbish and weeds shall, after 30 days' written notice from the director or his agent, be deemed guilty of a misdemeanor and subject to the penalty provisions of these development regulations and any other applicable city ordinance.

Sec. 8.11. Signs permitted in commercial and industrial districts (OBD, CBD, GBD, I-1 and I-2).

TABLE 8-03. OBD, CBD, GBD, I-1 AND I-2 SIGNAGE STANDARDS

	Maximum Number			Maximum Size			Maximum Height		
	CBD	OBD	GBD, I-1 and I-2	CBD	OBD	GBD, I-1 and I-2	CBD	OBD	GBD, I-1 and I-2
Attached signs[1][2]	1 per side	1 per side	1 per side	150 s.f.	96 s.f.	500 s.f.	N/A	N/A	N/A
Freestanding signs[3][4]	1	1	1	50 s.f.	50 s.f.	100 s.f.	15	15	15
Window signs	N/A	N/A	N/A	150 s.f. or 33% of window area	150 s.f. or 33% of window area	150 s.f. or 33% of window area	N/A	N/A	N/A

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

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

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

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

- A. All signs as regulated and permitted in section 8.07, signs permitted in all districts.
- B. Signs as regulated and permitted in the NBD.
- C. Signs attached to a building shall be allowed as follows:
 - 1. One sign shall be allowed for each side of a structure or part of a structure clearly defined as an individual storefront. An individual storefront shall have an exterior wall clearly related to the interior space of that storefront and may or may not have windows or an entrance door to the inside of the building.
 - 2. The sign surface area shall not exceed 96 square feet in office business district (OBD), 150 square feet in central business district (CBD) and 500 square feet in general business district (GBD) and light and heavy industrial districts (I-1 and I-2) or ten percent of the wall surface to which the sign(s) are attached, whichever is less.

3. The permitted signs may be wall signs, projecting signs, mansard signs, roof signs, or marquee signs. A roof sign shall not exceed the highest point of the roof of the structure. A marquee sign may be an electronic changeable message sign.
 4. The signage permitted herein may be an electronic changeable message sign, provided it complies with all applicable standards.
 5. Projecting signs shall not project from the wall greater than a distance of six feet or encroach in a public right-of-way in OBD, GBD, I-1 or I-2 and shall maintain eight feet of clearance from grade. Projecting signs in the CBD may encroach in the right-of-way, but shall be constructed of approved nonflammable, safety material, shall maintain eight feet of clearance to grade, and shall not be closer than five feet to a curb line.
 6. In computing the square foot allowance for a projecting sign, the total area of the sign shall be included in the total sign surface area allowed, but shall not exceed 24 square feet, unless an exception is granted by the city commission, provided that no projecting sign shall exceed 48 square feet. Projecting signs shall not reduce the number of signs allowed per wall as otherwise allowed by this code.
- D. One free-standing sign shall be permitted per parcel and regulated as follows:
1. Free-standing signs shall not exceed 15 feet in height. Where a sign is located across the street from a property zoned for commercial or industrial uses, the height of the sign may be increased to a height of 25 feet, provided that the nearest edge of the sign is setback from the property line two feet for each additional one foot in height.
 2. No part of a free-standing sign face or sign structure shall be closer than five feet to any property line and shall not obstruct traffic vision.
 3. Free-standing signs may have two faces and shall not exceed 50 square feet per face or one square foot of sign per linear foot of lot frontage, whichever is less, in OBD or CBD, and 100 square feet or two square feet of sign per linear foot of lot frontage, whichever is less, in GBD, I-1 or I-2.
 4. No free-standing sign face, frame or base shall be closer than 50 feet to another free-standing sign.
 5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on that street frontage which is used for computation. (No accumulation is allowed for unused street frontage).
 6. The free-standing signs may be electronic changeable message signs, provided they comply with all applicable standards.
- E. Window signs, as otherwise restricted and permitted herein shall be allowed provided that:
1. The total window sign area in a tenant space shall not exceed 33 percent of the window area, for each front, side or rear wall, provided that, the total sign surface shall not exceed 150 square feet per side of the building. For the purposes of this subsection, the term "window area" includes the non-opaque parts of any doors or other fenestrations.
 2. The allowable window sign area as defined herein may be illuminated and may be an electronic changeable message sign.

Sec. 12.01. Definitions.

Terms defined in this article shall be the basis for interpretation of all such terms throughout these development regulations. If not so defined, a term shall be assigned the meanings found in Webster's most current new collegiate dictionary.

100-year flood: The base flood.

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

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

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

Accessory building, accessory structure, or accessory use:

A building or use which:

- (1) Is subordinate to and serves a principal building or principal use;
- (2) Is subordinate in area, extent or purpose to the principal building or principal use served;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use;
- (4) Is located on the same zoning lot as the principal building or principal use. The same as "appurtenant structure."

Actuarial rates: Risk premium rates.

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

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

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

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

Administrative official: A member of the city staff who is empowered to administer and implement the provisions of this appendix. Specifically, the director of planning and community development, city planner, planning and zoning technician, director of public works, building inspector and environmental officer.

Administrator: As used in the city's floodplain regulations, means the federal insurance administrator.

Adult Day Center: Any place or facility operating less than 24 hours a day providing activities and social engagement opportunities for not more than 15 unrelated adult individuals who, due to functional impairment, require some degree of supervision or assistance with the activities of daily living, with no on-site medical services provided.

Agency: The federal emergency management agency (FEMA).

Agent: The legally authorized representative of a landowner.

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

Agriculture uses: The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures necessary for carrying out farming operations; provided, however, such agricultural use shall not include the following uses:

- (1) The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted;

- (2) Wholesale or retail sales as an accessory use unless the same are specifically permitted in this appendix; or
- (3) The feeding, grazing, or sheltering of animals or poultry in either penned enclosures or in open pasture within 100 feet of any lot line. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur-bearing animals as a principal use, or the operation or maintenance of a commercial stockyard, or feed yard.

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

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

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

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

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

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

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

Animal day care: See *Kennel*.

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

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

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

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

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

Apiary: A place for the keeping of bees.

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

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

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

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

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

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

Area of special flood hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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

Art gallery or museum: A building or space for the exhibition of art, usually visual art. Museums can be public or private, but what distinguishes a museum is the ownership of a collection. Paintings are the most commonly displayed art objects; however, sculpture, decorative arts, furniture, textiles, costume, drawings, pastels, watercolors, collages, prints, artists' books, photographs, and installation art are also regularly shown. Although primarily concerned with providing a space to show works of visual art, art galleries are sometimes used to host other artistic activities, such as performance art, music concerts, or poetry readings.

Arterial street: A major thoroughfare designed to carry traffic from one area to another and as designated in the future land use map, which is a part of the city comprehensive land use plan.

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

Assisted living facility: Facilities which provide residents with supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being. Other licensure terms used for this philosophy of care include residential care home, assisted care living facilities, and personal care homes.

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

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

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

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

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

Automobile towing service storage yard; impound lot: A place where automobile tow trucks are stationed between calls and where automobiles are temporarily stored after being towed for reasons other than mechanical malfunction. The dismantling or salvage of vehicles is not included in this definition.

Automobile, boat, truck, motorcycle, RV sales, rental, and service: A place where automobiles and other power sport vehicles are sold, rented or repaired by any of the following; mechanics, body shop technicians or electricians.

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

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

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

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

Bed and breakfast guest house: Any residential or commercial structure within a zoning district which allows this land use wherein short-term boarders are allowed (not to exceed 28 days) to share from two to five guest rooms and living space with the family in residence and breakfast is served at no additional charge. In approval of a bed and breakfast guest house the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. On-site owner occupancy is not required.

Bed and breakfast home-stay: Any residential structure wherein short-term boarders are allowed (not to exceed 28 days) to share up to two guest rooms and living space with the family in residence and breakfast is served at no additional charge. In approval of a bed and breakfast home stay the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. On-site owner occupancy is required.

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

Better building: This ratio is determined by dividing the county's most recent appraised value for a building (not the site) by the building's area in square feet. The upper one-third of all building value to area ratios within 1,000 feet shall be used to determine if a proposed architectural style is generally compatible with the area. Commercial buildings shall only be compared to commercial, industrial to industrial.

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

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

Board of zoning appeals (BZA): A local body created by ordinance, whose responsibility is to hear appeals from decisions of the local zoning administrative officials and to consider requests for variances and exceptions permissible under terms of the development regulations.

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

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

Builders supply yards and lumberyards (except when indoors as part of a hardware store): [Reserved.]

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

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

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

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

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

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

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

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

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

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

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

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

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

CBD: Central business district as defined by the most current development regulations.

Cellar: See *Basement*.

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

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

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

Certificate of occupancy: Official certification that a premises and its identified use conforms to the provisions of the development regulations and building codes and may be used or occupied. This certificate is granted for new construction.

Certified ownership list: A current list of names and addresses of property owners of record, and a legal description of the property owned that would lie within 200 feet (1,000 in the rural area of the county) of the external boundaries of any land proposed for rezoning, special use permit, variance, or exception. This list may be prepared and certified by an abstractor, attorney, surveyor, or the county GIS department. The director may accept a list prepared by city staff.

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

Changeable message sign, manual: A sign on which the message or copy is changed manually in the field.

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

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

Chief executive officer or chief elected official: The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community; i.e., the city manager.

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

City: The City of Leavenworth, Kansas.

City commission: The elected, governing body of the city of Leavenworth.

City manager: Executive appointed by the city commission.

City planning commission: The Leavenworth City Planning Commission.

Civic, social, and fraternal organizations: Any organization with a mission of promoting the public good.

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

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

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

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

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

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

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

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

Community playfields, playgrounds, and parks: [Reserved.]

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

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

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

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

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

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

Contributing/key contributing: A building, site, structure or object which adds to the architectural qualities, historic association or archeological values of historic register property for which a property is significant because:

- (a) It was present during the pertinent historic time;
- (b) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period or
- (c) It independently meets the standards and criteria of the historic preservation regulations.

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

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

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

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

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

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

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

Deciduous trees: Generally those trees, which shed their leaves annually, such as ash, sycamore, willow, etc.

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

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

Design guideline/standard: The standards set forth by the secretary of the U.S. Department of the Interior for the preservation of historic places.

Developable area (gross): The total acreage or square footage in a lot or tract proposed to be developed.

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

Development plan: The provisions for the development of land including such drawings as shall serve as a plat or subdivision and all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private drives and ways, parking facilities, common open space and public space. All written or graphic materials prepared for the development will be considered "provisions of the development."

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

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

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

Director: The director of planning and community development or a person designated in writing by the director.

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

District: See *Zone*, *Overlay district*, or *Zoning district*.

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

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

Drinking establishment: A place of business, which sells liquor-by-the-drink and maintains at least 30 percent of receipts in food sales as regulated by the alcoholic beverage control division, department of revenue.

Driveway, customary: A private lane which leads from a street or an alley to a garage, carport, rear yard parking area, a parking space established in accordance with the provisions of this appendix, or to

another street or alley. Such driveway may extend in front of, alongside of, or in the rear of a principal structure either planned for or erected upon a building site.

Duly authorized representative: Any individual or person or any section, division or department of the city administration or any individual or person within the designated section, division or department of the city administration who has been designated by the director to implement, administer, and enforce the provisions of these development regulations. Generally, references are to the city planner and his/her designee, assignee, agent, or designated person as used in the text of the appendix.

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

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

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

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

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

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

Dwelling, elderly, or retirement home: A dwelling unit or high-rise apartment building specifically designed to be occupied by residents who are at least 62 years of age, and who are ambulatory and able to take care of themselves.

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

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

Dwelling, multifamily: A building or portion thereof, designed for occupancy by three or more families.

Dwelling, single-family: A building designed for occupancy by one family.

Dwelling, single-family detached: A building designed for occupancy by one family, which has required yards and setbacks from other residential structures.

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

Dwelling, two-family: A building designed for occupancy by two families.

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

Educational and scientific research, development, and testing services: [Reserved.]

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

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

Eligible community or participating community: A community for which the administrator has authorized the sale of flood insurance under the national flood insurance program (NFIP).

Environmental officer: The director of planning and community development.

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

Evergreen trees: Generally those trees which do not shed their leaves annually, such as pine, spruce, juniper, etc.

Exception: A grant of permission to depart from the general provision of the development regulations which is expressly authorized by provisions of the appendix after a finding of fact and imposition of conditions by the applicable governing body.

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

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

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

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

Facade: The front elevation of a building.

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

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

Family: A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;
- (2) Two unrelated people;
- (3) Two unrelated people and any children related to either of them; or

- (4) Not more than eight people and up to two caretakers who are residents of a "group home" as defined in K.S.A. 12-736 and this section.

This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 USC 802(6).

Exceptions: "Family" does not include: any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement because of criminal offenses.

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

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

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

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

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

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

Fish farm/hatchery: A place where large numbers of fish eggs are artificially fertilized and hatched, and fish are raised in an enclosed environment. Hatcheries may be owned and operated by either governments or private interests. Some hatcheries raise the fry until they reach adulthood and have commercial value; others release the fry into the wild with the intent of building up the wild stock. Fish farms raise the fish until they are ready for market.

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

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

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

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

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

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

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

Flood hazard map: The document adopted by the city commission showing the limits of:

- (1) The floodplain;
- (2) The floodway;
- (3) Streets;
- (4) Stream channel; and
- (5) Other geographic features.

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

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

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1) [of this definition].

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

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

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

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

Floodway encroachment lines: The lines marking the limits of floodways on federal, state and local floodplain maps.

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

Floodway use: A use that can be approved by the city engineer upon the application of certain criteria for uses in the 100-year floodway as used in the city's floodplain regulations.

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

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

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

Frame effect: A visual effect on an electronic changeable message sign applied to a frame to transition from one frame to the next.

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

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

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

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

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

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

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

Future land use map: A component of the comprehensive land use plan.

Gas station: See *Service station*.

GBD: General business district as defined by the most current development regulations.

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

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

Governing body: The city commission of Leavenworth, Kansas.

Government activities or services: The rendering of services of a governmental nature (police, fire protection, refuse collection, or code enforcement for example) required within or upon any property regardless of zoning classification.

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

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

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

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

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

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

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

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

Heavy vehicle/equipment sales, rentals, and service: [Reserved.]

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

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

Historic and monument sites: Any site so designated by the local, state, or federal government.

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

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

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

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

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

Historic structure: Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the secretary of the interior; or
 - (2) Directly by the secretary of the interior in states without approved programs.

Historically or architecturally important feature: The qualities present in a structure, property, or district because it:

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

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

Home occupation: A business, profession, service, or trade, meeting the qualifications of and permitted by the supplementary district regulations of this appendix, conducted for gain or support within a residential building.

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

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

Hotels and motels (with accessory uses): A commercial establishment that provides guest-lodging accommodations consisting of a room with a bed, bathroom, climate control and maid service on a short-term basis. Hotels typically have rooms exiting on to a semi-secure central hallway. Motels typically have rooms exiting directly to the outdoors and have parking close to the room door.

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

Illegal lot combination/transfer: A lot that contains one or more portions of a lot or lots of record. The transference of a portion of a platted lot without a replat of both the donor and recipient lots is illegal.

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

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

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

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

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

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

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

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

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

Internally illuminated sign: A sign in which the source of illumination is contained within the sign.

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

Jails and prisons: Places in which people are physically confined and, usually, deprived of a range of personal freedoms. In the United States, "jail" and "prison" refer to separate levels of incarceration; generally speaking, jails are county or city administrated institutions which house both inmates awaiting trial on the local level and convicted misdemeanants serving a term of one year or less, while prisons are state or federal facilities housing those awaiting trial on the state or federal level and convicted felons serving a term of more than one year. On the federal level, this terminology has been largely superseded by a more complex five-tier system implemented by the federal bureau of prisons that ranges from low security "prison camps" to medium security "correctional institutions" and finally maximum security "penitentiaries."

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

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

Kansas Register/state register: The current state register of historic places as prepared, approved and amended by the state historic sites board of review and authorized by K.S.A. 75-2701 et seq.

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

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

Landfill, cut and fill: A location wherein clean fill dirt may be deposited or cut with the approval and review of the director of public works.

Landfill, municipal solid waste: A landfill accepting all types of material as regulated by the state not including construction and demolition landfills or cut and fill landfills. Municipal solid waste landfills are not allowed in the city.

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

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

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

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

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

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

Light industrial: Light industry is usually less capital intensive than heavy industry, and is more consumer-oriented than business-oriented. Most light industry products are produced for end users rather than as intermediates for use by other industries. Light industry facilities typically have less environmental impact than those associated with heavy industry. Light industry is a manufacturing activity that uses moderate amounts of partially processed materials to produce items of relatively high value per unit weight.

Examples of light industries include the manufacture of clothes, shoes, furniture, consumer electronics, and home appliances. Light industries require only a small amount of raw materials, area, and power.

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

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

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

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

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

Lot, depth of: The average horizontal distance between the front and rear lot lines.

Lot, double frontage: A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

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

Lot line: Lot boundary line or property line.

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

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

Lot of record: A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds of the county; or a parcel of land described by metes and bounds, the deed to which was recorded in the office of the register of deeds prior to the adoption of this appendix.

Lot/parcel/tract: As defined by the state.

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

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

LPC: The Leavenworth Preservation Commission.

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

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

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

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

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

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

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

Map: The flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the federal emergency management agency (FEMA).

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

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

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

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

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

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

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

Mean sea level: For purposes of the national flood insurance program (NFIP), The National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

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

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

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

appear sequentially, scrolling across the screen. Electronic changeable message signs are capable of changeable messages.

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

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

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

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

Mobile home space: A plot of ground within a mobile home park designed for the accommodation of one mobile home.

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

Motel: See *Hotel*.

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

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

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

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

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

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

collection center by local residents. Commercially generated recyclables are not to be deposited in neighborhood recycling centers.

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

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

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

NFIP: The National Flood Insurance Program.

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

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

Noncommercial message: Any message, content, text, or display that is not a commercial message.

Noncommercial sign: Any sign that is not a commercial sign.

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

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

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

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

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

Nonresidential swimming pools: Swimming pools operated by a private membership organization or government.

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

Nursery care or school: See *Childcare center* or *Day care home*.

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

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

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

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

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

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

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

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

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

Parking lot or garage (commercial, non-accessory): Defined in the off street parking section of these regulations.

Parking space: The portion of a parking lot sufficient in size to store one automobile. The minimum design established is 8½ feet by 18 feet.

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

Parks and open space: [Reserved.]

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

PC: Planning commission.

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

Permit: A signed document from a designated community official authorizing development. As relating to floodplain management a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as:

- (1) The site plan;
- (2) An elevation certificate; and
- (3) Any other necessary or applicable approvals or authorizations from local, state or federal authorities.

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

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

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

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

Petroleum pipeline and pressure control stations: Any facility used to measure or maintain the conditions in a pipeline operated by a public utility.

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

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

Planning commission: Shall mean the city planning commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ranching: The raising of livestock for commercial sale.

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

Recreational vehicle: A vehicle which is:

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

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

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

Remedy a violation: As used in the city's floodplain regulations, to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

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

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

Restaurant, drive-thru or drive-in: An establishment whose primary business is the serving of food to the public, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains. The drive-in or drive-thru component refers to a situation where food and drink are served for consumption, on or off the premises by order from and service to vehicular passengers outside the structure.

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

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

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

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

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

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

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

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

School, elementary and middle (public and private): As defined by the state.

School, senior high: As defined by the state.

School, vocational-technical and trade: As defined by the state.

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

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

Secretary: Secretary of the planning commission.

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

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

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

Setback: The required distance between each structure located on a building lot and the property lines of the lot.

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

Setting: The immediate physical environment of a building, structure, site, or district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Special flood hazard area: See *Area of special flood hazard*.

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

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

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

or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency: The division of water resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the national flood insurance program (NFIP) in that state.

State historic preservation officer or SHPO: The person who has been designated by law and by the governor of the state to administer the state historic preservation program for carrying out the provisions of the National Historic Preservation Act of 1966, as amended and related laws and regulations.

State review board: The Kansas Historic Sites Board of Review as established in K.S.A. 75-2719a.

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

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

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

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

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

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

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

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

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

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

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

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantial renovation: Any alteration affecting the front elevation of a building or costing more than 50 percent of the current assessed county tax valuation.

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

Sundries, pharmaceuticals, convenience store retail sales: [Reserved.]

Tailoring, custom: Making or altering apparel according to personal or special order. The distinction between tailor shops and apparel manufacturing for zoning purposes is:

1. A custom tailoring shop should not have more than the equivalent of 15 full-time employees and;
2. Building space devoted to tailoring operations and product storage shall not exceed 12,000 square feet of floor space as measured by the exterior spatial dimensions.

Tattoo parlor/piercing/body art: Any place or structure, which is regulated by the state board of cosmetology and where any form of elective body modifications occurs.

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

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

Temporary sign: Any sign, banner, searchlight, sidewalk or curb sign, pennant, valance, flag, balloon, air- or gas-filled figure, or advertising display that is intended to be displayed for a limited period of time only and is typically constructed from nondurable material, such as paper, plastic, cloth, canvas, light fabric, cardboard, wallboard or other material, with or without frames. Temporary signs may be portable or fixed, but are not intended for permanent display. Temporary signs include, but are not limited to, real estate signs, garage sale signs, grand opening signs, construction signs, land for sale signs and open house signs. Specific restrictions, in addition to those restrictions that apply to all temporary signs, may apply to specially identified types of temporary signs. More comprehensive restrictions apply generally to all signs included in the broad category of temporary signs.

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

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

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

Travel trailer parks: See *Camp grounds*.

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

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

Truck terminal, freight, air courier services: Any place or structure for the transfer of goods from one means of conveyance to another.

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

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

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

Urban agriculture/community garden: Any place or structure within the city, which exceeds one-fourth acre, where crops intended for human consumption are raised.

Variance: A grant of relief to a property owner from certain provisions of the zoning ordinance when because of the particular physical surroundings, shape or topographical conditions of the property, compliance would result in a particular hardship upon the owner as distinguished from a mere

inconvenience or a desire to make money. The variance may be granted for area, yard bulk, or parking requirements but not for a use. Or, a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community. Or, a variation from a specific requirement of the secretary of the interior's design standards, as applied to a specific structure or property.

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

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

Veterinary clinic: Any place or structure where animal health services are provided by a one or more people licensed to provide veterinary services by the state.

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

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

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

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

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

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

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

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

Wearing apparel and accessories retail sales: Any place or structure where the retail sale of apparel and or accessory goods is conducted.

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

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

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

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

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

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

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

Zoning district map: A map or maps with all notations, dimensions, references, and symbols shown thereon depicting individual zoned districts as adopted and amended by the city commission.

Zoning ordinance: The text of this appendix and the accompanying zoning district map.

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

APPENDIX A. - USE TABLE (Attachment A)

Appendix A Use Table shall be attached to Ordinance No. _____ 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 _____ day of _____ 2020.

Myron J. "Mike" Griswold, Mayor

{SEAL}

ATTEST:

Carla K. Williamson, CMC, City Clerk

POLICY REPORT

City of Leavenworth Application for Tenant Based Rental Assistance (TBRA) Funds to The Kansas Housing Resources Corporation

June 23, 2020



Prepared By:
Lawrence Levine
Rental Property
Coordinator



Reviewed By:
Julie Hurley,
Director of Planning
And Community
Development



Reviewed By:
Paul Kramer,
City Manager

DISCUSSION

The US Department of Housing and Urban Development (HUD) allocates funds by formula to eligible state and local governments to strengthen public-private partnership, expand the supply of decent, safe, sanitary, and affordable housing, and provide affordable housing to low-income families. In 2019, Kansas received \$1.6 million under the HOMES Program, which was allocated to 11 local and regional organizations to fund TBRA programs.

The TBRA program provides rental assistance and/or security deposit assistance for low-income households that want to rent from a private landlord who is not a relative. Participants choose the type of housing they wish to rent, i.e., a house, duplex, or apartment. Each participant pays a minimum of 30% of their adjusted monthly income as their share of the rent. TBRA then provides an additional subsidized amount directly to the landlord. Rental units must meet local housing codes and standards and HUD Section 8 Housing Quality Standards (HQS).

City staff analyzed other Kansas cities that applied for and received these funds, and established that the City has a need and the required capacity to qualify for the TBRA program. There are an estimated 2,400 rental households in the city with incomes at or below 50% of the HUD Adjusted Median Family Incomes (HAMFI). However, there are only an estimated 2,100 units that are both affordable and available to these families, leaving a deficit of about 300 units.

The City proposes to apply for these funds as part of the 2020 application cycle that will award funds for 2021. The proposed priority for these funds would be to families with school-age children. Over 52% of students in the City are on free or reduced cost meal programs. If awarded, a TBRA grant would have a positive impact on local families.

RECOMMENDED ACTION

- Motion to authorize City Staff to apply for Tenant Based Rental Assistance funds from the Kansas Housing Resources Corporation.

Statement of Assurances & Certifications

The grantee hereby assures and certifies with respect to the grant that:

1. It possesses legal authority to make application and to execute a housing program.
2. Its governing body has duly adopted or passed as an official act, a resolution, motion or similar action authorizing the person identified as the official representative of the grantee to submit the final statement, all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the final statement, and to provide such additional information as may be required.
3. That prior to submission of its application to the Kansas Housing Resources Corporation (KHRC), the grantee has met the citizen participation requirements, prepared its application and projected use of funds, and made the application available to the public, as required by Section 104(a)(2) of the Housing and Community Development Act of 1974, as amended, and implemented at 24 CFR 570.486, per coordination with Cynthia Howerton and Christine Reimler.
4. It has developed its final statement (application) of projected use of funds so as to give maximum feasible priority to activities that benefit low-income families.
5. Its chief executive officer or other officer of the grantee approved by the KHRC:
 - a. Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 and other provisions of federal law as specified in 24 CFR 58.1(a); and
 - b. Is authorized and consents on behalf of the grantee and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official.
6. The loan will be conducted and administered in compliance with:
 - a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and implementing regulations issued at 24 CFR Part I;
 - b. Fair Housing Amendments Act of 1988, as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provisions of brokerage service. Title VII and Executive Order 11063 requirements apply to all recipients, regardless of community size and/or racial/ethnic characteristics. The fair housing provisions apply to the community as a whole and pertain to the sale or rent of housing, the financing of housing, and the provision of brokerage services. *MEANINGFUL STEPS TO FURTHER FAIR HOUSING MUST BE TAKEN.* Such steps must be documented and will be monitored by the Kansas Housing Resources Corporation;
 - c. Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto (24 CFR Section 570.602);
 - d. Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations at 24 CFR Part 135;
 - e. Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;
 - f. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR Part 107;

- g. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations when published for effect;
 - h. The Age Discrimination Act of 1975, as amended, (Pub. L. 94-135), and implementing regulations when published for effect;
 - i. The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and the implementing regulations at 24 CFR 570.488;
 - j. Anti-displacement and relocations plan requirement of Section 104(d) of Title I, Housing and Community Development Act of 1974, as amended;
 - k. Relocation payment requirements of Section 105(a)(11) of Title I, Housing and Community Development Act of 1974, as amended;
 - l. The labor standards requirements as set forth in 24 CFR 92.354 and HUD regulations issued to implement such requirements;
 - m. Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
 - n. The regulations, policies, guidelines, and requirements of 2 CFR 200 as it relates to the acceptance and use of federal funds under this federally assisted program; and
 - o. The American Disabilities Act (ADA) (P.L. 101-336; 42 U.S.C. 12101) provides disabled people access to employment, public accommodations, public services, transportation and telecommunications.
7. The conflict of interest provisions of 24 CFR 92.356 apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving funds. None of these persons may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter, and that it shall incorporate or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purpose of this certification.
8. It will comply with the provisions of the Hatch Act that limits the political activity of employees.
9. It will give the state, HUD, and the Comptroller General or any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant.
10. It will comply with the lead paint requirements of 24 CFR Part 35.
11. The local government will not attempt to recover any capital costs of public improvements assisted in whole or in part with HOME funds by assessing properties owned and occupied by low and moderate income persons unless:
- a. HOME funds are used to pay the proportion of such assessment that related to non-HOME funding, or
 - b. The local government certifies to the state that for the purposes of assessing properties owned and occupied by low and moderate income persons who are not very low income that the local government does not have sufficient HOME funds to comply with the provision of a. above.

12. It accepts the terms, conditions, selection criteria, and procedures established by this program description and that it waives any right it may have to challenge the legitimacy and the propriety of these terms, conditions, criteria, and procedures in the event that its application is not selected for HOME funding.
13. It will comply with the regulations, policies, guidelines, and requirements with respect to the acceptance and use of federal funds for this federally assisted program.
14. It will comply with all parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously, as well as with other applicable laws.

The grantee hereby certifies it will comply with the above stated assurances.

Signature,

(Authorized local elected official if grantee is a governmental entity, or authorized Executive Director if grantee is a non-profit agency)

Myron (Mike) Griswold

Name (typed or printed)

Mayor

Title

City of Leavenworth, Kansas

Applicant Agency/Housing Authority

Date

Applicant: City of Leavenworth, Kansas

CERTIFICATIONS

The applicant certifies that the information contained in the Application Summary is true and correct and the appropriate governing body has duly authorized the document. The applicant agrees that, if approved, this, with the attached Certifications, will become a part of the agreement for activities and services authorized under the HOME Investment Partnerships Program.

Name: Paul Kramer

Name: Julie Hurley

Title: City Manager

Title: Director, Planning & Community Development

Date: _____

Date: _____

Signature: _____

Signature: _____

Signature of Chief Elected Official

Date

If the applicant is a non-profit entity and not a local unit of government, the Executive Director and a Board member must sign the application.

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature of Executive Director

Date

Signature of Board Member

Date