



Welcome To Your City Commission Meeting - Please turn off all cell phones during the commission meeting.  
Meetings are televised everyday on Channel 2 at 7 p.m. and midnight

**Call to Order – Pledge of Allegiance Followed by Silent Meditation**

**AMENDED AGENDA**  
Added Item 12

**PRESENTATIONS AND PROCLAMATIONS:**

- 1. New Employee Welcome Ceremony (pg. 2)
- 2. Proclamation – Certified Government Finance Manager’s Month (pg. 4)

**OLD BUSINESS:**

**Consideration of Previous Meeting Minutes:**

- 3. Minutes from February 26, 2019 Regular Meeting **Action:** Motion (pg. 5)

**Second Consideration Ordinance:**

- 4. Second Consideration Ordinance 8097 Amending the 2016 Development Regulations **Action:** Roll Call Vote (pg.9)

**NEW BUSINESS:**

**Citizen Participation:** (i.e. Items not listed on the agenda or receipt of petitions- **Please state your name and address**)

**General Items:**

- 5. Mayor’s Appointments **Action:** Motion (pg. 60)
- 6. 2019 Federal Legislative Program **Action:** Motion (pg. 61)

**Resolutions:**

- 7. Resolution B-2218 To Set Public Hearing for Unsafe & Dangerous Structures **Action:** Motion (pg. 70)

**Bids, Contracts and Agreements:**

- 8. Consider Bids for Property Maintenance Services (Code Enforcement Mowing Rebids) **Action:** Motion (pg. 76)
- 9. Consider Bids for 2019 Pavement Management (Granite Seal Program) **Action:** Motion (pg. 92)
- 10. Consider Bids for WPC Laboratory Air Handler Replacement Project **Action:** Motion (pg. 100)

**First Consideration Ordinance:**

- 11. First Consideration Ordinance Amending Chapter 10 Alcoholic Beverage **Action:** Consensus (pg. 101)

**Amended – Added:**

- 12. City Festival Management Contract **Action:** Motion (pg. 127)

**Consent Agenda:**

Consent Agenda: Claims for February 23, 2019 through March 8, 2019, in the amount of \$1,570,666.75; Net amount for Payroll #5 effective March 1, 2019, in the amount of \$330,781.39; (No Police & Fire Pension). **Action:** Motion

**Adjourn:**

**Action:** Motion

# POLICY REPORT 19-01

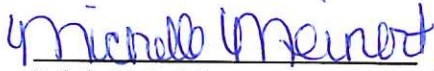
## New Employee Welcome Ceremony

March 12, 2019

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 is asked to attend a regular meeting of the Leavenworth City Commission. At the meeting each employee will be introduced by the Mayor or the Mayor Pro Tem and will be presented with a City of Leavenworth pin. Brief background information of each employee listed below is attached.

### EMPLOYEES TO BE WELCOMED:

Gabriel Okeke  
Linda Whitelaw  
Raylene Williams  
Robert Gorrell  
Jess White  
Christian Kennedy  
Mariah Lietzen  
Ashley Tapia  
Shelby Jennings  
Noah Eastman  
Joshua Swanbeck  
Levi Johnson  
Kodie Thorsen  
Heather Kietzman-Gabbert  
Brandon Walker

Police Officer  
Police Officer  
Police Officer  
Streets Equipment Operator I  
Streets Equipment Operator I  
GIS Technician  
Receivables/License Coordinator  
Police Officer  
Police Officer  
Police Officer  
Police Officer  
Firefighter  
Firefighter  
Office Clerk II – Inspections  
Storm Water Equipment Operator II

**Gabriel Okeke** – Gabriel was hired on October 11, 2018, as a Police Officer. Gabriel graduated from Van Horn High School and previously worked for Ryder as a Service Employee III.

**Linda Whitelaw** – Linda was hired on October 11, 2018, as a Police Officer. Linda graduated from Flagstaff High School and last worked for the Department of Corrections as a CO1.

**Raylene Williams** – Raylene was hired on October 11, 2018, as a Police Officer. Raylene received her GED from Outfront and previously worked as a CCA for the US Postal Service.

**Robert Gorrell** – Robert was hired on November 29, 2018, as Streets Equipment Operator I. Robert received his GED and worked at Restoration WaterProofing as a Water Proofer.

**Jess White** – Jess was hired on November 29, 2018, as Streets Equipment Operator I. He attended Arapahoe High School and was previously employed by Leavenworth County as a Flagger.

**Christian Kennedy** – Christian was hired on December 13, 2018, as GIS Technician. Christian graduated from Olathe South High School and received her BA from the University of Kansas. Christian was previously employed by Bartlett and West as a GIS Technician I.

**Mariah Lietzen** – Mariah was hired on January 10, 2019, as Receivables/License Coordinator. Mariah graduated from Lansing High School and was previously employed by Lansing Correctional Facility as an Administrative Assistant.

**Ashley Tapia** – Ashley was hired on February 7, 2019, as a Police Officer. Ashley graduated from Wyandotte High School and was previously employed by USD 204 School District as a custodian.

**Shelby Jennings** – Shelby was hired on February 7, 2019, as a Police Officer. Shelby graduated from Lathrop High School prior to receiving a degree in Criminal Justice from Graceland University. Shelby was previously employed as an In-Home Counselor with Children and Families of Iowa.

**Noah Eastman** – Noah was hired on February 7, 2019, as a Police Officer. Noah received his GED from Missouri Department of Education and was previously employed by Celtic Hills Security as a Security Officer.

**Joshua Swanbeck** – Joshua was hired on February 7, 2019, as a Police Officer. Joshua graduated from Greater New Bedford RVT High School. Joshua was formerly employed as a Fitness Advisor at Genesis Health Club.

**Levi Johnson** – Levi was hired on February 7, 2019, as a Firefighter. Levi graduated from Pleasant Ridge High School and was formerly employed by Clearwater Pools as a laborer.

**Kodie Thorsen** – Kodie was hired on February 7, 2019, as a Firefighter. After graduating from Leavenworth High School, Kodie earned his Associate's Degree in Fire Science at KCKCC. Kodie was formerly employed by Olathe Dodge as the Digital Media Director.

**Heather Kietzman-Gabbert** – Heather was hired on February 7, 2019, as Office Clerk II – Inspections. Following graduation at Cameron High School, Heather earned her bachelor's degree in Photo Media from the University of Kansas. Heather was previously employed at Emser Tile & Stone as a Customer Support Rep.

**Brandon Walker** – Brandon was hired on March 7, 2019, as Storm Water Equipment Operator II. Brandon received his high school diploma from Adrian ISD and formerly worked as a Heavy Equipment Operator for Bettis Asphalt.

# City of Leavenworth, Kansas



## Proclamation

**WHEREAS,** *the Kansas Chapter of the Association of Government Accountants (AGA) is a professional organization, part of the Association of Government Accountants, which has a network of more than 14,000 members in 101 chapters in the United States and around the world and approximately 33 active members representing state, federal, municipal, and private sector accountants, auditors, and financial managers in Kansas; and*

**WHEREAS,** *AGA Kansas Chapter members have responded to AGA's mission of Advancing Government Accountability, as it continues its broad educational efforts with emphasis on high standards of conduct, honor, and character in its Code of Ethics, and are making significant advances both in professional ability and in service to the citizens of Leavenworth by mastering increasingly technical and complex requirements; and*

**WHEREAS,** *the Certified Government Financial Manager (CGFM) program of AGA provides a means of demonstrating professionalism and competency by requiring CGFM candidates to have appropriate educational and employment history, to abide by AGA's Code of Ethics and to pass three examinations requiring expertise in Governmental Environment, Governmental Financial Management and Control, and Governmental Accounting, Financial Reporting, and Budgeting, and requires each CGFM holder to maintain certification by completing at least 80 hours of continuing professional education in government financial management topics or related technical subjects every two years.*

**NOW, THEREFORE,** *I, Jermaine Wilson, Mayor of the City of Leavenworth, Kansas hereby proclaim March 2019 as:*

## **Certified Government Financial Manager Month**

**IN WITNESS WHEREOF,** *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this twelfth day of March in the year of two-thousand and nineteen.*

  
\_\_\_\_\_  
Jermaine Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk



**CALL TO ORDER** - The Governing Body met in regular session and the following commission members were present: Mayor Jermaine Wilson, Mayor Pro-Tem Myron J. (Mike) Griswold, Commissioners Nancy Bauder, Larry Dedeke and Mark Preisinger.

**Others present:** City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Public Works Director Mike McDonald, Deputy Public Works Director Mike Hooper, Parks and Recreation Director Steve Grant, Parks Superintendent Brian Bailey, City Planner Julie Hurley, Finance Director Ruby Maline, City Attorney David E. Waters, Public Information Officer Melissa Bower and City Clerk Carla K. Williamson.

Mayor Jermaine Wilson opened the meeting with the pledge of allegiance followed by silent meditation.

**OLD BUSINESS:**

**Consideration of Previous Meeting Minutes:**

Commissioner Dedeke moved to approve the minutes from the February 12, 2019 Regular Meeting as presented. Commissioner Griswold seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Second Consideration Ordinance:

**Second Consideration Ordinance No 8096 Vacating a Portion of Meadow Lane** – City Manager Paul Kramer presented for second consideration. Documents have been provided to the City by USD 453 showing the agreements in place with Waterworks and neighboring property owners.

Mayor Wilson called the roll and the Ordinance passed 5-0.

**NEW BUSINESS:**

**Citizen Participation:** None

**General Items:**

**Consider Veterans Day Parade Committee Funding Request** – City Manager Paul Kramer presented for consideration a request from the Leavenworth County Veterans Day Parade Committee requesting a donation from the City of Leavenworth to assist in making the 2019 parade a momentous, outstanding and awesome event celebrating the 100<sup>th</sup> anniversary of the parade. The request would be a one-time donation/grant outside the Tourism Grant for this special occasion.

Diana Smith and Charley Shoemaker of the parade committee addressed the City Commission regarding the 2019 parade. In good weather, roughly 15,000 people attend the parade.

Commissioner Preisinger moved to award a \$5,000.00 one-time donation to the Leavenworth County Veterans Day Parade for their 100<sup>th</sup> anniversary parade. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Consider a Cereal Malt Beverage (CMB) License for CVS** – City Clerk Carla Williamson presented for consideration a request from Kansas CVS Pharmacy, LLC. for a 2019 off-premise Cereal Malt Beverage license at 390 Limit Street.

Commissioner Griswold moved to approve the 2019 off-premise Cereal Malt Beverage License for CVS/Pharmacy #5268, LLC at 390 Limit Street. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

#### **Resolutions:**

**Resolution B-2215 Annual Report for Stormwater** – Public Works Director Mike McDonald presented for adoption the Kansas Department of Health and Environment (KDHE) Annual Report for Stormwater. The report was reviewed at the February 19, 2019 Study Session. Minor adjustments have been made to the final report.

Commissioner Bauder moved to adopt Resolution B-2215 Annual Report for Stormwater. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Resolution B-2216 Stormwater Management Plan** – Public Works Director Mike McDonald presented for adoption Stormwater Management Program. The report was reviewed at the February 19, 2019 Study Session.

Commissioner Bauder moved to adopt Resolution B-2216 Stormwater Management Plan. Commissioner Griswold seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Resolution B-2217 Intent to Issue Bonds** – City Manager Paul Kramer presented for consideration a resolution as the expression of the Governing Body's official intent to issue bonds and finance improvements to Thornton Street. The resolution sets the maximum amount allowed for Thornton Street and 10<sup>th</sup> Avenue should the Commission wish to include the improvements to 10<sup>th</sup> Avenue in this project. The maximum amount set is \$5,650,800.00. Mr. Kramer explained that should the Commission decide not to undertake the 10<sup>th</sup> Avenue improvements at this time, the resolution does not lock them into the project. 10<sup>th</sup> Avenue improvements will come back to the Commission in a future Study Session for the Commission to discuss.

Commissioner Bauder moved to adopt Resolution B-2217 as presented. Commissioner Preisinger seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

#### **Bids, Contracts and Agreements:**

**Consider Bids for Parks & Recreation Department Truck** – Parks & Recreation Director Steve Grant and Parks Superintendent Brian Bailey presented for consideration the bids for the purchase of a 2019 Ford Super Duty F-350 XL 4x4 with a Knapheide dump body. Staff opted to use the Sourcewell Cooperative

Purchasing program to obtain bids. Staff recommends the bid from National Auto Fleet Group in the amount of \$50,202.00 per Quote ID # 8333 R16.

Commissioner Preisinger moved to approve the bid from National Auto Fleet Group in the amount not to exceed \$50,202.00 for the 2019 Ford Super Duty F-350 XL 4x4 with a Knapheide dump body. Commissioner Dedeker seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Consider Bids for Municipal Service Center Fuel Canopy Rebid** - Public Works Director Mike McDonald presented for consideration the bids for the Leavenworth Service Center Fuel Island Canopy Project (re-bid). Staff recommends accepting the low bid from Baker Construction in that amount of \$68,000.00. Bids were opened on February 20, 2019 and were as follows:

<u>Vendor</u>	<u>Total Base Bid</u>
Baker Construction Inc.	\$68,000.00
Gunter Construction Co	\$102,584.00
Engineers Estimate	\$68,000.00

Commissioner Griswold moved to accept the low bid from Baker Construction for the Service Center Fuel Island Canopy project in an amount not exceed \$68,000.00. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Consider Bids for City Hall HVAC Upgrade & Repair Project** - Public Works Director Mike McDonald presented for consideration bids for the 2019 City Hall HVAC System Upgrades & Repair Project. Bids were opened on February 20, 2019 and one bid was received. The bid was from D’Agostino Mechanical Contractor in the amount of \$34,850.00. Staff recommends acceptance of the bid.

Commissioner Preisinger moved to accept the bid from D’Agostino Mechanical Contractors in an amount not exceed \$34,850.00 for the project as presented. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Consider Amendment No 1 to Design Contract with Water Resources Solutions LLC- 16<sup>th</sup> Terrace & Thornton Phase 2 Stormwater Project** – Public Works Director Mike McDonald presented for consideration Change Order No. 1 to the contract with Water Resources Solutions, LLC for the 16<sup>th</sup> Terrace & Thornton Phase 2 Stormwater Project in an amount not to exceed \$15,000 for a total contract amount of \$54,190.00.

Commissioner Griswold moved to approve Change Order No. 1 to the contract with Water Resources Solutions, LLC for the 16<sup>th</sup> Terrace & Thornton Phase 2 Stormwater Project in an amount not to exceed \$15,000 for a total contract of \$54,190.00. Commissioner Dedeker seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**First Consideration Ordinance:**

**First Consideration Ordinance Amending the 2016 Development Regulations** - City Planner Julie Hurley reviewed the ordinance to amend the 2016 Development Regulations. The items were reviewed by the Planning Commission on February 4, 2019 and by the City Commission at the February 5, 2019 Study Session. The ordinance is now placed on first consideration and requires a consensus by the City Commission.

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

**CONSENT AGENDA:**

Commissioner Bauder moved to approve claims for February 9, 2019 through February 22, 2019 in the amount of \$773,931.74; Net amount for Payroll #4 effective February 15, 2019 in the amount of \$328,614.71; (Includes Police & Fire Pension in the amount of \$11,572.36). Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

**Other:**

City Manager Kramer announced that there will be no Study Session on March 5, 2019.

**Adjourn:**

Commissioner Dedeke moved to adjourn the meeting. Commissioner Bauder seconded the motion and was unanimously approved.

Time Meeting Adjourned 7:56 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC



**POLICY REPORT  
SECOND CONSIDERATION ORDINANCE 8097  
AMENDING THE 2016 DEVELOPMENT REGULATIONS  
APPENDIX E OF THE CODE OF ORDINANCES**

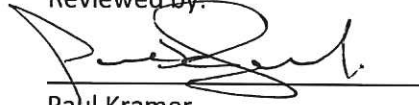
**MARCH 12, 2019**

Prepared by:



Carla K. Williamson, CMC  
City Clerk

Reviewed by:



Paul Kramer  
City Manager

**BACKGROUND:**

At the February 26, 2019 City Commission regular meeting the City Commission reviewed and placed on first consideration:

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

**ACTION:**

Ordinance No. 8097 is now presented for second consideration and requires a roll call vote.

**ATTACHMENTS:**

- Ordinance No. 8097
- Attachment A to Ordinance No. 8097

(Summary Publish in the Leavenworth Times on March 15, 2019)

**ORDINANCE NO. 8097**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF APPENDIX E OF THE CODE OF ORDINANCE, 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 E; 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 3.02, 4.04, 8.04, 8.08, 10.01, Article 12 and Appendix A of the Appendix E, Development Regulations of the City of Leavenworth, Kansas be and are hereby repealed and amended to read as follows:

**3.02. - Applicability and exemptions.**

- A. *General applicability.* The standards in this article apply to anyone platting property, or to any application that involves or requires the construction or alteration of public improvements as a result of development.
- B. *Exemptions.* The standards in this article shall not apply in the following instances:
  - 1. The division of land into parcels or tracts of not more than five acres and not involving any new streets or easements of access and not affecting major streets.
  - 2. A change in the boundary between adjoining lands which does not create an additional lot or a nonconforming lot or further the nonconformance of any lot or any structure on that lot.
  - 3. Land used for street or railroad right-of-way, drainage easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved.
  - 4. The re-subdivision of land to be used for industrial purposes only.
  - 5. Any transfer by operation of law.
- C. *Restrictive covenants.* The planning commission shall have the right to confer with the applicant regarding the type and character of development that will be permitted in the subdivision and may require that certain minimum regulations regarding this matter be incorporated in the restrictive covenants. Such regulations shall be intended to protect the character and value of the surrounding development of the property which is being subdivided.
- D. *Planned unit development.* In accordance with planned unit development district regulations of the development regulations, the preliminary development plan may be used as the preliminary plat. Approval of the preliminary development plan by the city commission signifies concurrent approval of the preliminary plat, subject to any requirements made as a condition of this approval.

#### 4.04. - Use standards.

- A. *Permitted and special uses.* Permitted and special uses for each zoning district are identified in appendix A use table.
- B. *Accessory uses.*
1. *Principal use required.* Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
  2. *Accessory uses.* Accessory uses are a structure or use which:
    - a. Is subordinate to and serves a principal building and principal use;
    - b. Is subordinate in area, extent, or purpose of the principal use or building 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 multi-family residence.* Two cars per dwelling unit. Not to exceed 600 square feet per unit.
      - (3) Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger, may be approved by the Board of Zoning Appeals.
    - b. *Storage buildings.* A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
    - c. *Play structures.* A child's playhouse, including tree houses.
    - d. *Pools and courts.* A private swimming pool, bathhouse, or tennis court.
    - e. *Miscellaneous yard décor.* 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. *Radio towers.* Amateur radio towers no taller than 50 feet in residential districts and no closer than 50 feet to a property line is permitted as an allowed accessory use. 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 1,500 square feet may be permitted on parcels two acres or larger.
4. *Prohibited accessory uses.* None of the following shall be permitted as an accessory use:
- a. *Large vehicles or trailers.* 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. *Dismantled objects.* Outdoor storage, of dismantled, inoperative and/or unlicensed motor vehicles; parking and/or storage of construction machinery and equipment, tracked or wheeled; farm machinery and/or equipment except as specifically permitted in district regulations in conjunction with a permitted use.
5. *Accessory uses permitted by special use permit.* The following accessory uses shall only be permitted upon approval of a special use application by the city commission:
- a. *Commercial communication towers and antennae.* Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in article 10, supplemental standards.
  - b. Renewable energy facilities, including wind or solar energy facilities, subject to the provisions included in article 10, supplemental standards.
  - c. Child Care Centers for 7 or more children:
    - (1) Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.

- (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100% enclosed by a minimum 4' high fence or wall.
  - (3) Shall provide a loading zone capable of accommodating at least 2 automobiles for the easy picking up and discharging of passengers.
  - (4) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
  - (5) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
  - (6) Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides, or 1 non-illuminated sign affixed to the structure of 3 square feet.
- d. Accessory Dwelling Units. Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:
- (1) Shall be compatible with the design of the principal dwelling unit.
  - (2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.
  - (3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.
  - (4) Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.
  - (5) Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.
  - (6) Shall meet all building code requirements for a single family dwelling unit.
  - (7) Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.
- e. Massage Therapy establishments as a home occupation may be allowed with issuance of a Special Use Permit. Such establishments are subject to all requirements of Home Occupations as provided in these regulations, as well as all requirements for Massage Establishments as provided in the City of Leavenworth Code of Ordinances, Chapter 26, Article III.
6. *Home occupations.* A home occupation may be established provided:
- a. That no separate outside entrance is provided for the home occupation;
  - b. That no one, other than members of the immediate family residing on the premises, be employed;
  - c. 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;
  - d. That a carport, garage, or any accessory structure may not be used for home occupations;
  - e. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
  - f. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than ½ square foot on a vertical wall below the roof soffit.
  - g. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
  - h. That the home occupation shall be conducted entirely within the principal residential building;
  - i. 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;

- j. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
- k. That two off-street parking spaces are provided; and
- l. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
- m. 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.

#### **8.04. - Permits.**

##### **A. *Permits required.***

1. Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move, modify, alter, or convert any sign in the city, or cause the same to be done, without first obtaining a sign permit for such sign as required by this chapter. Issuance of a permit is contingent upon the sign being in compliance with all applicable laws and regulations of the city.
2. Every sign permit issued by the director shall become null and void if installation is not commenced within 120 days from the date of approval of such permit. If work authorized by such permit is suspended or abandoned for 120 days from the date of permit approval, a new permit shall be required for such work, even if no changes have been made to the original sign plan.
3. *Required information.* Application shall be made upon forms furnished by the planning and community development department and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the city.

B. *Fee increase for failure to obtain permit.* If the director discovers or is informed of a sign constructed or being constructed that requires a permit that has been constructed, installed, or erected without a permit according to this sign code, s/he shall collect three times the permit fee specified for the type of sign in question.

C. *Signs excluded from permit.* The following signs are not required to have a permit; however, these signs shall otherwise comply with this section and all other applicable provisions of the sign code.

1. Directional signs.
2. Holiday decorations.
3. Home security and neighborhood watch signs.
4. Identification signs.
5. Official signs.
6. Name plate signs. Where multiple tenants share the same rear door, the sign may display the name and address of each tenant. These signs shall not exceed four square feet.
7. Window signs, as further described in section 8.10 F. of this chapter.
8. Contractor signs: One free standing, non-illuminated contractor's sign, not to exceed eight square feet of sign surface, shall be permitted for each contractor if the property is zoned residential, or not to exceed 32 square feet if the property is zoned other than residential. The sign shall not be installed before commencing work on the project or the issuance of a building permit for the project and the sign shall be removed upon completion of the project.
9. Public interest signs that do not exceed the size limitations.

10. Address signs.
11. Commercial real estate signs not exceeding 32 square feet in area per sign face with two faces permitted. Signs shall not exceed eight feet in height. Signs are limited to one sign per street frontage, with a maximum of two signs for each project. Signs must be located at least ten feet from the edge of the curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.
12. Residential real estate signs not exceeding three square feet in area. Signs are limited to one on-premises sign per street frontage, and two off-premises signs permitted only with permission of property owner. Signs must be located at least ten feet from the edge of the curb or behind any existing public sidewalks and may not be illuminated or have an electronic changeable face.
13. Garage sale signs may only be placed at the site of the sale. All garage sale signs shall be removed immediately upon completion of the sale. Garage sale signs include sample and yard sale signs. Garage sale signs shall not exceed four square feet per sign, with two faces per sign permitted. A garage sale permit shall be obtained as required by ordinance number 1857.
14. Signs carried by a person.
15. Costumed people promoting a business or event.
16. Flags, pennants, emblems, memorial tablets, cornerstone etches, monuments and insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device; provided that not more than three flags, pennants or insignia shall be displayed on any building, structure or premises, unless specifically herein provided. Any other provisions as applicable regarding display of the American flag as contained in Title 4, U.S. Code.
17. Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
18. Decorative landscape markers, which may include logos or trademarks.
19. Signs attached to a currently licensed, operational and legally parked or legally moving vehicle.
20. Temporary signs containing non-commercial messages at churches, synagogues and other similar places of worship, community centers, public and private schools and buildings or structures owned or leased and used by other public, semi-public, or civic organizations.
21. Special event signs shall be exempt from a permit as follows: Signs of a temporary nature for campaigns, drives, seasonal events of civic or philanthropic organizations not to exceed 32 square feet. These signs must be placed on private property and must be removed within three days after the event.
22. A new sign permit shall not be required unless (a) the existing sign base, pole, or face is nonconforming to these regulations or, (b) the existing sign base or pole is going to be relocated, changed, or enlarged.
23. Political signs may be placed on private property only after permission has been granted by the owner of the property or his or her authorized agent. No political signs are permitted on public right-of-way or on public property. In commercial or industrial areas, signs shall not exceed 32 square feet in area per face. In residential areas, signs shall not exceed three square feet per face. Signs shall not be placed where they interfere with intersection sight distances, and may not be affixed to any utility poles, trees, street lights, bridges, benches or similar public structures. Signs must be removed within three days after the election.
24. Contractor signs as further defined in section 8.07 D.
25. Decorative light pole banners, which may not include any business or advertising information.



**8.08. - Signs Permitted in all residential districts (R1-25, R1-9, R1-6, R1-7.5, R4-16, R-MF, RMX, MP).**

Table 8-01: Residential Signage Standards			
	Maximum Number	Height	Area
Home-based business signs	1	N/A	1/2 s.f.
Temporary signs	1	N/A	3 s.f.
Real estate signs	1	6'	6 s.f.
For sale signs (undeveloped land over 5 acres)	2	10'	40 s.f.
Open house signs	1	6'	4 s.f.
Neighborhood identification signs	1 per entrance	8'	50 s.f.
Public and semi-public buildings	See Table 8-02		

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

- A. All signs as regulated and permitted in section 8.07, signs permitted in all districts.
- B. A ½ square foot home based business sign as described in article 10, supplementary district regulations.
- C. Temporary signs, not specifically otherwise identified by sign type, conforming to the restrictions set forth herein are allowed as follows;
  - 1. Three temporary signs are permitted on any lot.
  - 2. These temporary signs shall be a single faced sign, and have a sign face no larger than six square feet.
- D. In lieu of the temporary signs permitted herein a real estate sign not exceeding six square feet per sign face, with two faces per sign are permitted. The maximum height of the sign shall not exceed six feet. A maximum of one sign per lot shall be permitted.
- E. Undeveloped land over five acres in size shall be allowed two "for sale" signs not to exceed 40 square feet in area per sign face, with two sign faces permitted. No sign shall exceed ten feet in height.
- F. In lieu of the temporary signs permitted a sign designating an open house may be erected at the site of an open house. No open house sign shall exceed four square feet per sign face with two faces per sign permitted. One sign face shall be allowed in lieu of each one of the temporary signs permitted by subsection B., above. The maximum height of the sign shall not exceed six feet.

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

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

#### **10.01 - Solar energy.**

The following provisions regulate the use of renewable (alternative) energy systems where the use of an alternative energy system is requested by a property owner. This section does not permit or regulate renewable energy production facilities owned or operated by private firms or public utilities, which generate energy beyond that needed by a single dwelling or commercial operation with less than 10,000 square feet of floor space.

- A. *Solar array defined.* A "solar array" shall mean a freestanding, ground-mounted solar collection system consisting of a linked series of photovoltaic modules, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
- B. *Solar array standards.* All solar arrays shall comply with the following requirements:
  - 1. *Setbacks, location, and height.*
    - a. Solar array shall not be located in the front yard between the principal structure and the public right-of-way.
    - b. A solar array shall be located a minimum of six feet from all property lines and other structures.
    - c. An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and nonresidential districts shall not exceed one-half of the footprint of the principal structure. Any proposed solar array in excess of the stated size limits shall require approval of a Special Use Permit.
    - d. There shall be no size limits on solar arrays as a primary use on a site. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
    - e. A solar array shall not exceed 20 feet in height and shall not create any solar reflectivity that measurably impacts surrounding properties.
  - 2. *Code compliance.* Solar arrays shall comply with all applicable building and electrical codes contained in the adopted building code.
  - 3. *Solar easements.* A property owner who has installed or intends to install a solar array shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds. The creation of a solar easement is at the property owner's option and is not a condition of approval.
- C. *Solar collection system defined.* A "solar collection system" shall mean a roof-mounted or wall-mounted panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.
  - 1. *Solar collection setbacks, location, and height.*

- a. A solar collection system shall be located a minimum of six feet from all property lines and other structures, except the structure on which it is mounted.
  - b. A solar collection system shall not extend more than five feet above the roofline or the maximum height permitted in the zoning district in which it is located, whichever is less.
  - c. A solar collection system may be located on an accessory structure.
  - d. A development that is proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.
2. *Solar collection code compliance.* Solar collection systems shall comply with all applicable building and electrical codes contained in the city's adopted building code. The solar collection system shall be maintained and in productive use or removed within 90 days of notice from the city that the system is not in compliance with city regulations.
  3. *Solar easements.* A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds.

## ARTICLE 12. - DEFINITIONS

### [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 article X, floodplain management, means the federal insurance administrator.

*Agency:* The federal emergency management agency (FEMA).

*Agent:* The legally authorized representative of a landowner.

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

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

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

*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.

*Child care 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 child care, nursery schools, play groups, head start, centers giving emphasis to programming for special children, kindergartens not operated by the public schools, and other establishments offering care to groups of children for part or all of the day or night. Centers for infants and toddlers or for handicapped children may have fewer than seven children but be licensed as a center because the program meets child care 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 antennae 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 child care center).

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

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

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

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

*Directional sign:* Any sign that provides direction for the safe and efficient flow of vehicular or pedestrian traffic on a property, and shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises. A directional sign may contain the name or logo of an establishment, but no commercial message. Examples are parking and entrance signs. The logo area shall not exceed 25 percent of sign area. Off-premise 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, multi-family:* 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. Intervisibility is further defined as "the condition of being able to see one point from another without physical, permanent obstruction." Intervisibility shall be determined by standing at the main entrance of the registered property and looking in all directions for a distance of up to 500 feet. All references to "within 500 feet of a landmark or historic district" as used throughout this Code shall use the intervisibility standard for determining changes to the environs of a registered property.

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

*Exception:* A grant of permission to depart from the general provision of the development regulations 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 U.S.C. § 802(6).

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

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

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

*Fence:* A barrier intended to prevent escape or intrusion, or to mark a property boundary. Open fences are those constructed of wood, masonry, metal, woven wire or other material whose surface area is greater than 50 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).

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

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

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

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

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

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

*Floodway use:* A use that can be approved by the city engineer upon the application of certain criteria for uses in the 100-year floodway as regulated by article X, floodplain management.

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

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

*Foster home:* A residence or building in which 12—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 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 (foot-candles x meters).

*Improvements:* Street and drainage work and utilities that are to be installed, or agreed to be installed in conformance to city'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 façade 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 U.S.C. 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.

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

*Non-commercial sign:* Any sign that is not a commercial sign.

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

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

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

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

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

*Non-residential swimming pools:* Swimming pools operated by a private membership organization or government.

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

*Nursery care or school:* See child care center or day care home.

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

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

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

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

*Open space:* 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 eight and a half feet × 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 Grasspave<sup>®</sup>, Gravelpave<sup>®</sup>, Turfstone<sup>®</sup>, and UNI Eco-stone<sup>®</sup>.

*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) Four hundred 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 article X, floodplain management, to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

*Residential home-stay:* Any furnished residential structure wherein one limited-term boarder (not to exceed 180 days) is allowed the use of an entire structure 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 ¼ acre, where crops intended for human consumption are raised.

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

*Vehicle impound lot:* The use of any part of a parcel or tract of land for the storage of automobiles or other vehicles that is not operable or roadworthy according to the laws of 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 article X, floodplain management, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this 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

A. *Table organization.* Table A1-1 table of permitted uses classifies land uses and activities into general "use categories" and specific "use types" based on common functional or physical characteristics, such as the type and amount of activity, the type of customers or residents, types of products, how goods or services are sold or delivered, and site conditions. Regardless of whether a use is allowed by right or permitted as a special use, there may be additional standards that are applicable to the use. Uses are allowed as follows:

1. *Permitted by-right uses.* "P" in a cell indicates that the use is permitted by right in the respective zoning district and overlay district. Permitted uses are subject to all other applicable regulations in this document, including the use-specific standards in this section.
2. *Special uses.* "S" in a cell indicates that the use is allowed only if reviewed and approved as a special use in accordance with the procedures of article II, administration regarding special use permits. Special uses are subject to all other applicable regulations of this document including the use-specific standards in this section and the requirements of article IV, supplementary district regulations.
3. *Prohibited uses.* A blank cell indicates that the use is prohibited in the respective zoning district.

- B. *Classification by interpretation.* This classification does not list every use or activity that may appropriately exist within the categories and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The categories are intended merely as an indexing tool for the specific use type and are not regulatory. When application is made for a use type that is not specifically listed in table A1-1, table of permitted uses but that appears similar to uses in that table, the director shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:
1. The director shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
  2. Standards for new and unlisted uses may be interpreted as those applicable to a similar use.
  3. The director may choose to send a proposed use to the city commission for interpretation where classification options are unclear or where the potential impact must be considered in the interpretation process.
  4. When the director determines that a new or unanticipated use is so similar in impact to a specific use type, or uses generally within the use category the director may:
    - a. Make the interpretation the use type is generally broad enough to include the use in question; or
    - b. For ease of future application and interpretation add the use to the appropriate category in the table. Such administrative adjustment to the table shall not be considered an amendment to this appendix provided the criteria above are clearly met, and provided notice and comment of the adjustment is placed on the agenda of both the planning commission and governing body for review and consent.
  5. Appeal of the director's decision shall be made to the city commission.

#### **APPENDIX A. - USE TABLE (Attachment A)**

The 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 12<sup>th</sup> day of March 2019.

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Jermaine Wilson, Mayor

{SEAL}

ATTEST:

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Carla K. Williamson, CMC, City Clerk

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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Subcategory		R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
Specific Use Type																			
Community Centers												P	P				P		P
Government Offices and Facilities		S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
Historic and Monument Sites		P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Jails and Prisons														S	S				
Library		S	S	S	S				S	P		P	P				P	P	P
Post Office Branches									P	P	P	P	P				P	P	P
Religious Assembly		P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
Safety Services		P	P	P	P				P	P	P	P	P				P	P	P
<b>Day Care</b>																			
Day Care Center/Preschool		S	S	S	S	S	S	S	S	P	P	P	P				P	P	P
Day Care, Home		S	S	S	S	S	S	S	S	P	P	P	P				P	P	P
<b>Educational Facilities</b>																			
College or University		S	S	S	S							P	P				S	S	S
School, Elementary and Middle (Public and Private)		S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Senior High		S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
School, Vocational-Technical and Trade										S	P	P	P						S
<b>Health Care Facilities</b>																			
Hospitals										S	S	P	P						S
Medical and dental clinics and offices										P	P	P	P				P	P	P
<b>Parks and Open Space</b>																			
Arboretum or botanical garden		S											P				P	P	P
Campground		S																	
Community playfields, playgrounds, and parks		P	P	P	P				P	P	P	P	P				P	P	P
Golf course, public		S	S	S	S											S			S
Golf course, private		S	S													S			S
Zoo													P						

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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Specific Use Type																			
<b>Transportation</b>																			
Airport																			S
Bus Garage and Equipment Maintenance												P	P	P					
Bus Terminal												P	P	P	P				
Heliport												S	S						
Railroad Terminal													P						
Taxi Dispatch										S	S	P	P						
Truck Terminal, Freight, Air Courier Services														P	P				
<b>Utility</b>																			
Private Wind Energy Systems		P	P	P	P	P	P	P	P	P	P		P	P	P		P	P	P
Private Solar Collection Systems		P	P	P	P	P	P	P	S	P	P	P	P	P	P		P	P	P
Commercial Wind Energy Systems		S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Commercial Solar Collection Systems		S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
Communication Tower		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Tower – Alternative Structure		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Communication Facility on Existing Structure		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water Storage		P	P	P	P				S	S	S	P	P				S	S	S
<b>COMMERCIAL USES</b>																			
<b>Animal Sales and Service</b>																			
Animal Day Care		S	S	S	S	S	S	S	S	P	P	S	P				S	S	S
Animal Confinement and Feed Operations		S																	
Kennel		S	S										P	P	P				S
Pet Shops										P		P	P				P	P	
Pet Grooming		S	S	S	S							P	P				S	S	S
Veterinary Clinic with Boarding										S	S	P	P	P	P		S	S	P
Veterinary Clinic without Boarding										S	S	P	P	P			P	P	P
<b>Assembly</b>																			

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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Specific Use Type																		
Assembly Hall									P	P	P	P						
Auction Establishment									P	P	P	P	P					S
Membership Clubs					S				P	P	P	P				S	S	S
Event Venue									P	P	P	P					P	P
<b>Financial Service</b>																		
Financial Institution, with Drive-thru									S	S	S	P				S	S	P
Financial Institution, without Drive-thru								P	P	P	P	P				P	P	P
<b>Food and Beverage Services</b>																		
Food and Beverage General									P	S	P	P				P	P	P
Bars or Taverns								S	S	S	P	P				S	P	P
Restaurant, with Drive-in or Drive-thru									P	S	P	P					S	P
Restaurant, without Drive-in or Drive-thru								S	P	S	P	P				S	S	S
<b>Office</b>																		
Administrative and Professional Offices										P	P	P				P	P	P
Offices for Nonprofit, Community Health, and Welfare Service Organizations										P	P	P				P	P	P
<b>Recreation and Entertainment, Outdoor</b>																		
Amphitheater	S										P	P					S	S
Arena and Field House											P	P					S	S
Country Club	S	S	S	S								P						
Marina	S																	
Outdoor Commercial Recreation	S											P					S	P
Racing Facilities	S											P	S	S	S			
Riding Academies/Stables	S												S	S	S			
Sports/Entertainment Arena or Stadium									S	S	P	P						P
Athletic Facilities	S	S	S	S				P	P	P	P	P						
Non- Residential Swimming Pools	S	S	S	S							P	P				P		P

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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



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Specific Use Type																		
Automobile, Boat, Truck, Motorcycle, RV Sales, Rental, and Service									S		P	P						
Car Wash/Truck Wash									S		S	P	P					
Gas Station									P		P	P	P			S	P	P
Heavy Vehicle/Equipment Sales, Rentals and Service												P	P	P				
Parking Lot or Garage (Commercial, Non-Accessory)	S	S	S	S				S	S	S	P	P	S	S		S	S	S
<b>Visitor Accommodation</b>																		
Bed and Breakfast Inns	S	S	S	S	S	S	S	P	P	P	P	P				S	S	S
Bed and Breakfast Guest House	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Bed and Breakfast Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Residential Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
Boarding and Rooming Houses									S	S	P	P				S	S	
Camp, Private, Overnight	S																	
Health Resort/Spa	S									P	P	P						
Hotel										P	P	P				P	P	P
Hotel – Limited Service										P	P	P				P	P	P
Residence Hotels								S	S	P	P	P				P	P	P
Retreat House	S	S	S	S														
Travel Trailer Parks	S												P		S			
<b>INDUSTRIAL USES</b>																		
<b>Industrial Service</b>																		
Animal Research Facilities													S					
Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store)												P	S					

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APPENDIX A. USE TABLE

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Specific Use Type																			
Construction Industry Related Businesses (such as general contractors, electrical contractors, plumbing contractors) /Accessory and Incidental uses													P	S					
Educational and Scientific Research, Development, and Testing Services											P	P	P	P	P			P	P
Heavy Industrial															P	S			
Light Industrial														P	P	S			
Petroleum Pipeline and Pressure Control Stations	S	S	S	S				S		S	S	S	S	S	S				
<b>Manufacturing and Production</b>																			
Manufacturing, Fabrication, and Assembly: Custom														P	P				
Manufacturing, Fabrication, and Assembly: Light													P	P	S				
Manufacturing, Fabrication, and Assembly: Heavy													S	S	P				
<b>Wholesale, Storage, Warehouse, and Distribution</b>																			
Automobile Towing Service Storage Yard; Impound Lot												S	S	P	S				
Mini-Storage											S		P	P					
Moving and Storage Facilities													P	P					
Warehousing												P	P	P					
Wholesale Trade or Storage, General													P	P					
Wholesale Trade or Storage, Light												P	P	P					
<b>Waste and Salvage</b>																			
Automobile Parts Recycling Business													S	P	P				

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APPENDIX A. USE TABLE

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

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## CITY OF LEAVENWORTH

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**TO:** CITY COMMISSIONERS  
**FROM:** JERMAINE WILSON, MAYOR  
**SUBJECT:** CITY APPOINTMENTS  
**DATE:** MARCH 12, 2019

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I move to recommend the following appointment:

**Airport Advisory Board:**

- Appoint Keith Baker to an unexpired term ending December 31, 2021

**Board of Zoning Appeals:**

- Reappoint Mike Bogner to a term ending May 1, 2022

**City Planning Commission**

- Reappoint Camalla Leonhard to a term ending May 1, 2022

**Leavenworth Preservation Commission:**

- Reappoint Debi Denney and Sherry Hines-Whitson to terms ending April 15, 2022

**Sidewalk Advisory Board:**

- Reappoint John Carroll, Phil Martin, Dave Stokka and Stephen Tennant to terms ending March 15, 2022

**Sister City Advisory Board:**

- Appoint Kelly Butler and Whitney Moulden to unexpired terms ending December 31, 2021

**Policy Report**  
2019 Federal Legislative Program  
March 12, 2019

Prepared by:



Paul Kramer  
City Manager

**Subject:**

The City of Leavenworth 2019 Federal Legislative Program outlines City priorities for the year.

**Background:**

The City Manager's Office has compiled the City's 2019 Federal Legislative Program. In compiling and drafting the program, attention was turned to our federal partners and a focused review of local issues with federal ties. All of the positions address issues that staff believe would directly impact the City of Leavenworth's municipal operation or service delivery if enacted or funded.

**Action Requested:**

The 2019 Federal Legislative Program is attached for your reading, information and consideration for approval. Upon this program being approved and endorsed by the Commission it will be sent to each of the City's Federal Legislators for their review and information. The City is scheduled to visit with our Federal Legislators on April 1-3 in Washington D.C.

ATTACHMENTS: 2019 Federal Legislative Program



**City of Leavenworth, Kansas**  
**2019 Federal Legislative Program**

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**Federal Partners**

- 1) Fort Leavenworth
- 2) United States Penitentiary – Leavenworth
- 3) Dwight D. Eisenhower Veterans Affairs Medical Center (VAMC)

**City Priorities**

- 1) Centennial Bridge
- 2) Safe Communities
- 3) Water Quality/Water Treatment
- 4) Other City Priorities

**Scheduled for adoption by the Leavenworth City Commission**

**March 12, 2019**

## **Fort Leavenworth**

Established in 1827, Fort Leavenworth is the oldest active post west of the Mississippi. The Fort is designated as Army University and is headquarters to the Combined Arms Center (CAC). CAC includes 34,000 permanent military/civilian corps employees throughout the United States, Europe, Korea and Southwest Asia, and is responsible for eight (8) centers of excellence, sixteen (16) branch schools and seven (7) non-branch schools. Fort Leavenworth truly is the Intellectual Center of the Army.

### ***Defense Community Infrastructure Program (DCIP)***

Authorized in the 2019 National Defense Authorization Act, the DCIP allows the Department of Defense to work with state and local governments by providing a matching grant to address the critical off-base infrastructure needs that directly affect the military value and the resilience of installations. Fully funded at the authorized level of \$100 million for FY20, this program can directly enhance the critical military value of our bases and have a larger impact by leveraging state, local, private sector and even other federal investments through a matching requirement. This could result in an estimated \$300 million to \$400 million total impact nationwide. This ready-to-go infrastructure plan makes national security the first priority.

Fort Leavenworth relies on a complex network of roads, buildings, facilities, utilities and land — on- and off-base — to provide the critical training platforms necessary to protect our nation. Reliable and high-quality delivery of many of those services, however, rests upon the existence of a robust infrastructure within the surrounding community. Surface transportation, particularly a road network, is the most visible example of the critical link between installations and their community neighbors.

The DCIP is a program that would provide federal funding, leveraged by local partnerships, to tackle many of the outstanding needs of installation. Specifically at Fort Leavenworth, there are needs in water, access/congestion and waste water, all of which require outside assistance.

### ***Intergovernmental Service Agreements (IGSA)***

The Department of Defense has set “Resiliency” as a top priority within military installations and among the surrounding communities. With this in mind, there is a strong push for IGSA with local communities that are mutually beneficial to the military and the surrounding governmental entities. One area that could help incentivize a City to explore/enact an IGSA is an extension of the maximum allowable contract length from 10 years to 20 years, which would allow for better planning for cities. Additionally, if the threshold for local Commanding Officer approval for an IGSA could be increased, thereby avoiding time-consuming Department of Defense authorization for smaller agreements, that would give added flexibility.

### ***Sustainment, Restoration and Modernization (SRM) Funding***

Fort leadership is facing significant pressure in maintaining the aging infrastructure, historic buildings and education centers at Fort Leavenworth. While the City is supportive of increases in the Department of the Army's budget, we are concerned about the continual lack of increase for SRM funding and its impact on the future of Fort Leavenworth.

- There is concern that along with the relatively flat SRM budget, up to \$50 million more will be stripped from IMCOM.
- We believe that Fort Leavenworth and its crucial position in training and education is a factor in "readiness" and funding should be allocated to ensure its continued success.
- The deferred maintenance list at the Fort is growing and the risk of delaying the proper maintenance of facilities increases every day.
- Fort leadership is also concerned about the long-term viability of the Disciplinary Barracks and the Midwest Joint Regional Correctional Facility located on Fort property, and have submitted a request for new roofs for the building. Without taking these type of proactive and protective measures, these facilities will require premature replacement.
- Facility condition and infrastructure viability will be a big issue when/if there are every any opportunities to expand the current mission of Fort Leavenworth.

***City development and activities in support of Fort Leavenworth (see attachment for more details)***

The first City in Kansas to become a Military Spouse Economic Empowerment Zone, as defined by the Hiring our Heroes program within the U.S. Chamber of Commerce.

Partnership with the Local Government Management Fellowship program, which has resulted in our first two active duty personnel internships.

Recognition as a Purple Heart Community.

Four (4) 3-Star hotels:

- Fairfield Inn and Suites by Marriott
- Hampton Inn by Hilton
- Home2 Suites by Hilton
- TownePlace Suites by Marriott

Six (6) Market rate loft projects (all historic building reuse projects):

- Carnegie Lofts
- Ben Day Lofts
- Stove Factory Lofts
- North Broadway School
- Immaculata Lofts
- Abernathy Lofts



## **U. S. Penitentiary – Leavenworth**

The U.S. Penitentiary at Leavenworth has been a prominent institution in our community for more than 100 years. It is a significant source of jobs in our community and the City is proud of its long-standing relationship with the Federal Bureau of Prisons.

### ***New medium security facility***

For many years, Leavenworth was the highest-ranking site for the next prison in the federal system. As a product of that ranking, an appropriation of more than \$12 million was included in the 2009 Federal Budget for the preparation of a site reconnaissance and environmental analysis (environmental impact statement - EIS) for the location and construction of these new facilities on the BOP-owned property adjacent to the existing U.S. Penitentiary in Leavenworth. The Louis Berger Group was selected by the Bureau in late 2010 to undertake and complete the EIS. The EIS was finalized in January 2015 and has a 5-year life from that point; therefore, it will expire on January 31, 2020 if nothing is done on the project.

Additionally, that January 2020 date is even more pressing, as the project has to be under way, rather than just being funded. With the requirements related to bidding and construction, it is unclear if the project would be able to move forward if funding was not available in the 2019 budget.

Over the last two years, a project in Kentucky moved ahead of Leavenworth, and was funded. Prisons are being located in areas that face serious hurdles (Yazoo City, Mississippi and Letcher County, Kentucky are not desirable locations for BOP employees and locations such as Northern California create cost-of-living hardships), while Leavenworth is in the Kansas City Metropolitan Area and offers a very reasonable cost-of-living.

The City remains fully committed and ready to accept a new federal prison into our community and request funding is allocated for this much-needed project.

### ***Renovation funding for USP-Leavenworth***

USP-Leavenworth is the second oldest prison in the Bureau of Prisons system, and the wear and tear on the building is evident. Repairs to the building are more costly at Leavenworth due to the age and condition of the building. There are concerns that without extensive renovation funds, beyond annual maintenance funds, the prison could become obsolete and beyond repair. The loss of a federal prison in Leavenworth would be immeasurable to the Bureau of Prisons and the City.

## Dwight D. Eisenhower Veterans Affairs Medical Center (VAMC)

The Leavenworth VAMC is part of the VA Eastern Kansas Health Care System, which includes the VAMC in Topeka and nine community based outpatient clinics. The mission of the VAMC is to provide accessible, courteous, comprehensive, and quality health care to veterans in an environment of excellence.

### ***A new VAMC hospital***

A major concern of the Leavenworth VAMC is the aging main hospital building that was built in 1932. Although upgrading and remodeling is possible, because it is a historic building, the VA is limited on what can be done to the building. The old hospital could be used for outpatient care services which do not require demolition of walls. The VA is looking to fund a new hospital, on campus, in partnership/coordination with the Munson Army Health Center. The new freestanding facility will be built to accommodate both the VA and Munson workloads. This decision is based on the results of workload data and health care delivery costs.

The building is programmed for 138,000 BGSF with health services to accommodate compiled VA and Munson workloads including: inpatient medical/surgical/ICU; inpatient psychiatric/substance abuse; emergency department; inpatient/outpatient surgery; imaging; satellite lab and pathology; inpatient pharmacy; inpatient and cardiac rehab; inpatient respiratory therapy, and cardiology & surgical clinic.

The City is requesting the appropriate congressional authority to make this project happen.

### ***Chapel of the Veterans***

Built in 1893, the Chapel of the Veterans was designed by Louis Curtis of Kansas City, and inspired by a Gothic chapel that he had seen being renovated in England. For many years the Chapel of the Veterans was the only church in the United States where Protestant and Catholic religious services could be conducted under one roof at the same time, and the chapel was featured in Ripley's Believe It or Not. The lower level of the Chapel of the Veterans, with an entrance on the end, is the Catholic chapel named the Holy Ghost Chapel. The upper level is the Protestant chapel called Immanuel Chapel.

The historic and nationally-known chapel on the VA property is now closed due to public safety concerns. The repair estimate is \$10-\$12 million and cannot be accommodated in the VA Eastern Kansas Health Care budget. We support any efforts possible to reopen this truly unique facility.

## **Safe Communities**

### **The issue:**

Reducing crime and ensuring public safety is any community's top priority. Local law enforcement officials deal regularly with everything from misdemeanors and drug possession crimes to felonies and major drug trafficking activities. In addition, emergency medical responders must be trained and prepared to address myriad situations, ranging from natural disasters and chemical incidents to traditional fire and medical calls. Confronting and responding to such a wide range of challenges is overburdening the budgets of local governments and the funding concerns were exasperated by the economic crisis.

### **Notes:**

- The City of Leavenworth had the opportunity to add an additional Police Officer to serve as a School Resource Officer with the use of federal funding made available by the COPS grants. The Police Department has also been able to substantially enhance our capabilities with the Byrne Justice Assistance Grants by acquiring body-worn cameras for all officers which is vital to enhancing community trust. Further, the Police Department has been able to acquire additional less-lethal equipment in an effort to reduce violent confrontations with officers and further building trust and legitimacy.
- The City sees state and federal cooperation as an imperative part of effective law enforcement, and federal assistance is vital in intergovernmental coordination to reduce crime.
- The economic crisis reduced budgets that were already stretched dangerously thin. Budget cuts in public safety equipment and technology made it impossible to maintain a proactive and adequately prepared public safety infrastructure. Recent changes in asset forfeiture laws have also significantly reduced funding for these improvements.

### **Request to Congress:**

- The City asks Congress to enhance funding for proven public safety programs such as Community Oriented Policing Services (COPS) and Byrne Justice Assistance Grants. These specific programs have been of great assistance to the City of Leavenworth and their reduction has impaired our effort to maintain an effective public safety system.

## **Water quality/Water treatment**

We support a clean and safe public water supply and the protection of public health and aquatic life. We endorse federal investments and cooperative solutions that address water quality challenges and take into account municipal cost concerns.

### ***Storm water***

We support simple and flexible federal regulations of municipal storm water run-off that allow for orderly and cost-effective development. The federal government should appropriate funds for research and for the development of pilot projects on storm water management.

### ***Nutrient Removal***

We support federal regulations that are proportionate to the share of the overall negative effects caused by any process undertaken by the City.

- The National Water Quality Inventory: 2000 Report cites nutrients as one of the leading causes of water quality impairment in waters of the United States. The Kansas Department of Health and Environment is looking to solve this problem by requiring substantial changes in regulations dealing with Wastewater Treatment Plants, which is easier to address than runoff, but would create disproportionate costs to local government entities that operate Wastewater Treatment Plants.
- The City of Leavenworth approved a wastewater master plan update (November 2010) completed by Black and Veatch; which included a nutrient removal improvements study that identified and developed a preferred process that could be implemented on the existing wastewater treatment plant site to accomplish the nutrient removal goals outlined in the permit. The probable project cost for level 1 and 2 is approximately \$56.9 million for construction plus \$11.4 million for engineering.
- The City undertook a disinfection project in 2012, which required capital costs of \$5 million. In order to finance this project, users were subjected to a 25 percent rate increase. In comparison, a \$70 million project could result in a 300 percent rate increase.

### **Request to Congress:**


- The City of Leavenworth requests that Congress pass legislation that directs the Environmental Protection Agency to work with state officials (Kansas Department of Health and Environment) to evaluate the benefits and costs of alternate methods of nutrient removal before requiring the City of Leavenworth to undertake a \$68.3 million plant improvement and upgrade project. Regional approaches dealing with storm water and lakes may be a more cost-effective use of resources.

## Other City Issues:

- **Government shutdowns** – We support avoiding government shutdowns regardless of partisan differences. In the most recent shutdown, 300 of the 309 employees of USP-Leavenworth worked without pay. The dedicated employees of USP-Leavenworth provide a vital service for the United States and provide for a safe and secure co-existence with the federal prison for the City of Leavenworth. Any level of government shutdown should not be used as a political maneuver in the future.
- **Community Development Block Grants (CDBG)** – We support continued funding for Community Development Block Grants, Community Service Block Grants and HOME Grants. These programs' funding is an essential component of cities' strategies to fund critical community services and infrastructure needs. The City of Leavenworth is an entitlement community and receives funding directly from the federal government – we support the continuation of this relationship and resist any efforts to make the funding available through a state application process.
- **Municipal Bonds.** We support the removal or modification of overly burdensome and costly restrictions affecting the issuance of municipal bonds. Further, we support the continued tax-exempt status for municipal bonds.
- **Overtime Rule.** We support modernizing rules for overtime, but have concerns about the fiscal impact of the changes, particularly if they include automatic increases in the overtime threshold. As employers, absorbing the impact of sharp increases would have a significant negative impact on municipal budgets.
- **Transportation.** We support funding the Fixing America's Surface Transportation Act (FAST ACT), which allows investment in critical infrastructure. We support an infrastructure plan that helps smaller communities create road and infrastructure projects that lead to residential and commercial growth. We ask congress to support and promote funding options that send resources directly to local governments for transit and transportation enhancements.
- **Railroad Quiet Zones.** We urge Congress to reexamine the Train Horn Rule with the Federal Railroad Administration. Rules for implementing quiet zones should be less burdensome and allow for differences in community circumstances while continuing to protect public safety. We also request Congress to provide federal funds for the purpose of establishing quiet zones and consider new technology which may enhance the safety of quiet zones while minimizing or eliminating train horn noise. The City of Leavenworth had a Quiet Zone study performed in 2012 and the cost was estimated at more than \$500,000 to bring a quiet zone to our City.

**POLICY REPORT**  
**RESOLUTION TO SET PUBLIC HEARING**  
**FOR UNSAFE OR DANGEROUS STRUCTURES**

**MARCH 12, 2019**



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**Prepared By:**  
Julie Hurley,  
City Planner



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**Reviewed By:**  
Paul Kramer,  
City Manager

**DISCUSSION**

Structures that are assessed to be in an unsafe and dangerous physical condition pose a threat to the public health, safety and welfare of the City. To address and abate these structures, the City Commission, through its powers under Chapter 22, Article X (Dangerous Structures) of the Code of Ordinances, has requested that City staff annually develop an inventory of unsafe and dangerous structures for review and potential removal through demolition.

**STRUCTURES FOR CONSIDERATION**

Staff has compiled a list of dangerous structures, which have been evaluated by staff in accordance with KSA 17-4759. The City Commission reviewed a list of 20 structures at the February 5, 2019 study session and voted at that time to proceed with placing all structures as presented on a list for public hearing. City staff has completed the necessary paperwork to set a resolution for the public hearing. All property owners have been notified that their properties have been identified as unsafe and dangerous, and given opportunity to contact staff to discuss options for resolution.

The following structures, as reviewed by the City Commission on April 3, 2018, are hereby presented for consideration to be placed on a resolution to set a public hearing:

1. **905 Washington** – Single family house
2. **1214 Pottawatomie** – Single family house
3. **1605 Terry** – Single family house
4. **514 Linn** – Single family house
5. **603 Rees** – Single family house
6. **795 Spruce** – Detached accessory structure
7. **1021 S. 2<sup>nd</sup> Street** – Single family house
8. **1214 9<sup>th</sup> Avenue** – Single family house
9. **1708 S. 4<sup>th</sup> Street** – Single family house
10. **1916 Montezuma** – Single family house
11. **2317 3<sup>rd</sup> Avenue** – Single family house
12. **305 N. 2<sup>nd</sup> Street** – Single family house
13. **326 Osage** – Single family house
14. **400 N. 5<sup>th</sup> Street** – Mixed use building

15. 403 Olive – Single family house
16. 505 N. 7<sup>th</sup> Street – Shed only
17. 787 Shawnee Street – Single family house
18. 802 S. 4<sup>th</sup> Street – Single family house
19. 219 Miami - Shed only
20. 1016 N. 10<sup>th</sup> – Shed only

The resolution affixes the time and place, of May 14, 2019 in the City Commission Chambers, 100 N 5<sup>th</sup> Street, Leavenworth, Kansas, at which time the owner, the owner's agent, any lienholder of record, and any occupant of such structure designated by staff as dangerous may appear and show cause why such structure should not be condemned as dangerous or hazardous structures and ordered repaired or demolished. At the conclusion of the hearing, the City Commission shall pass a resolution listing the structures, their findings, and listing any time periods allowed for repair.

At the time of the public hearing on May 14, 2019, staff will present an overview of each listed structure for consideration by the City Commission.

**RECOMMENDED ACTION**

Approve a resolution to set a public hearing date of May 14, 2019 for review of 20 dangerous and unsafe structures.

*(To Be Published in the Leavenworth Times on March 19, 2019 and March 26, 2019)*

**Resolution B-2218**

**A RESOLUTION FIXING THE TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS AT WHICH TIME AND PLACE THE OWNER, ITS AGENT, LIEN HOLDERS OF RECORD, AND OCCUPANTS OF THE STRUCTURES HEREIN DESCRIBED MAY APPEAR TO SHOW CAUSE WHY SUCH STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS UNSAFE OR DANGEROUS STRUCTURES, PURSUANT TO K.S.A. 12-1751 ET SEQ.**

WHEREAS, the enforcing officer of the City of Leavenworth, Kansas, did on the 12th day of March 2019, file with the governing body of said city a statement in writing that certain structures hereinafter described are dangerous and hazardous and should be ordered by the governing body to be demolished or repaired.

**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 14th day of May 2019, 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 structures should or should not be condemned as dangerous or hazardous structures and ordered repaired or demolished:

1. A one-story wood frame house and any accessory structures on the property located at **219 Miami Street**, legally described as Lots 23 and 24, Block 25, Leavenworth City Proper, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0772503402002000.
2. A one-story wood frame house and any accessory structures on the property located at **305 N. 2nd Street**, legally described as the North 36 feet of Lots 1 and 2, Block 26, Leavenworth City Proper, together with joint use and maintenance of the sewer passing through the North 36 feet of Lots 1 and 2 of said Block 26, and the right to use the West 3 feet of the North 36 feet of Lot 2 in said Block 26 in conjunction with the owner of said 36 feet for the purpose of access to the alley, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520772503107025000.
3. A one-story wood frame house and any accessory structures on the property located at **326 Osage Street**, legally described as the West Half of Lot 13 and all of Lot 14, Block 40, Leavenworth City Proper, Leavenworth County, Kansas. CAMA No. 0520772503212015000.
4. A two-story wood frame house and any accessory structures on the property located at **400 N. 5th Street, Apt #A**, legally described as the South Half of Lots 15 and 16, Block 53, Leavenworth City Proper, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520772503211012000.



5. A two-story wood frame house and any accessory structures on the property located at **403 Olive Street**, legally described as Lot 2, Block 20, Clark and Rees Addition, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773602044002000.
6. A detached shed on the property located at **505 N. 7th Street**, legally described as Lots 1 and 2, less and except the South 40 feet thereof, Block 98, lying partly in Western Addition to the City of Leavenworth and partly in Day and Macaulay's Subdivision, both subdivisions in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 05277260410728000.
7. A one-story wood frame house and any accessory structures on the property located at **787 Shawnee Street**, legally described as the East Half of Lot 34 and all of Lot 35, except a triangular piece in the Northeast Corner thereof, deeded to the Leavenworth Northern and Southern Railway Company in Block 117, Latta's and Western Addition to the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773501002002000.
8. A two-story wood frame house and any accessory structures on the property located at **802 S. 4th Street**, legally described as Lot 1 in Block 20, Clark and Ree's Addition to the City of Leavenworth, less the West 3 feet of the South 20 feet and 10 inches thereof, reference being hereby made to plat of survey by H.A. Perkins, filed June 24, 1975 at 8:30 a.m. in the Survey Book S-6. No. 32, Register of Deeds Office, Leavenworth County, Kansas. CAMA No. 0520773602044001000.
9. A detached shed on the property located at **1016 N. 10th Street**, legally described as Lots 20 and 21, Block 3, Leas and Harsh's Subdivision, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520772602011006000.
10. A one-story wood frame house and any accessory structures on the property located at **905 Washington Street**, legally described as Lots 20, 21, 22 and the North Half of Lot 23, Block 3, in Norton, Williams and Thomas Addition to the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773503005004000.
11. A one-story wood frame house and any accessory structures on the property located at **1214 Pottawatomie Street**, legally described as Lot 12, Herrig's Subdivision, of Block 89, Central Subdivision, in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520772603013007000.
12. A one-story wood frame house and any accessory structures on the property located at **1605 Terry Street**, legally described as Lot numbered Ten (10), Amron Acres in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520782704011012000.
13. A two-story wood frame house and any accessory structures on the property located at **514 Linn Street**, legally described as Lot 12, Block 29, Fackler's Addition to Leavenworth City, a subdivision in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773603031011000.

14. A one-story wood frame house and any accessory structures on the property located at **603 Rees Street**, legally described as Lots 1 and 2, Block 18, Rees, Doniphan and Thornton Addition to the City of Leavenworth, together with that portion of the vacated alley accruing thereto, in Leavenworth County, Kansas. CAMA No. 0521010102023001000.
15. A detached accessory structure on the property located at **795 Spruce Street**, legally described as the West 50 feet of Lots 10, 11, 12, 13 and 14, all in Block 2, Stockton's Addition to the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773504005003000.
16. A two-story wood frame house and any accessory structures on the property located at **1021 S. 2nd Street**, legally described as Lot 8, Block 1, Fackler's Addition, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773604001007000.
17. A one-story wood frame house and any accessory structures on the property located at **1214 9th Avenue**, legally described as Lots 16 and 17, Block 2, Insley & Shire's Subdivision, in the City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0520773504022022000.
18. A one-story wood frame house and any accessory structures on the property located at **1708 S. 4th Street**, legally described as the North ½ of Lot 38, LESS the South 5 feet thereof, and all of Lots 39, 40, 41, 42, 43, 44, 45 and 46, Block 2, Flesher's Riverview Subdivision, City of Leavenworth, Leavenworth County, Kansas. CAMA No. 0521010102001026000.
19. A two-story wood frame house and any accessory structures on the property located at **1916 Montezuma Avenue**, legally described as Lots 25 and 26, Block 1, Fenns Broadway Subdivision, City of Leavenworth, County of Leavenworth, Kansas. CAMA No. 0521010201016022000.
20. A one-story wood frame house and any accessory structures on the property located at **2317 3rd Avenue**, legally described as Lots 13 and 14, Block 3, Sidney Place, a subdivision in the City of Leavenworth, Leavenworth County, Kansas, according to the recorded plat thereof. CAMA No. 0521010103008003000.

**Section 2.** That the city clerk shall cause this resolution to be published two (2) times, once each week, in the city's legal newspaper and shall give notice of aforesaid hearing in the manner provided by law.

**Section 3.** This Resolution Shall be effective upon its adoption by the City Commission of the City of Leavenworth, Kansas.

**IT IS SO RESOLVED.**

**PASSED AND APPROVED** this 12th day of March 2019.

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Jermaine Wilson, Mayor

{Seal}

ATTEST:

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Carla K. Williamson CMC, City Clerk

**POLICY REPORT**  
**Leavenworth City Commission**  
**Bids for Property Maintenance Services**

**MARCH 12, 2019**



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**Prepared By:**  
Julie Hurley  
City Planner



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**Reviewed By:**  
Paul Kramer  
City Manager

**DISCUSSION:**

Each year, the City of Leavenworth uses contract services to mow and maintain City owned properties such as rights-of-way, drainage ditches, and parcels obtained through the County tax sale (perpetual lawn care). In addition, the City's Code Enforcement efforts require corrective action for properties with property maintenance violations. These contract services are offered through an open competitive bidding process.

Mowing for the perpetual lawn care clusters 1-5 will be provided on a bi-weekly basis, for a maximum of 14 total mowings for 2019. Code enforcement mowing activities will be rotated between the selected contractors on a weekly basis. Staff will utilize two contractors for code enforcement mowing activities, as has been standard procedure.

The RFP for mowing contract services was issued to known contractors and published in the Leavenworth Times, with bid proposals due on March 1, 2019. A total of 3 proposals were received from the following contractors:

- Yont's Lawn Care
- Mow Joe
- Ground FX

There was a tie between Yonts Lawn Care and Mow Joe for Cluster 3, and between Yont's Lawn Care, Ground FX, and Mow Joe for Cluster 5. Based on past performance issues with Mow Joe and their inability to complete previous assignments for the Parks and Recreation department, and previous issues with Ground FX including untimely responsiveness and beginning mowing prior to signing a contract, staff has selected Yont's Lawn Care as the preferred vendor for those two clusters.

**Perpetual Lawn Care**

**Cluster 1:** Mow Joe - \$690.00 per mowing, not to exceed \$9,660

**Cluster 2:** Mow Joe - \$380.00 per mowing, not to exceed \$5,320

**Cluster 3:** Yonts Lawn Care - \$170.00 per mowing, not to exceed \$2,380

**Cluster 4:** Mow Joe - \$155.00 per mowing, not to exceed \$2,170

**Cluster 5:** Yonts Lawn Care - \$120.00 per mowing, not to exceed \$1,680

**Property Maintenance**

Yonts Lawn Care at a cost of \$0.004 per sqft.

Mow Joe at a cost of \$0.0035 per sqft

This contract will be issued for a period of two years, with the option to renew for an additional two years.

**RECOMMENDATION:**

Staff recommends acceptance of the proposals for mowing services from the selected contractors as follows:

- a. Mow Joe for perpetual lawn care not to exceed \$17,150, and property maintenance at a cost of \$0.0035 per sqft.
- b. Yonts Lawn Care for perpetual lawn care not to exceed \$4,060, and property maintenance at a cost of \$0.004 per sqft

**ATTACHMENTS:**

Code Enforcement Mowing bids summary

Mowing Bid Specifications

**City of Leavenworth  
Bid Tabulation**

**Project or Purchase:** Code Enforcement Mowing Re-Bid  
**Bid Opening Date:** March 1, 2019  
**Bid Opening Time:** 1:00 PM

Bidder	Address (City/State)	Responsive Bidder	Cluster 1	Cluster 2	Cluster 3	Cluster 4	Cluster 5	Square Foot
Yont's Lawn Care	Leavenworth, KS	Yes	\$710.00	\$390.00	\$170.00	\$160.00	\$120.00	\$0.004
Ground FX	Leavenworth, KS	Yes	\$729.00	\$421.00	\$225.00	\$170.00	\$120.00	\$0.00575
Mow Joe	Leavenworth, KS	Yes	\$690.00	\$380.00	\$170.00	\$155.00	\$120.00	\$0.0035

All bids are subject to review and approval by City Staff and/or the City Commission

**CITY OF LEAVENWORTH  
SPECIFICATIONS AND BID SHEET  
FOR COMMUNITY DEVELOPMENT & CODE ENFORCEMENT 2019  
BID #**

**Private/Public Property Mowing Maintenance Contract**

I. Scope of Work

All work requested is primarily for the corrective maintenance of private properties within the corporate city limits of Leavenworth. Other property maintenance will include city owned properties.

II. Definitions

- a. **Mowing Schedules or Perpetual Care** shall mean the time periods established for the project year within which all prescribed maintenance activities for each area shall be completed.
- b. **Mowing Cycle** shall refer to each time period in the mowing schedule for the project year. Each time period is defined by a beginning and ending date, within which all prescribed maintenance activities for each area shall be completed.
- c. **Code Enforcement Officer** shall mean the duly authorized representative of the Code Enforcement Department who shall monitor the contractor's progress within his/her assigned area.
- d. **Director** shall mean the person responsible for the administration and execution of all activities within the department.
- e. **Contractor** shall mean the firm, agency or person providing mutually agreed upon services to the City.
- f. **Inclement Weather** shall mean rainy weather or when the condition of the soil is such that the rutting of property will not allow cutting of grass to be accomplished satisfactorily.
- g. **Weeds (Brush and woody vines shall be classified as weeds)**
  - i. Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
  - ii. Weeds which bear or may bear seeds of downy or wingy nature;
  - iii. Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
  - iv. Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed twelve (12) inches in height.
- h. **Nuisance** means any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
  - i. Injures or endangers the comfort, repose, health or safety of other;
  - ii. Offends decency;
  - iii. Is offensive to the senses;
  - iv. Unlawfully interferes with obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
  - v. In any way renders other persons insecure in life or the use of property; or
  - vi. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

- i. **Examples of nuisances**
  - i. Trash: Including but not limited to old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.
  - ii. Brush: Including but not limited to dead tree limbs/trunks, decayed vegetation or organic materials.
  - iii. Miscellaneous Materials: Automobile/truck parts or components, old appliances, bulk construction materials or any items fifty (50) pounds or over.
- j. **Trimming** shall refer to the cutting or removal of all plant material immediately adjacent to or under public structures. Also includes removal of all plant material from expansion joints and any other cracks in curbs, sidewalks (both sides), steps, driveways, and pavements.
- k. **Edging** shall refer to the vertical removal of any and all plant material which encroaches over or onto sidewalks (both sides), curbs, steps, driveways, and pavements.
- l. **Sucker Growth** shall mean the incidental, vegetative growth arising from the bases and lower trunk areas of trees which are not essential to the overall well being of the plant.
- m. **Rights-of-way** shall mean a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.
- n. **Public Road** shall mean all public property reserved or dedicated for street traffic.
- o. **Sidewalk** shall mean all property reserved or dedicated for pedestrian traffic.
- p. **Easements** shall mean the right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

### III. Contract Duration

The agreement shall be for a period of two (2) years with the option to renew for two (2) additional years, providing that both the City of Leavenworth and the Contractor agree and that costs remain the same. The City of Leavenworth shall notify the contractor by December 1, 2020 of the intent to renew the contract.

### IV. Assignment and Inspection of Work

- a. Code Enforcement Officer Duties:  
A Code Enforcement Officer will be assigned to the area for which he/she will be responsible for making inspections, re-inspections, monitoring the Contractor's activities, and ensuring the work performed in the assigned area is done to the quality level prescribed in the bid/contract and in accordance with prescribed time schedules. Upon determination of a violation of the specifications and/or terms of the contract or bid, the Code Enforcement Officer shall record, process, and submit all pertinent information to the Director for processing.
- b. Assignment of Contractor for Property Maintenance Violations:  
All property maintenance violation job orders are required prior to any issuance of a work assignment to the contractor. The work orders will provide the name and address of contractor, location of job assignment, date/time, and monetary value of service and signature blocks for the contractor and Code Enforcement Officer. The contractor is responsible to pick up all work orders at the front reception desk.
- c. Assignment of Contractor for City Owned Property Mowing contracts:  
All properties are distributed and assigned by geographical location and size. Properties are clustered into five (5) work areas based upon their approximate proximity to each other.



- d. Time to Complete Work for Property Maintenance Violations:  
Upon receipt of any work order, the contractor shall be responsible for executing and completing the assigned job within five (5) business days. Invoicing for completed work shall be submitted to the City within (5) days of completion of work. Payment shall be made to contractor for completed work within 30 days of receipt of invoice.
- e. Time to Complete Work for mowing of City Owned Properties:  
Upon approval to proceed, Contractor shall begin work and shall proceed with all reasonable dispatch to completion. The Contractor will be required to maintain all project areas assigned to him/her in the time allotments—mowing cycles—set for each project area. Work within an area must be completed in consecutive days. Inclement weather may result in the cancellation of a mowing cycle only if the Code Enforcement Officer or designated City representative determines that there was an insufficient time period during the entire mowing cycle available for the services described to be performed. It shall be assumed that the contractor can perform said services at the rate of twenty-five (25) acres per day per project area. Due to growth factors of the turf during the hot summer months, it may be necessary for the frequency of mowing to be increased or decreased. In order to verify the need for mowing, the Contractor shall contact the Code Enforcement Officer bi-weekly. Failure to get approval from the Code Enforcement Officer may result in non-payment for completed mowing.
- f. Failure to Maintain Mowing Schedule:  
Failure on the part of the Contractor to maintain the required production rate for an area shall be sufficient reason for the Director to have the work in question, or portions thereof, completed by others. If work is completed by others, any additional cost caused by a higher bid price will be deducted from the contractor's billing statement. Failure to maintain the mowing schedule shall be determined in the following manner:
- i. All areas shall be maintained according to the mowing schedule to each area. Final assessment of each area shall be made by the Code Enforcement Officer on the morning following the end of each mowing cycle. If the contractor fails to meet the mowing specifications within the time limits of the schedule, then that portion of the work will be removed from his responsibility and may be immediately assigned to another contractor.
  - ii. In the event the contractor develops difficulty in meeting the mowing schedule and contract specifications, the contractor may also be assessed two hundred-fifty (\$250.00) dollars per day as liquidated damages because of breach of contract as aforementioned. Should it become necessary to penalize a contractor on more than one occasion for failure to meet the grounds maintenance specifications within the prescribed mowing schedule, the contractor may be released from his contractual obligation to the City of Leavenworth. The project area will then be awarded to an existing alternate contractor on a per area basis, or awarded to the next lowest and best bidder on a previous bid.
- g. Mowing Schedule:  
Maintenance of all assigned City property within Clusters 1 through 5 shall be completed on a (14) day bi-weekly schedule (except as noted in Section IV e) beginning April 1, 2019, if needed, through the contract period for a maximum total of fourteen (14) mowings.

h. Documentation of Work for Property Maintenance Violations

Upon submission of bi-weekly invoices for property maintenance violation mowing, the Contractor shall submit "before" and "after" photographs of each property mowed. Each photograph shall identify the specific location represented. Identification of photographs may be in the form of individual file names, or with a dry erase board or similar included in the photograph identifying the property. Failure to include before and after photographs with proper identification of each property mowed may result in non-payment for completed mowing.

The mowing schedule for the 2019 maintenance year will be as follows: (Except as noted in Section IV e)

i. Mowing Cycle for Clusters 1-5:

Cycle #	Date Period
1	April 1 - April 14
2	April 15 - April 28
3	April 29 - May 12
4	May 13 - May 26
5	May 27 - June 9
6	June 10 - June 23
7	June 24 - July 7
8	July 8 - July 21
9	July 22 - Aug 4
10	Aug 5 - Aug 18
11	Aug 19 - Sept 1
12	Sept 2 - Sept 15
13	Sept 16 - Sept 29
14	Sept 30 - Oct 13

**NOTE: The designated Code Enforcement Officer has the authority to modify scheduled mowing cycles on a week to week basis. The cancellation will be based upon need, prevailing weather conditions, and available funding. The minimum number of mowing for Clusters 1-5 during the term of contract will be ten (10) assuming all work is completed satisfactorily.**

**NOTE: It shall be mandatory that a review of the contracted perpetual care area be conducted prior to beginning the first mowing cycle. Such a review shall be attended by the successful contractor and the assigned Code Enforcement Officer. The review shall include an explanation of the area to be maintained during subsequent mowings.**

V. Grass and Weed Removal

Contractor is responsible throughout the contract period to remove all cut grass and debris which falls or is thrown by equipment upon the pavement of streets, sidewalks, driveways, or adjacent properties. Such removal shall take place prior to exiting the work site. Directional mowing will be utilized to minimize the amount of discharge onto such adjacent areas whenever possible. Safety discharge chutes shall remain in place and operational at all times.

VI. Supervision of Work Crew

Contractor shall provide supervision of all work crews at all times while performing work under this contract. Personal supervision is not required provided that equipment or other means are provided that enable the work crew to communicate with the Contractor at all times. Each work crew shall have a designated person on the work site that has the authority to respond to inquiries about work details or priorities.

VII. Contractors' Bidding Options and Response

Contractors will have the option of responding to all or portions of the services within this document. Under no circumstances shall any individual job assignments within each Cluster be divided or exchanged among other Clusters.

VIII. Selection Criterion

Selection of a Contractor will be base upon following factors:

- a. Ability to meet standards set forth within this document;
- b. Price;
- c. Ability to perform work stated within this document;
- d. Availability of contractor to perform work as assigned and;
- e. History of providing similar work.

IX. Insurance

The Contractor shall secure and maintain such insurance as will insure the performance by the Contractor of its obligations to protect, defend, indemnify and hold harmless Owner and officers and agents of the Owner and Contractor respectively, as provided herein, and will protect them from claims under Worker's Compensation Acts; automobile liability for bodily injury(including death) or property damage; and general liability for bodily injury(including death) or property damage which may arise from and during operations under this contract, whether such operations be by itself or anyone directly or indirectly employed by it.

The Contractor shall purchase and maintain in full force and effect during the term of this contract, insurance in a company or companies satisfactory to the Owner, but regardless of such approval, it shall be the responsibility of the Contractor to maintain such coverage and shall not relieve Contractor of any contractual responsibility or obligation. Insurance of the following types and with the following limits are required:

General Liability:

The minimum limits of liability for commercial general liability insurance shall be:

- \$1,000,000 each occurrence for bodily injury or property damage;
- \$2,000,000 general aggregate with a per-project endorsement; and
- \$1,000,000 products/completed operations aggregate.

Each such policy shall include comprehensive fortes, contractual liability, independent Contractors, products/completed operations, inherently dangerous activities, premises-operations, broad form property damage, and personal injury coverage.

General Liability coverage shall name Owner as an Additional Insured on a primary basis, per the CG 2010 11/85 or it's equivalent, or a combination of CG 2010 10-01 and CG 2037 10-31 (including products and completed

operations). These coverage's shall provide protection for the Contractor and the Owner against liability from damages because of injuries, including death, suffered by any person and liability from damages to property, arising from or growing out of the Contractor's operations in connection with the performance of this contract. All insurance required by this contract shall remain in force until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by its formal acceptance. Each policy shall also contain a severability of interest conditions and the insurance afforded by the Contractor shall be primary insurance.

The Contractor shall provide the Owner with a Certificate of Insurance, specifying Contractor's insurance coverage and limits before any work is performed under this contract. A Certificate of Insurance shall also be provided upon each policy renewal. Certificates of Insurance shall be sent to Owner at the address stated herein. Such proof of insurance shall provide for ten (10) days prior written notice to the Owner before cancellation, termination or material change or modification of such insurance, unless longer advance notice is required by the Owner. Such notice shall be given to Owner at the address above noted. Consulting Engineer shall be listed as an additional insured on the liability insurance policies. Upon request Contractor shall furnish certified copies of any insurance policies listed in the Certificate of Insurance.

If Contractor shall subcontract any of this work to a third party, Contractor shall see to it that such third party maintains such insurance and shall furnish evidence thereof to Contractor and Owner. Subcontractor shall cause all such policies of insurance to name Contractor and Owner as additional insured's and provide indemnification for Contractor and Owner against liability upon the risks insured thereby to the amount of the coverage specified therein for Contractor.

If the Contractor has a policy or policies of insurance with aggregate limits of liability Owner must be notified in writing any time the aggregate limit is diminished materially below the coverage required by this contract.

Contractor shall notify Owner in writing 10 days after it receives notice or knowledge of any demand, claim, cause of action, lawsuit, or action arising out of the work performed under this contract. Contractor shall notify Owner as soon as possible after any bodily injury or property damage occurrence that could potentially lead to any lawsuit.

All liability insurance shall be occurrence policies in a form acceptable to Owner. Claims-made policies are not acceptable.

#### Automobile Liability:

Contractor shall obtain automobile liability insurance, which provides coverage for its owned, non-owned, and hired vehicles of every type and description, which are used in the contract work. The minimum limits of liability for such insurance shall be:

\$1,000,000 combined single limit for bodily injury and property damage

#### Workers Compensation:

Statutory

#### Employers' Liability:

\$100,000/\$500,000/\$100,000(each accident/disease-policy limit/disease-each employee)

Builders Risk/Installation (if required by Owner):

For direct physical loss or damage to covered property while under construction at the premises described in the declaration of the policy and per specifications. Limit of coverage is the contract bid to be in force for the duration of the project and until the project is accepted by the Owner. The Owner will be named additional insured.

Umbrella Coverage (if required by Owner):

An umbrella coverage will be required if the project costs are over \$2 million.

Professional Liability Coverage (if required by Owner or necessary for project):

\$1,000,000 each claim and \$1,000,000 aggregate.

Waiver of Subrogation:

Contractor waives any and all subrogation claims, including such claims arising out of injuries to Contractor's employees, against Owner, Engineer, and Consulting Engineer and their respective officers, directors, partners, employees and agents.

*Sample Certificate*

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 06/20/2008
PRODUCER <span style="float: right;">FAX</span> Agent Name: Agent Street Address: City & State Phone # <span style="float: right;">Fax #</span>	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Named Insured Address City and State Zip Code	INSURERS AFFORDING COVERAGE	NAIC #
	INSURER A: <b>Company AM Best Rating "A" or better</b>	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

**COVERAGES**  
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS		
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	POLICY NUMBER			EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>5,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COM/POP AGG \$ <b>1,000,000</b>		
	A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	POLICY NUMBER			COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b>  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$	
			GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT \$  OTHER THAN AUTO ONLY: EA ACC \$ AGG \$	
		A		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>	POLICY NUMBER			EACH OCCURRENCE \$ <b>1,000,000</b> AGGREGATE \$ <b>1,000,000</b> \$ \$ \$
			A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	POLICY NUMBER			<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ <b>100,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>100,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>500,000</b>
				OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**RE: Project name**  
 City of Leavenworth, Its Assigned, Officers & Affiliates are additional insured on a primary and non-contributory basis which included Products and Completed Operations on project shown.

<b>CERTIFICATE HOLDER</b>  City of Leavenworth City Hall 100 No. 5th Street Leavenworth, KS 66048	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
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**Inventory of City Owned Properties by Cluster for Perpetual Care**

**Cluster 1**

<b>Location</b>	<b>Property Description</b>	<b>Sq. Ft.</b>
<b>Shawnee Street</b>	Trim vegetation back away from sidewalk along the <b>North side of Shawnee Street - to the west of 906 Shawnee and corner lot at 10th &amp; Shawnee</b>	33247
<b>North 9th St</b>	9th Street drainage ditch east of 905 Miami	7989
<b>North 9th St</b>	9th Street drainage ditch west of 842 Miami	5826
<b>843 Miami</b>	Vacant lot area to West of metal building, next to drainage ditch - <b>East of 839 Miami</b>	6466
<b>200 N 10th Street</b>	SE corner of <b>10th &amp; Miami</b> , next to creek area	20959
<b>Ottawa Street</b>	vacant lot behind 902 & 904 Miami	11229
<b>vacant area</b>	Vacant area <b>behind 800 Shawnee</b> , towards creek area	8482
<b>North 9th St</b>	9th Street drainage ditch west of 837 Osage	6039
<b>North 9th St</b>	9th Street drainage ditch west of 840 Osage	7189
<b>North 9th St</b>	9th Street drainage ditch west of 901 Pottawatomie St	6983
<b>North 9th St</b>	9th Street drainage ditch west of 900 Pottawatomie St	6957
<b>North 9th St</b>	9th Street drainage ditch west of 905 Ottawa St	7782
<b>North 9th St</b>	9th Street drainage ditch west of 904 Ottawa St	15115
<b>Dakota Street</b>	Vacant lot east of 915-917 Dakota	7907
<b>vacant lot</b>	vacant lot area east of 850 Cherokee St (80' width x approximately 175' deep)	14000
<b>N 9th</b>	Vacant lot area behind 902, 904 & 906 Ottawa	8983
<b>Intersection off of Cherokee &amp; Sherman Ave</b>	Island off of Cherokee & Sherman Ave	827
<b>vacant area</b>	Area <b>East of 1203 Cherokee</b> - cut the City right-of-way back from the curb approx. 6-10 feet	700
<b>206 S 11<sup>th</sup> Street</b>	Vacant corner lot east of 1105 Delaware	12808
<b>Delaware Street</b>	Vacant lot area behind 1010-1014 Cherokee	39215
<b>Osage Street</b>	Northwest corner of <b>12th &amp; Osage, from 12th St to 1224 Osage</b>	42499
<b>Cherokee Street</b>	Vacant lot west of 1010 Cherokee, mow back to tree line	3432

**Total Square Feet**

**271,202**

**Cluster 2**

<b>Location</b>	<b>Property Description</b>	<b>Sq. Ft.</b>
<b>Kickapoo</b>	Vacant lot west of 733 Kickapoo (84' width)	10297
<b>404 Kickapoo</b>	Vacant lot east of 408 Kickapoo (NW corner 4th & Kickapoo)	5952
<b>Ottawa Street</b>	Vacant lot east of 741 Ottawa	14161
<b>N 3rd Street</b>	SW corner 3rd & Kiowa (96' width)	12076
<b>Kiowa Street</b>	Vacant lot area (SE corner of 4th & Kiowa)	2980
<b>406 Pottawatomie</b>	NW corner 4th & Pottawatomie (extends 60' West of Arbor way)	7791
<b>501 N 5th</b>	NW corner 5th & Pottawatomie (vacant lot east of 506 Pott)	6411
<b>317 Osage</b>	Vacant lot west of 315 Osage St	2969
<b>Chestnut</b>	Vacant lot north of 701 S 2nd St (off of 2nd & Chestnut)	30625
<b>213 N 3rd St</b>	Vacant lot south of 221 N 3rd	3383
<b>501 Ottawa</b>	Vacant corner lot east of 505 Ottawa	2240
<b>505 Ottawa</b>	Vacant lot east of 509 Ottawa	2986
<b>225 Osage Street</b>	Vacant lot west of 221 Osage	6027
<b>316 Pottawatomie</b>	Vacant lot west of 312 Pottawatomie (36' width)	4510
<b>428 Pawnee Street</b>	Vacant lot west of 426 Pawnee	6417
<b>115 Ottawa Street</b>	SE corner 2nd & Ottawa	5396
<b>514 N 2nd St</b>	38' from the SE corner 2nd & Ottawa	2115
<b>vacant lot</b>	vacant lot area to the west of 406 S 5th	16711
<b>741 Kickapoo</b>	Vacant lot east of 743 Kickapoo	3500
<b>214 Kiowa</b>	Vacant lot west of 210 Kiowa (24" width)	3000
<b>Vacant lot</b>	Vacant lot at southwest corner of 2 <sup>nd</sup> St & Kickapoo	3096
<b>611 N 2<sup>nd</sup> St</b>	Vacant lot at southwest corner of 2 <sup>nd</sup> St & Kickapoo	5904
<b>613 N 2<sup>nd</sup> St</b>	Vacant lot southwest corner of 2 <sup>nd</sup> St & Kickapoo	2304
<b>417 N 5<sup>th</sup> St</b>	Vacant lot at southwest corner of 5 <sup>th</sup> St & Pottawatomie	6235
<b>305 Miami St</b>	Vacant lot east of 307 Miami St	3000

**Total Square Feet****170,086**



**Cluster 3**

<b>Location</b>	<b>Property Description</b>	<b>Sq. Ft.</b>
<b>Pawnee Street</b>	vacant lot area west of 925 N. 14th St	13323
<b>vacant area</b>	Vacant lot at <b>14th &amp; Dakota</b> (Southeast Corner)	27545
<b>vacant area</b>	<b>Metropolitan hill - 16th Street and west to bottom of hill</b>	86401

**Total Square Feet**

**127,269**

**Cluster 4**

<b>Location</b>	<b>Property Description</b>	<b>Sq. Ft.</b>
<b>vacant area</b>	Approx. 140 ft from corner of <b>17th &amp; Vilas</b> then approx. 150 feet to the west.	3900
<b>1401 W. Eisenhower Rd</b>	Vacant corner lot, <b>SW of Eisenhower &amp; 10th Ave/Calvary Rd</b>	41508
<b>Shrine Park Rd</b>	NE corner of bridge apron, <b>South of 3037 Shrine Park Rd</b>	7529
<b>10th Ave</b>	Bridge area south of <b>3523 10th Ave</b>	5854
<b>Wilson Ave</b>	<b>NW corner of St. Mary's and Wilson Ave</b>	11216
<b>802 10<sup>th</sup> Ave</b>	Vacant corner lot east of <b>1004 Randolph</b>	5878
<b>vacant area</b>	<b>Wilson Ave right-of-way - East side of the street, South 2301 &amp; 2309 Wilson Ave driveway</b>	8333

**Total Square Feet****84,218**

**Cluster 5**

<b>Location</b>	<b>Property Description</b>	<b>Sq. Ft.</b>
<b>vacant area</b>	Off Ohio - cut/trim grass and weeds on the double alley area between <b>Columbia &amp; 9th Ave 1400 Block</b>	4490
<b>vacant area</b>	1700 block of 4th St. (vacant lot south of Cellular One) <b>1612 4th St use to be lots 27, 28 &amp; 29</b>	15638
<b>vacant area</b>	<b>North of 2500 S 4th St</b> (Lot North of Pawn Shop/Bridge area) <b>Lots 1 &amp; 2</b>	23949
<b>vacant area</b>	<b>10th Ave &amp; Randolph</b> - trim grass & weeds around area of guardrail on East side of 10th Ave	1936
<b>vacant area</b>	<b>10th Ave &amp; Ironmoulders</b> - trim grass & weeds around area of the guardrail on East side of 10th Ave	1049
<b>Elm Street</b>	Lot South of 1201 2nd Ave	3981
<b>vacant area</b>	Corner of Charles St. & Lawrence Ave. Guardrail	2350

**Total Square Feet**

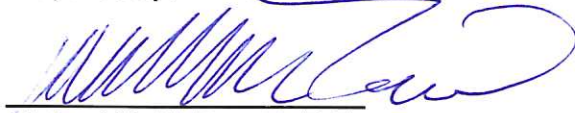
**115,786**

POLICY REPORT PWD NO. 19-18

CONSIDER APPROVAL OF LOW BID FOR  
THE 2019 PAVEMENT MANAGEMENT PROJECT  
(GRANITE SEAL PROGRAM)

City Project 2018-894  
March 12, 2019

Prepared by:



Michael G. McDonald, P.E.,  
Director of Public Works

Reviewed by:



Paul Kramer,  
City Manager

**ISSUE:**

Consider bids received for the 2019 Pavement Management Granite Seal Program.

**BACKGROUND:**

December 18, 2018 - The City Commission approved a design contract with Affinis for the design of the 2019 Pavement Management Program.

Each year the City Commission authorizes General Improvement Bonds for the annual maintenance of public streets. In 2016 the Commission increased the bond funding available for the Pavement Management Program. The program now includes granite seal, mill/overlay components, major repair and maintenance work beyond the scope of the Street Division and parking lot repairs in downtown. The budget allocation for 2019 includes sufficient funds to cover the costs of the 2019 construction, inspection, and design of the 2020 Pavement Management Program and inspection of Pavement Condition Index (PCI) by Stantec Scanning. Inspection will be a combined effort of City Staff and contracted inspection services.

The Granite Seal Program for 2019 includes the City streets highlighted in the attached map. The quality bids received will allow the City to add the additional streets identified in the Alternate Bid Proposal to the work for completion this year. City forces will be working on patching and crack sealing the streets in this year's Granite Seal Program.

The project plans were prepared by Affinis Corporation and a notice of the project was sent to area Plan Rooms, Drexeltech.com and advertised in The Leavenworth Times. Bids were opened on March 6, 2019 and the results of the bidding are shown below and in the attached bid tabulation.

Mid-America Road Builders was the low bidder and met all bidding requirements. This will be a second year for Mid-America Road Builders to do the granite seal work. Their prior work in 2017 was completed within the required timeframe and specifications. The company has done numerous projects for other cities in Kansas and Missouri.

Company	City	Base Bid	Alternate Bid	Total Bid
Mid-America Road Builders	St Joseph, MO	\$358,772.60	\$147,044.20	\$505,816.80
Harbour Construction	Kansas City, KS	\$383,682.35	\$158,172.45	\$541,854.80
Vance Brothers	Kansas City, MO	\$528,158.90	\$217,316.30	\$745,475.20
<b>Base Bid Engineer's Estimate</b>		\$547,588.50		

Work is expected to begin in early June and be completed in 45 days or no later than August 1, 2019. All work around schools will be completed between June 3 and August 1. The project for this year added a third sweeping to take place.

The sweeping intervals are as follows;

- 1st Sweeping – within 24 hours after placement
- 2nd Sweeping – within 72 hours after placement
- 3rd Sweeping – within 45 – 60 days after placement

A map of the granite seal area is included with this policy report. The base bid is shown for 53,377 lineal feet (10.1 miles) of street and the alternate bid as 22,614 lineal feet (4.3 miles) of street.

This is the third year of the sealing program, which was planned as a three-year program. It is expected that Stantec will scan all City streets in Fall 2019 to evaluate the progress of the program toward addressing the Pavement Condition Index.

**RECOMMENDATION:**

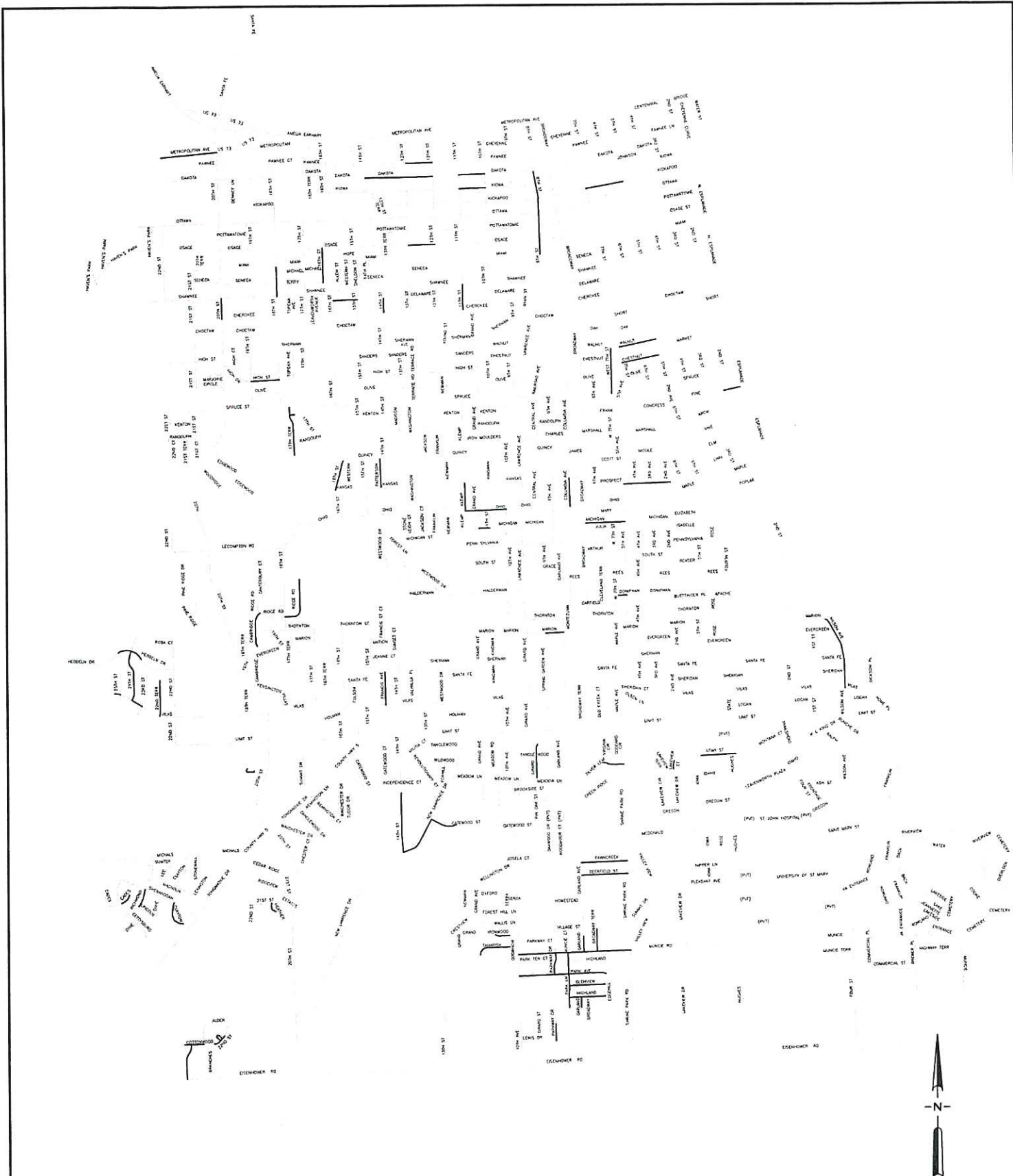
Staff recommends that the City Commission approve the low bid submitted for the base and alternate by Mid-America Road Builders for the 2019 Pavement Management Granite Seal Program in the amount of \$505,816.80.

**POLICY:**

The City Commission generally awards bids to the lowest bidder that are properly submitted and within the Engineer's Estimate.

**ATTACHMENTS:**

Project Street Maps  
Project Street Lists  
Bid Tabs



2/11/2019  
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8900 Indian Creek Parkway, Suite 450  
 Overland Park, Kansas 66210  
 Phone: 913-239-1100

Toll Free: 877-527-5468  
 Fax: 913-239-1111  
 www.affinis.us

CITY OF LEAVENWORTH, KS  
 PAVEMENT MANAGEMENT PROGRAM  
 Base Bid

2019 Granite Seal (70-80)

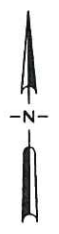
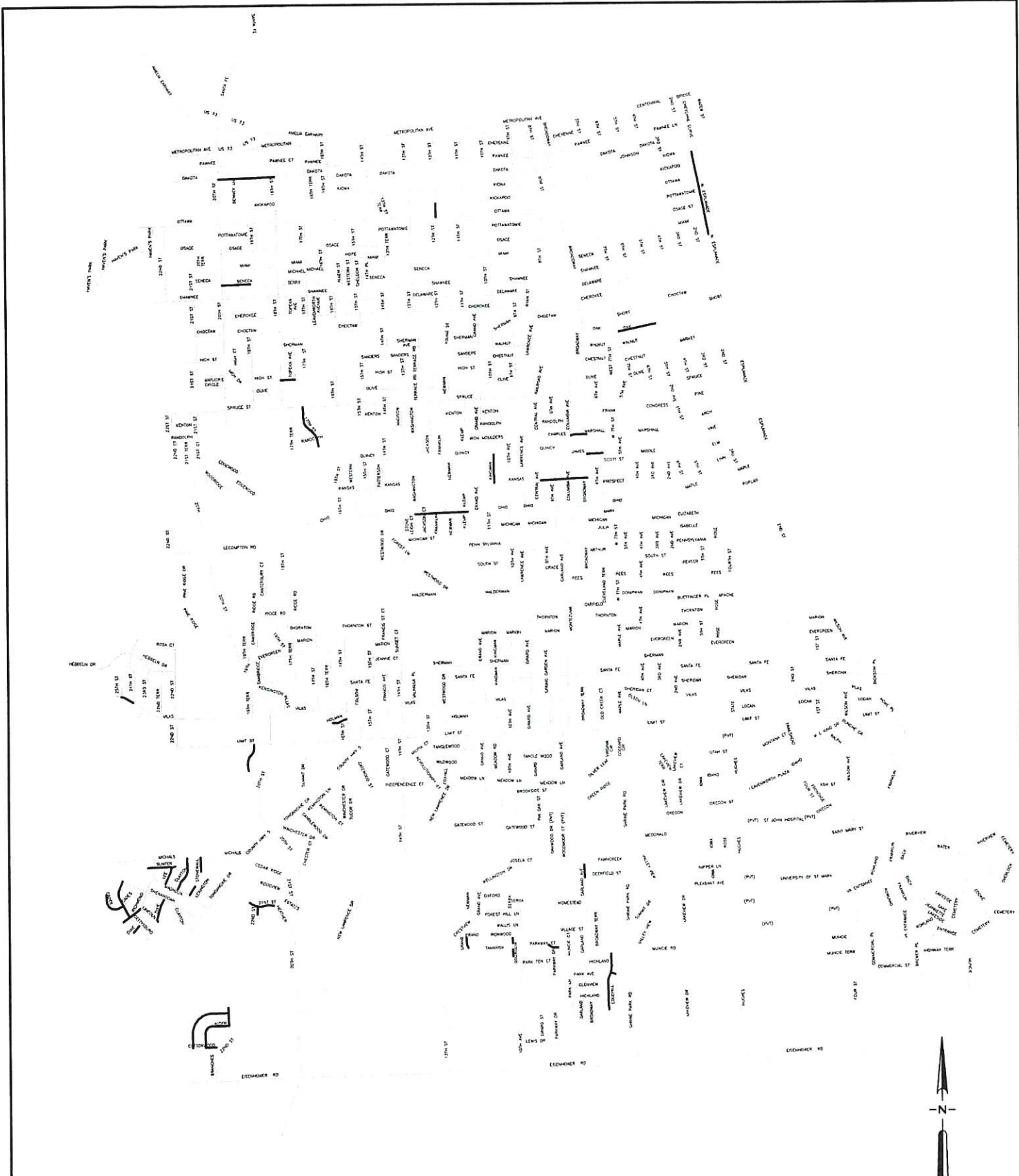
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Subsegme_1	Street	Beginning	End To	SY
06-72C-1	PINE	2ND ST	ESPLANADE	1290
10-180-1	UTAH	IOWA	HUGHES RD	2008
08-142A-1	DONIPHAN	W 7TH ST	5TH AVE	314
02-113B-1	8TH ST	DAKOTA	MIAMI	6807
03-13A-1	20TH ST	SHAWNEE	CHOCTAW	2115
04-151B-1	W 7TH ST	WALNUT	SPRUCE	3185
05-91D-1	KLEMP	KANSAS	OHIO	2209
10-271-1	PARKWAY DR	LEWIS DR	390FT N OF LEWIS	1310
07-138B-1	RIDGE RD	18TH ST	N CULDESAC	3507
9-347-1	S 22ND ST	328FT S OF ALDER ST	BRANCHES WAY	1074
10-230A-1	MUNCIE RD	10TH AVE	SHRINE PARK RD	9836
10-102A-1	GLENVIEW ST	PARK LN	EDGEHILL ST	2549
10-274-1	HIGHLAND TER	BROADWAY TER	EDGEHILL ST	963
10-275-1	GARLAND ST	HIGHLAND TER	S DEAD END	807
10-276-1	HIGHLAND TER	GARLAND ST	BROADWAY TER	958
10-277-1	HIGHLAND TER	PARK LN	GARLAND ST	959
10-258A-1	PARK LN	MUNCIE RD	S DEAD END	3909
10-233A-1	GARLAND ST	MUNCIE CT	N CULDESAC	995
10-105A-1	PARK AVE	PARKWAY CT	EDGEHILL ST	3721
10-228-1	PARK AVE	10TH AVE	PARKWAY CT	2522
10-214-1	FAWN CREEK	SHRINE PARK RD	GARLAND AVE	3299
10-106A-1	BROADWAY TER	VILLAGE ST	MUNCIE RD	1581
10-119B-1	PARKWAY DR	MUNCIE RD	PARK AVE	1570
9-350-1	TAMARISK DR	IRONWOOD DR	EOP	2698
9-354-1	IRONWOOD CT	IRONWOOD DR	W CULDESAC	1150
9-359-1	CADES CV	GETTYSBURG DR	E DEAD END	886
09-95.2-1	NEW LAWRENCE RD	GATEWOOD ST	14TH ST	3237
09-63B-1	S 14TH ST	345FT S OF INDEPENDENCE	NEW LAWRENCE RD	2355
09-302.1-1	GATEWOOD	NEW LAWRENCE RD	630 FT E OF NEW LAWRENCE RD	1547
10-169-1	LAKEVIEW CT	LAKEVIEW CIR	N CULDESAC	593
06-120D-1	MICHIGAN	BROADWAY	5TH AVE	3089
10-261A-1	SILVER LEAF	SHRINE PARK RD	W DEAD END	1486
10-216-1	DEERFIELD	GARLAND AVE	SHRINE PARK RD	3297
08-195A-1	WILSON AVE	MARION	VILAS	5301
07-224-1	24TH ST	VILAS	HEBBELN DR	3651
01-6F-1	PAWNEE	13TH ST	12TH ST	1238
03-93A-1	S 11TH ST	SHAWNEE	CHEROKEE	1314
06-106C-1	PROSPECT	4TH AVE	2ND AVE	2385
06-129d-1	COLUMBIA AV	KANSAS	OHIO	2252
06-106B-1	PROSPECT	5TH AVE	4TH AVE	1191
04-58D-1	CHESTNUT	7TH ST	5TH ST	2858
04-56C-1	WALNUT	7TH ST	5TH ST	3737
01-24E-1	OSAGE	13TH ST	12TH ST	1800
03-54C-1	HIGH	19TH ST	18TH ST	2200
01-39B-1	N 16TH ST	TERRY	OSAGE	2271
03-63A-1	S 14TH ST	DELAWARE	CHEROKEE	799
07-21B-1	CAMBRIDGE	THORNTON	S CULDESAC	1128
07-21a-1	CAMBRIDGE ST	RIDGE RD	THORNTON	1473
05-39A-1	S 16TH ST	QUINCY	KANSAS	1119
05-61-1	PATTERSON	QUINCY	KANSAS	1972

Subsegme_1	Street	Beginning_	End_To	SY
11-114E-1	OHIO	KLEMP	10TH AVE	3257
07-120B-1	MICHIGAN	GRAND AVE	11TH ST	776
05-27-1	S 17TH TER	SPRUCE	S DEAD END	3445
9-379-1	COTTONWOOD ST	ALDER ST	W DEAD END	1369
10-109A-1	GIRARD AVE	MEADOW LN	N CULDESAC	2422
01-14F-1	KIOWA	11TH ST	10TH ST	1874
01-12G-1	DAKOTA	11TH ST	10TH ST	1799
09-335-1-1	HEATHER CT	21ST ST	S CULDESAC	684
9-386-1	RICHMOND DR	SHENANDOAH DR	LINCOLN CT	1210
9-387-1	SOMERSET DR	SOMERSET DR	S LOOP	822
01-12E-1	DAKOTA	14TH ST	12TH ST	4787
02-16C-1	KICKAPOO	7TH ST	5TH ST	2972
07-172B-1	HEBBELN DR	320FT W OF 24TH	330FT E OF 24TH	1223
07-1.2-1	22ND STTR	N CULDESAC	VILAS	2522
07-222-1	VILAS	24TH ST	23RD ST	859
7-225-1	VILAS ST	W DEAD END	25TH ST	457
9-396-1	BIRCH ST	EISENHOWER RD	COTTONWOOD ST	2331
07-53A-1	FRANCIS AVE	N CULDESAC	VILAS	2322
11-2A-1	METROPOLITAN	W CITY LIMIT	20TH ST	2977
03-38A-1	DELAWARE ST	16TH ST	15TH ST	1533
09-304-1	CLAYTON CT	SHENANDOAH DR	S CULDESAC	1756
01-25B-2	N 18TH ST	MIAMI	SHAWNEE	2769
08-150A-2	MARION	SPRING GARDEN	GARLAND AVE	1013
05-74B-1	Kenton	17th St	East Dead End	376





2/11/2019  
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**Affinis**  
 corp

8900 Indian Creek Parkway, Suite 450  
 Overland Park, Kansas 66210  
 Phone: 913-239-1100

Toll Free: 877-527-5468  
 Fax: 913-239-1111  
 www.affinis.us

CITY OF LEAVENWORTH, KS  
 PAVEMENT MANAGEMENT PROGRAM  
 Alternate Bid

2019 Granite Seal (80-90)

Date:  
 Drawn By:  
 Checked By:  
 Approved By:  
 File: Filename  
 Job #

OF

Subsegme_1	Street	Beginning	End_To	SY
11-114C-1	OHIO	STONLEIGH CT	NEWMAN	2604
06-90A-1	MARSHALL	BROADWAY	COLUMBIA AVE	1078
10-250-1	PARKWAY CT	W CULDESAC	PARKWAY DR	723
01-12B-1	DAKOTA	20TH ST	18TH ST	3073
9-344-1	S 22ND ST	150FT S OF BIRCH ST	ALDER ST	469
9-345-1	ALDER ST	COTTONWOOD ST	22ND ST	3073
9-348-1	COTTONWOOD ST	BRANCHES WAY	ALDER ST	783
10-101A-1	EDGEHILL ST	S DEAD END	MUNCIE RD	4007
10-125A-1	GARLAND AVE	FAWN CREEK	DEERFIELD	889
9-352-1	IRONWOOD DR	TAMARISK DR	S DEAD END	438
9-355-1	IRONWOOD DR	IRONWOOD CT	115FT S OF IRONWOOD CT	323
9-358-1	SUMTER CT	W DEAD END	RICHMOND DR	463
9-363-1	RICHMOND DR	LINCOLN CT	GETTYSBURG DR	931
9-366-1	LEE CT	SUMTER CT	MAGNOLIA DR	1262
9-367-1	SUMTER CT	RICHMOND DR	LEE CT	1588
09-308-1	CLAYTON DR	MICHALS	MAGNOLIA DR	2122
9-371-1	DIXIE DR	LINCOLN CT	SHENANDOAH DR	1632
09-307-1	LEXINGTON CT	MAGNOLIA DR	N CULDESAC	618
9-374-1	GRAND CT	GRAND AVE	S CULDESAC	716
02-193-1	ESPLANADE	N END	SENECA	6609
05-99A-1	KINGMAN	QUINCY	KANSAS	1697
06-104B-1	KANSAS	CENTRAL AVE	BROADWAY	3702
06-96C-1	JAMES	BROADWAY	6TH AVE	1236
04-52C-1	OAK	7TH ST	5TH ST	2949
01-32B-1	SENECA	20TH ST	660FT E OF 20TH	1918
07-164A-1	HOLMAN	16TH ST	W CULDESAC	1019
11-114D-1	OHIO	NEWMAN	KLEMP	958
5-229-1	S 17TH ST	SPRUCE	S DEAD END	2888
03-54D-1	HIGH	18TH ST	TOPEKA AVE	1095
9-380-1	S 22ND ST	BIRCH ST	150FT S OF BIRCH ST	476
9-381-1	S 22ND ST	N DEAD END	BIRCH ST	384
9-382-1	BIRCH ST	COTTONWOOD ST	22ND ST	4058
09-309-1	STONEWALL CT	MICHALS	S CULDESAC	877
9-385-1	CADES CV	W DEAD END	GETTYSBURG DR	1841
9-388-1	GETTYSBURG DR	CADES COVE	SHENANDOAH DR	1717
01-83B-1	N 12TH ST	KICKAPOO	OTTAWA	1076
7-229-1	VILAS ST	25TH ST	24TH ST	1015
9-390-1	GETTYSBURG DR	RICHMOND DR	CADES COVE	856
9-393-1	SOMERSET DR	LIMIT	SOMERSET TER	809
9-394-1	SOMERSET DR	SOMERSET TER	S LOOP	1019
9-336-1-1	22ND ST	21ST ST	S CULDESAC	627
9-360-1	RICHMOND DR	GETTYSBERG	S DEAD END	541
9-361-1	CAVALRY CT	GETTYSBERG	CULDESAC	549



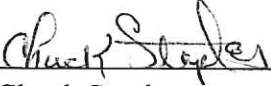
**BID TAB**  
 City Project No. 2018-894  
 Project Title: **2019 GRANITE SEAL PROGRAM**


BASE BID				Engineer's Estimate		Mid America Road Builders		Habour Construction, Inc.		Vance Brothers, Inc.	
Item	Item Description:	Unit	Quantity	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Mobilization	LS	1	\$ 40,000.00	\$40,000.00	\$ 10,000.00	\$10,000.00	\$ 10,000.00	\$10,000.00	\$ 15,000.00	\$15,000.00
2	Traffic Control	LS	1	\$ 26,000.00	\$26,000.00	\$ 10,000.00	\$10,000.00	\$ 10,000.00	\$10,000.00	\$ 5,000.00	\$5,000.00
3	Chip Seal	SY	166,065	\$ 2.15	\$357,039.75	\$ 1.70	\$282,310.50	\$ 1.78	\$295,595.70	\$ 2.70	\$448,375.50
4	1st Sweeping	SY	166,065	\$ 0.25	\$41,516.25	\$ 0.13	\$21,588.45	\$ 0.17	\$28,231.05	\$ 0.18	\$29,891.70
5	2nd Sweeping	SY	166,065	\$ 0.25	\$41,516.25	\$ 0.11	\$18,267.15	\$ 0.13	\$21,588.45	\$ 0.18	\$29,891.70
6	3rd Sweeping	SY	166,065	\$ 0.25	\$41,516.25	\$ 0.10	\$16,606.50	\$ 0.11	\$18,267.15	\$ 0.18	\$29,891.70
<b>TOTAL BASE BID (Award of Contract) =</b>					<b>\$547,588.50</b>		<b>\$358,772.60</b>		<b>\$383,682.35</b>		<b>\$558,050.60</b>

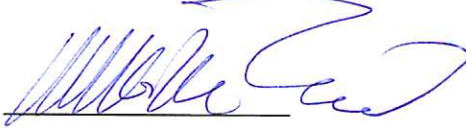
ALTERNATE BID				Engineer's Estimate		Mid America Road Builders		Habour Construction, Inc.		Vance Brothers, Inc.	
Item	Item Description:	Unit	Quantity	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Traffic Control	LS	1	\$ 26,000.00	\$26,000.00	\$ 2,500.00	\$2,500.00	\$ 3,000.00	\$3,000.00	\$ 500.00	\$500.00
2	Chip Seal	SY	70,855	\$ 2.15	\$152,338.25	\$ 1.70	\$120,453.50	\$ 1.78	\$126,121.90	\$ 2.70	\$191,308.50
3	1st Sweeping	SY	70,855	\$ 0.25	\$17,713.75	\$ 0.13	\$9,211.15	\$ 0.17	\$12,045.35	\$ 0.18	\$12,753.90
4	2nd Sweeping	SY	70,855	\$ 0.25	\$17,713.75	\$ 0.11	\$7,794.05	\$ 0.13	\$9,211.15	\$ 0.18	\$12,753.90
5	3rd Sweeping	SY	70,855	\$ 0.25	\$17,713.75	\$ 0.10	\$7,085.50	\$ 0.11	\$7,794.05	\$ 0.18	\$12,753.90
<b>TOTAL ALTERNATE BID =</b>					<b>\$231,479.50</b>		<b>\$147,044.20</b>		<b>\$158,172.45</b>		<b>\$230,070.20</b>

<b>TOTAL BASE + ALTERNATE BID (for Information Only) =</b>					<b>\$779,068.00</b>		<b>\$505,816.80</b>		<b>\$541,854.80</b>		<b>\$788,120.80</b>
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**POLICY REPORT NO. 19-17**  
**Water Pollution Control Division**  
**Laboratory Air Handler Replacement Project**  
**March 12, 2019**

Prepared by:   
Chuck Staples  
WPC Superintendent

Reviewed by:   
Paul Kramer  
City Manager

  
Michael G. McDonald P.E.  
Public Works Director

**ISSUE:**

Consider approval of bid for the replacement of the Water Treatment Plant's Laboratory Air Handler.

**BACKGROUND:**

KDHE requires that the laboratory, under their Quality Assurance Plan, maintain the internal temperatures at 68° – 72°F when performing PH, Dissolved Oxygen and Biochemical Oxygen Demand test.

The Laboratory has its own stand-alone air handler unit for HVAC which was installed in 1993. The “make-up” (fresh) air comes from the north side of the main building. Also located on the north side are the sludge holding tanks. The corrosive nature of air coming from the sludge storage tanks impacts the copper tubing in this air handler unit creating operational and mechanical problems.

In 2018, WPC spent \$7,896.35 repairing leaks on Freon lines. Similar effort on repairs has occurred in previous years.

The proposed project will relocate the “make-up” air intake to the south side of the building and replace deteriorated components of the HVAC system that serve the laboratory area.

**BID RECEIVED:**

D'Agostino Mechanical Contractors, Inc: \$51,475.

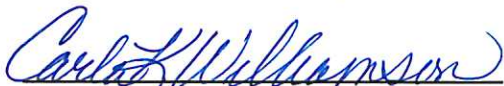
**STAFF RECOMMENDATION:**

Staff recommends the City Commission approve the bid from D'Agostino Mechanical Contractors, Inc. at the cost of \$51,475.

**OPTIONS/ALTERNATIVES:** The City Commission can accept the bid as recommended by City staff, or can ask the staff to re-bid.

**POLICY REPORT  
FIRST CONSIDERATION ORDINANCE TO  
AMEND CHAPTER 10, ALCOHOLIC BEVERAGE  
OF THE CITY CODE OF ORDINANCES**

**MARCH 12, 2019**



Carla K. Williamson, CMC  
City Clerk



Paul Kramer  
City Manager

**ISSUE:**

To place on first Consideration an ordinance to amend Chapter 10, Alcoholic Beverage of the Code of Ordinances.

**BACKGROUND:**

- There have been major changes to the state statutes regarding the sale of Cereal Malt Beverage. The changes become effective April 1, 2019.
- City Attorney David Waters, working with Staff has taken this opportunity to review and amend the entire chapter related to alcoholic beverage of the Code of Ordinances to bring the ordinance in line with current state regulations.
- Mr. Waters will review the amended ordinance.

**ACTION:**

Place on first consideration the ordinance amending Chapter 10, of the City Code of Ordinances related to Alcoholic Beverage.

**ATTACHMENTS:**

- Draft Ordinance

## Chapter 10 - ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES

### ARTICLE I. – DEFINITIONS AND GENERAL PROVISIONS

#### Sec. 10-1. – Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcohol* means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

*Alcoholic liquor* means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

*Beer*, when its meaning is not enlarged, modified or limited by other words, means a beverage containing more than 3.2 percent of alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like having such alcoholic content.

*Board* means the state alcoholic beverage control board of review.

*Caterer* means an individual, partnership or corporation which sells alcoholic liquor by the individual drink and provides services related to the serving thereof on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

*Cereal malt beverage* or *CMB* means any fermented but undistilled liquor brewed or made from malt or from malt or from a mixture of malt or malt substitute, or any flavored malt beverage, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

*Class A club* means premises which are owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (referred to in this article as "members"), and their families and guests accompanying them.

*Class B club* means premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

*Club* means a class A or class B club.

*Director* means the state director of alcoholic beverage control.

*Distributor* means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to

retailers licensed under this Chapter, or cereal malt beverage or enhanced cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2701 and amendments thereto.

*Domestic table wine* means wine which contains not more than 14 percent alcohol by volume and which is manufactured without rectification or fortification from agricultural products grown in this state.

*Drinking establishment* has the meaning provided by K.S.A. 41-2601 and amendments thereto.

*Enhanced cereal malt beverage* means cereal malt beverage, as defined herein, and such term shall also include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act and the provisions of this Chapter.

*Farm winery* means a winery licensed by the director to manufacture, store and sell domestic table wine.

*Food establishment* has the meaning provided by K.S.A. 65-656 and amendments thereto.

*General retailer* means a person who has a license to sell enhanced cereal malt beverages at retail.

*Legal age for consumption of enhanced cereal malt beverage* means 21 years of age, except that legal age for consumption of cereal malt beverage shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

*Limited Retailer* means a person who has a license to sell enhanced cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

*Manufacture* means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer, enhanced cereal malt beverage, or cereal malt beverage.

*Manufacturer* means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package, and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors, beer, enhanced cereal malt beverage, or cereal malt beverage, regardless of its alcoholic content. *Manufacturer* does not include a farm winery or a microbrewery.

*Microbrewery* means a brewery licensed by the director to manufacture, store and sell domestic beer.

*Microdistillery* means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

*Minor* means any person under 21 years of age.

*Nonbeverage User* means any manufacturer of any of the products set forth and described in K.S.A. 41-501 and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for non-beverage purposes.

*Original package* means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor.

*Person* means any natural person, corporation, partnership or association.

*Place of Business* means any place at which cereal malt beverages, enhanced cereal malt beverages, or alcoholic beverages or both are sold.

*Retailer* means a person who sells, at retail, or offers for sale at retail, alcoholic liquors, but does not include a microbrewery, microdistillery, or farm winery.

*Sale* means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether as principal, proprietor, agent, servant or employee.

*Salesperson* means any natural person who:

- (1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage; or
- (2) Is engaged in promoting the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the of Kansas.

*Sell at retail* and *sale at retail* means and refers to sales for use or consumption and not for resale in any form, and sales to clubs, licensed drinking establishments, licensed caterers, or holders of temporary permits. *Sell at retail* and *sale at retail* do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer, or a holder of a state temporary permit.

*Spirits* means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whisky, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substance.

*Supplier* means a manufacturer of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

*Temporary permit* means a permit issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises open to the public.



*To sell* means and includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

*Wholesaler or distributor* means any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this Chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell enhanced cereal malt beverages or cereal malt beverages at retail.

*Wine* means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries, or other agricultural products, including such beverages containing added alcohol or spirits, or containing sugar added for the purpose of correcting natural deficiencies.

**Sec. 10-2. - City-owned properties, generally.**

- (a) It shall be unlawful for any person to have any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage in his or her possession upon any public street, highway, alley, sidewalk, inside vehicles, or any other public property unless such alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage is in the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed except as authorized hereinafter.
- (b) No person shall drink or consume any alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage upon the public streets, alleys, sidewalks, roads or highways of the city or inside vehicles while upon such public streets, alleys, sidewalks, roads or highways, or in City-owned parks or other facilities or properties, unless authorized as provided in this section.
- (c) The above prohibitions shall not apply during events and the designated areas for such events in the City where:
  - (1) a special event CMB permit has been approved in accordance with Article II of this Chapter; or
  - (2) a temporary permit has been approved in accordance with Article III, and the event has been approved by the governing body in accordance with K.S.A. 41-719.
- (e) Notwithstanding the foregoing, cereal malt beverages are allowed to be possessed and consumed (but not served or sold) at city parks and other City-owned premises or facilities, with a permit issued by the director of parks and recreation, subject to the following requirements:
  - (1) The premises must have been rented from the City by the applicant; in advance;
  - (2) Applicant must be 21 years of age or older and a Leavenworth area resident. Applicant is required to remain on the site throughout the function.
  - (3) Applications must be submitted to the parks and recreation office at least five (5) working days prior to the event.
  - (4) The director of parks and recreation will notify the police department prior to the permitted event.
  - (5) Permits may only be issued for the following types of activities:
    - a. Company picnics.
    - b. Fraternal organization picnics.

- c. Service club picnics.
- d. Family reunions.
- e. Other group functions, subject to the discretion of the director of parks and recreation.

The sale or service of cereal malt beverages on or from City-owned properties shall otherwise require a full cereal malt beverage license or a special event CMB permit.

- (f) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$200.00 or by imprisonment for not more than six months, or by both such fine and imprisonment.

**Sec. 10-3. – Possession and consumption restrictions.**

- (a) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor or enhanced cereal malt beverages from any person except as authorized by law. Violation of this subsection by a person 18 or more years of age, but less than 21 years of age, is a misdemeanor punishable by a fine of not less than \$100.00 and not more than \$250.00 or by 40 hours of public service, or by both.
- (b) No person under 21 years of age shall possess or consume alcoholic liquor or enhanced cereal malt beverages except as authorized by law. Violation of this subsection by a person 18 or more years of age, but less than 21 years of age, is a misdemeanor punishable:
  - (1) By a fine of not less than \$100.00 and not more than \$250.00 or by 40 hours of public service, or by both, if committed on premises licensed pursuant to K.S.A. 41-2601 *et seq.*, as amended; or
  - (2) By a fine of not less than \$25.00 and not more than \$250.00 or by ten hours of public service, or by both, if committed on any other premises.
- (c) Any person less than 18 years of age who violates subsections (a) or (b) of this section is a juvenile offender under the state juvenile offenders code and, upon adjudication thereof, shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment for the offense under subsection (a) or (b).
- (d) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of, any alcoholic liquor or enhanced cereal malt beverages to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor. Violation of this subsection is a misdemeanor punishable by a fine of not less than \$100.00 and not exceeding \$250.00 or imprisonment not exceeding thirty (30) days, or both.
- (e) No person except a manufacturer, distributor, microbrewery, farm winery or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor or enhanced cereal malt beverages with the same or any other kind or quality of alcoholic liquor. No person shall have in the person's possession for sale at retail any bottles, casks or other containers containing alcoholic liquor or enhanced cereal malt beverages, except in original packages.

**Sec. 10-4. - Minors on premises of business.**

Except as otherwise provided in this Chapter as to enhanced cereal malt beverages:

- (1) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption.
- (2) It shall be unlawful for the operator, person in charge, or licensee of any premises licensed for on-premises consumption of alcoholic liquor to permit any person under the age of 21 years to remain on the premises.
- (3) This section shall not apply if the person under the age of 21 years is accompanied by his parent or guardian, or if the licensed or permitted premises derives not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises, or where a caterer, caterer, farm winery, microbrewery, or temporary permit holder is serving alcoholic liquor.

**Sec. 10-5. - Possession and transportation.**

Subject to the limitations provided in this section, the possession and transportation of alcoholic liquor for other than personal use shall be unlawful.

- (1) No person shall transport in any vehicle upon a highway or street any alcoholic liquor or enhanced cereal malt beverage unless such liquor or beverage is:
  - a. In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;
  - b. In the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or
  - c. In the exclusive possession of a passenger in a vehicle which is a recreational vehicle, as defined by K.S.A. 75-1212, or a bus, as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

Violation of this subsection is a misdemeanor punishable by a fine of not more than \$200.00 or by imprisonment for not more than six months, or both.

- (2) It shall be unlawful for any person to transport any alcoholic liquor upon which the tax imposed by the state liquor control act has not been paid or on the containers of which each mark and stamp required by the state liquor control act has not been affixed; provided, that nothing contained in this subsection shall make unlawful the possession and transportation of wine imported solely for use by any church or religious organization for sacramental purposes and uses. Any person who shall violate any of the provisions of this subsection shall, upon conviction thereof, be fined not exceeding \$500.00, or shall be imprisoned not exceeding six months, or both, in the discretion of the court; and in proper cases, the court may order and direct the confiscation of the liquor involved in such transaction as part of the judgment or conviction.

### **Sec. 10-6. - Open saloons.**

It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon within the corporate limits of the city. As used in this section, "open saloon" means any place, public or private, where alcoholic liquor or enhanced cereal malt beverage is sold or offered or kept for sale by the drink or in any quantity of less than 100 milliliters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the club and drinking establishment act, as amended, or any manufacturer, microbrewery, microdistillery, or farm winery, if authorized by Kansas statute, or any premises where the sale of enhanced cereal malt beverages are authorized by this Chapter. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00, and by imprisonment for not more than ninety (90) days.

### **Sec. 10-7. - Revocation; penalties.**

- (a) The governing body upon five (5) days' notice to the person holding a license or permit under this Chapter may revoke such license for any one of the following reasons:
- (1) If a licensee or permit holder has fraudulently obtained the license by giving false information in the application therefor.
  - (2) If the licensee or permit holder has violated any of the provisions of this Chapter or any other rules or regulations of the City relating to alcoholic liquor or enhanced cereal malt beverages, or if the licensee or permit holder has violated any law of the state for which violation the City is authorized by law to revoke the license.
  - (3) If the licensee or permit holder has become ineligible to obtain a license or permit under this Chapter.
  - (4) Drunkenness of a person holding such license or permit, drunkenness of a licensee's or permittee's manager or employee while on duty and while on the premises for which the license or permit is issued, or for a licensee or permittee, his or her manager or employee permitting any intoxicated person to remain in such place selling alcoholic liquor.
  - (5) The nonpayment of any license or permit fees or occupation tax.

Additionally, the Police Chief or his/her designee make immediately cancel a temporary permit or a special event CMB permit if the event becomes unruly or if the or permit holder has violated any of the provisions of this Chapter.

- (b) The licensee, within twenty (20) days after the order of the governing body revoking any license or permit, may appeal to the district court of Leavenworth County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license or permit of any licensee or permittee, nor shall any new license or permit be issued to such person or any person acting for or on his or her behalf, for a period of six (6) months thereafter.

- (c) In addition to the provisions of Section 10-7(a) above, if the licensee or permit holder has violated any of the provisions of this Chapter, the individual holding the license or permit may be charged in municipal court with a violation of the alcoholic liquor laws of the city and, upon conviction, shall be punished by:
- (1) A fine of not more than \$499.00;
  - (2) Imprisonment in jail for not more than 179 days; or
  - (3) Both such fine and imprisonment.

**Secs. 10-7—10-25. - Reserved.**

## **ARTICLE II. - CEREAL MALT BEVERAGES**

### **DIVISION 1. - RETAILERS.**

#### **Sec. 10-26. – License required of retailers.**

- (a) It shall be unlawful for any person to sell any enhanced cereal malt beverage at retail without a license for each place of business where enhanced cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell enhanced cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any enhanced cereal malt beverage in any other manner.
- (c) The "cereal malt beverage license" issued by the City pursuant to this Article authorizes the sale of enhanced cereal malt beverages by those retailers in compliance with this Article and such other laws and regulations that may apply.

#### **Sec. 10-27. - Application.**

- (a) Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
  - (1) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
  - (2) The particular place for which a license is desired;
  - (3) The name of the owner of the premises upon which the place of business is located;
  - (4) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
  - (5) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two (2) years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
- (b) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 54 of this Code.
- (c) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 50 of this Code.

- (d) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city clerk not later than five (5) working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

**Sec. 10-28. - License application procedures.**

- (a) All applications for a new and renewed enhanced cereal malt beverage license shall be submitted to the city clerk ten (10) days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license thirty (30) days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with Chapters 50 and 54 of this Code. The departments will then recommend approval, or disapproval, of applications within five (5) working days of the department's receipt of the application.
- (d) The governing body will not consider any application for a new or renewed license that has not been submitted ten (10) days in advance and been reviewed by the above city departments.
- (e) An applicant who has not had a cereal malt beverage license or enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

**Sec. 10-29. – License fees; term.**

- (a) The license fees for selling enhanced cereal malt beverages shall be as prescribed in appendix F. License fees are non-refundable and non-transferable.
- (b) The full amount of the license fee shall be required regardless of the time of year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

**Sec. 10-30. - Examination; approval; disqualification.**

- (a) If the application made under this Article is in proper form and accompanied by the license fee, the governing body shall examine the application, and if the applicant is qualified as provided by law the governing body shall approve the granting of a license to the applicant; provided, that no license shall be issued to:

- (1) A person who has not been a resident in good faith of the state of Kansas for at least one (1) year immediately preceding application and a resident of Leavenworth County for at least six (6) months prior to filing of such application.
  - (2) A person who is not a citizen of the United States.
  - (3) A person who is not of good character and reputation in the community in which he or she resides.
  - (4) A person who, within two (2) years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
  - (5) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
  - (6) A corporation or a limited liability company if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of such corporation or limited liability company would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county.
  - (7) A corporation or a limited liability company, if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of such corporation or limited liability company, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of a corporation or limited liability company which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.
  - (8) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
  - (9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (9) shall not apply in determining eligibility for a renewal license.
- (b) No license shall be issued for a place of business located or to be located in a zone prohibited under the City zoning regulations. A person applying for a license as a general retailer must be engaged in business in the City.

**Sec. 10-31. - Issuance; transfer; posting.**

If the license is granted, the governing body shall direct the city clerk to issue a license by order of the governing body, and the minutes of the governing body shall show the action taken. The license shall not be transferable. The license shall state that it is not transferable and shall



also show the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the licensee's place of business.

**Sec. 10-32. – Restrictions upon location.**

- (a) No license shall be granted to sell at retail enhanced cereal malt beverages on premises which are located in areas not zoned for such purpose, or if the premises do not comply with other city laws, including building and health codes.
- (b) No license shall be granted to sell at retail enhanced cereal malt beverages at any place of business or location within 300 feet of any public or parochial school, college, church, nursing home, library or hospital; provided, that if any such facility shall be established within 300 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. The distance shall be measured from the nearest property line of the school, college, church, nursing home, library or hospital to the nearest portion of the building occupied by the business selling or serving the beverages.
- (c) The prohibition set out in subsection (b) of this section shall not prohibit a license to sell only at retail enhanced cereal malt beverages in original and unopened containers and not for consumption on the premises. Such prohibition shall further not apply to properties that are located in the Central Business District or areas zoned General Business District, or to establishments located within the 300-foot limit as of the latest effective date of this section, so long as the license is and has been continuously held without allowing cancellation or lapse for a period of thirty (30) days or more.
- (d) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the governing body. The governing body shall grant such waiver only following notice to property owners within such 300-foot distance (in such manner as the city may require) and a public hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

**Sec. 10-33. – Change of location.**

If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee equal to the amount of the application or license fee then charged by the City. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

**Sec. 10-34. – Suspension of license.**

The chief of police, upon five (5) days written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or enhanced cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The

licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

**Sec. 10-35. – General conduct of business.**

- (a) The holder of a license under the provisions of this Article shall conduct the business in an orderly manner, and it shall be unlawful for any licensee or agent or employee of the licensee to allow intoxicated persons to remain in such place of business or serve any enhanced cereal malt beverages to any intoxicated persons. It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.
- (b) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business. The place of business shall be open to the public and police at all times during business hours and no private rooms or booths shall be operated in any place of business; except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

**Sec. 10-36. - Business regulations.**

- (a) It shall be unlawful for a licensee to:
  - (1) Permit any person to mix drinks in or on the licensed premises, or to permit any person to mix drinks with materials purchased in the place of business or brought in for such purpose;
  - (2) Employ any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
  - (3) Employ any person in who has been adjudged guilty of a felony or of any violation of the intoxicating liquor law;
  - (4) Permit any gambling on the premises;
  - (5) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or consumption of any enhanced cereal malt beverages to any person under the legal age for consumption of enhanced cereal malt beverages;
  - (6) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or possession or consumption of alcoholic liquor within or upon any premise licensed under this Article.
- (b) The provisions of subsections (a)(1) and (6) above shall not apply if the place of business or premises are also currently licensed as a club under a license issued by the state director of alcoholic beverage control.

**Sec. 10-37. - Minors on premises; loitering by underaged persons**

- (a) No license under this article shall permit a person under the legal age for consumption of enhanced cereal malt beverages in or about a place of business, and no licensee shall

permit a person under the legal age for consumption of enhanced cereal malt beverage to possess an enhanced cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell enhanced cereal malt beverage if:

- (1) The licensee's place of business is licensed only to sell enhanced cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or
  - (2) The licensee's place of business is a licensed food establishment, and not less than thirty percent (30%) of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- (b) No person under the legal age for consumption of enhanced cereal malt beverages shall loaf or loiter or consume any enhanced cereal malt beverage in any place of business in the City for which an enhanced cereal malt beverage license for consumption on the premises has been issued.

**Sec. 10-38. – Days and hours of operation.**

- (a) Except as provided by subsection (b), no enhanced cereal malt beverages may be sold or dispensed: (i) between the hours of 12:00 midnight and 6:00 a.m.; (ii) in the original package before 12:00 noon or after 8:00 p.m. on Sunday; (iii) on Easter Sunday; or (iv) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell enhanced cereal malt beverage for consumption on the premises, which derives not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises.
- (b) Enhanced cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 *et seq.*, and licensed as a club by the State Director of Alcoholic Beverage Control.

**Sec. 10-39. - Sanitary conditions required.**

All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

**Sec. 10-40. – Windows and doors; regulation of electric signs and loudspeakers.**

The windows and doors of every place within the City selling or dispensing enhanced cereal malt beverages shall be free and clear of any obstruction, either temporary or permanent,

which may interfere with or shut off the view from the street of the inside of such place, and such place shall be kept clean, well ventilated and brightly lighted at all times when open for use. All signs shall comply with the City's sign regulations, as may be amended from time to time. There shall not be any loudspeakers from any musical instrument attached to the outside of any licensee's premises.

**Sec. 10-41. - State license for wholesalers and distributors.**

It shall be unlawful for any wholesaler or distributor, or agent or employee thereof, to sell or deliver enhanced cereal malt beverages within the city to persons authorized under this article to sell enhanced cereal malt beverages within the city unless such wholesaler or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.

**Secs. 10-42—10-60. - Reserved.**

## **DIVISION 2. – SPECIAL EVENT CMB PERMITS.**

### **Sec. 10-61. – Permit required.**

It shall be unlawful for any person to sell or serve any CMB at any special event within the city without first obtaining a special event CMB permit from the city clerk.

### **Sec. 10-62 – Application; City-owned properties.**

- (a) It shall be unlawful for any person to sell or serve CMB at a special event without first applying for a special event CMB permit at least fourteen (14) days before the event. Written application for the special event CMB permit shall be made to the city clerk and shall clearly state:
- (1) The name of the applicant (applicant must be 21 years of age or older and a Leavenworth area resident; applicant is required to remain on the site throughout the function);
  - (2) The group for which the event is planned;
  - (3) The location of the event;
  - (4) The date and time of the event;
  - (5) Any anticipated need for police, fire or other municipal services.
- (b) Notwithstanding the provisions of Section 10-2 above, a special event CMB permit may be issued by the city clerk for the following City-owned properties and facilities:
- (1) The Community Center located on North Esplanade north of Cherokee Street.
  - (2) The Leavenworth Landing Park located east and south of above described Community Center.
  - (3) The Haymarket Square, located at 7th and Cherokee.
  - (4) The Havens Park, located at 22nd and Ottawa.
  - (5) The Riverfront Park, located at the east end of Dakota Street.
  - (6) Ray Miller Park, located at the corner of 4201 South 4th Street.
  - (7) Leavenworth Public Library, located at 417 Spruce Street.
  - (8) Performing Arts Center, 500 Delaware Street.

### **Sec. 10-63 – Fee; display of receipt.**

- (a) There is hereby levied a special event CMB permit fee in the amount as set out in appendix F on each group or individual, which fee shall be paid before the event is begun. License fees are non-refundable and non-transferable.
- (b) Every special event CMB permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event CMB permit is serving CMB for consumption on the premises.

### **Sec. 10-64 – Issuance.**

Upon meeting the requirements to obtain a special event CMB permit, payment of the city's permit fee, and a written application as provided for in section 10-63, the city clerk shall issue a special event CMB permit to the applicant if there are no conflicts with any zoning or other ordinances of the city. The city clerk shall notify the chief of police whenever a special event CMB permit has been issued and forward a copy of the permit and application to the chief of police

**Sec. 10-65. - Restrictions.**

- (a) No special event CMB permit holder shall allow the serving or consumption of CMB between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a special event CMB permit has been issued.
- (b) No CMB shall be given, sold or traded to any person under 21 years of age.
- (c) No special event CMB permit issued hereunder may be transferred or assigned to any other vendor.
- (d) All local ordinances and state statutes for the sale and consumption of CMB apply to holders of special event CMB permits.

**Secs. 10-66—10-80. - Reserved.**

## **ARTICLE III. - ALCOHOLIC LIQUOR**

### **DIVISION 1. - RETAIL LIQUOR AND OTHER.**

#### **Sec. 10-81. – License required.**

- (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the Kansas liquor control act, as amended, without first having obtained a state license to do so.
- (b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in this division, and the tax shall be received and a receipt shall be issued for the period covered by the state license.

#### **Sec. 10-82. – Occupational taxes.**

There is hereby levied an occupation tax, as prescribed in Appendix F, on any person holding a license issued by the state director of alcoholic beverage control for the following:

- (1) the retail sale within the city of alcoholic liquors for consumption off the premises;
- (2) all alcoholic liquor and/or cereal malt beverage distributors, for the first and each additional distributing place of business operated in the city by the same licensee;
- (3) all microbreweries;
- (4) all farm wineries;
- (5) all persons engaged in a nonbeverage users' business

Such tax shall be paid by the licensee to the city clerk before business is begun under an original state license and shall be paid within five (5) days after any renewal of a state license. A holder of any of the above-described licensees shall present such state license when applying to pay the occupation taxes levied herein, and the taxes shall be received and receipt issued for the period covered by the state license by the city license collector. The occupation tax is non-refundable and non-transferable.

#### **Sec. 10-83. - Application; issuance.**

All applications for new or renewal city licenses under this division shall be submitted to the city clerk. Upon presentation of a state license, payment of the city occupation tax and the license application, the city clerk shall issue a city license for the period covered by the state license if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

#### **Sec. 10-84. - Posting of receipt required.**

Every licensee under this division shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

#### **Sec. 10-85. – Business regulations.**

It shall be unlawful for a retailer of alcoholic liquor to:

- (1) Permit any person to mix drinks in or on the licensed premises unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 41-308d, and amendments thereto;
- (2) Employ any person under the age of 21 years in connection with the operation of such retail establishment;
- (3) Employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony;
- (4) Permit any gambling on the premises;
- (5) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring, or consumption of any alcoholic liquor to or for any person under 21 years of age.

**Sec. 10-86. - Restrictions upon location.**

- (a) No license shall be granted to sell at retail alcoholic liquor on premises which are located in areas not zoned for such purpose, or if the premises does not comply with other city laws, including building and health codes.
- (b) No license shall be granted to sell at retail alcoholic liquor at any place of business or location within 300 feet of any public or parochial school, college, church, nursing home, library or hospital; provided, that if any such facility shall be established within 300 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. The distance shall be measured from the nearest property line of the school, college, church, nursing home, library or hospital to the nearest portion of the building occupied by the business selling or serving the beverages.
- (c) The prohibition set out in subsection (b) of this section shall not apply to properties that are located in the Central Business District or areas zoned General Business District, or to establishments located within the 300-foot limit as of the latest effective date of this section, so long as the license is and has been continuously held without allowing cancellation or lapse for a period of thirty (30) days or more.
- (d) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the governing body. The governing body shall grant such waiver only following notice to property owners within such 300-foot distance (in such manner as the city may require) and a public hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

**Sec. 10-87. – Days and hours of operation.**

No person shall sell at retail alcoholic liquor in the original package:

- (1) On Sunday before 12 noon or after 8 p.m.;
- (2) On Easter Sunday, Thanksgiving Day or Christmas Day; or



(3) Before 9 a.m. or after 11 p.m. on any day when the sale is permitted.

**Secs. 10-88—10-92. – Reserved.**

## **DIVISION 2. - TEMPORARY PERMITS**

### **Sec. 10-93. – Permit required.**

It shall be unlawful for any person granted a temporary permit by the state to sell or serve any alcoholic liquor within the city without first obtaining a temporary permit from the state, and a local temporary permit from the city clerk.

### **Sec. 10-94. – Application; City-owned properties.**

- (a) It shall be unlawful for any person to conduct an event under a state-issued temporary permit without first applying for a local temporary permit at least fourteen (14) days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
- (1) The name of the applicant;
  - (2) The group for which the event is planned;
  - (3) The location of the event;
  - (4) The date and time of the event;
  - (5) Any anticipated need for police, fire or other municipal services.
- (b) Notwithstanding the provisions of Section 10-2 above, a temporary permit may be issued by the city clerk for City-owned properties and facilities if the event has been approved by the governing body in accordance with K.S.A. 41-719.

### **Sec. 10-95. - Fee; display of receipt.**

- (a) There is hereby levied a temporary permit fee in the amount as set out in appendix F on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit. License fees are non-refundable and non-transferable.
- (b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

### **Sec. 10-96. - Issuance.**

Upon presentation of a state temporary permit application, payment of the city's temporary permit fee and a written application as provided for in section 10-94, the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city. The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.

### **Sec. 10-97. - Restrictions.**

- (a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.
- (b) No alcoholic liquor shall be given, sold or traded to any person under 21 years of age.

**Secs. 10-99—10-125. – Reserved.**

### **DIVISION 3. - PRIVATE CLUBS**

#### **Sec. 10-126. – License required.**

It shall be unlawful for any person granted a private club license by the state to sell or serve any alcoholic liquor or enhanced cereal malt beverages authorized by such license within the city without first obtaining a local license from the city clerk.

#### **Sec. 10-127. – License fee.**

There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a class A club and class B club shall be as set out in appendix F.

#### **Sec. 10-128. - Application; issuance.**

All applications for new or renewal city licenses under this division shall be submitted to the city clerk. Upon presentation of a state license, payment of the city occupation tax and the license application, the city clerk shall issue a city license for the period covered by the state license if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

#### **Sec. 10-129. - Term; refunds; display.**

- (a) The license period for a license under this article shall extend for the period covered by the state license. License fees are non-refundable and non-transferable.
- (b) Every licensee shall cause the city club license issued under this article to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

#### **Sec. 10-130. - Business regulations.**

- (a) No club licensee under this article shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or enhanced cereal malt beverages be given, sold or traded to any person under 21 years of age.

#### **Secs. 10-131—10-165. – Reserved.**

## **DIVISION 4. - CATERERS**

### **Sec. 10-166. - Required.**

It shall be unlawful for any person licensed by the state as a caterer to sell alcoholic liquor or enhanced cereal malt beverages by the drink in the city without obtaining a local caterer's license from the city clerk.

### **Sec. 10-167. - Fee.**

There is hereby levied an annual license fee as set out in appendix F on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license.

### **Sec. 10-168. - Application; issuance.**

All applications for new or renewal city licenses under this article shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

### **Sec. 10-169. - Term; refunds; display.**

- (a) The license period shall extend for the period covered by the state license. License fees are non-refundable and non-transferable.
- (b) Every licensee shall cause the caterer's license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor or enhanced cereal malt beverages for consumption on the premises.

### **Sec. 10-170. - Business regulations.**

- (a) No caterer licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor or enhanced cereal malt beverages between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) No alcoholic beverages or enhanced cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

### **Sec. 10-171. - Notice to chief of police.**

Prior to any event at which a caterer will sell or serve alcoholic liquor or enhanced cereal malt beverages by the individual drink, the caterer shall provide written notice to the chief of police at least seven (7) days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

### **Secs. 10-169—10-205. - Reserved.**

## **DIVISION 5. - DRINKING ESTABLISHMENTS**

### **Sec. 10-206. – License required.**

It shall be unlawful for any person granted a drinking establishment license by the state to sell or serve any alcoholic liquor or enhanced cereal malt beverages authorized by such license within the city without first obtaining a city license from the city clerk.

### **Sec. 10-207. - Fee.**

There is hereby levied an annual license fee as set out in appendix F on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license.

### **Sec. 10-208. - Application; issuance.**

All applications for new or renewal city licenses under this article shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

### **Sec. 10-209. - Term; refunds; display.**

- (a) The license period for a license issued under this article shall extend for the period covered by the state license. License fees are non-refundable and non-transferable.
- (b) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

### **Sec. 10-210. - Business regulations.**

- (a) No drinking establishment licensed under this article shall allow the serving, mixing or consumption of alcoholic liquor or enhanced cereal malt beverages on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or enhanced cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

### **Secs. 10-211—10-220. - Reserved.**

**Policy Report**  
City festival management contract  
March 12, 2019

Prepared by:



Paul Kramer  
City Manager

**Issue:**

At the February 19 City Commission Study Session the Commission heard a presentation from O'Neil Events and Marketing. The Commission gave a consensus for the general theme of the festival as well as provided a consensus for a comprehensive management contract to be presented for management of the 2019 festival.

The contract includes a detailed breakdown of services covered, but a few notable roles/tasks that the scope of work covers are:

- Event director
- Event producer
- Sponsorship producer
- Marketing manager
- Public relations
- Festival insurance
- Organization financial management and storage
- Festival Wifi Network and onsite IT support

Each of the bulleted items above includes a more comprehensive breakdown in the contract.

**Action:**

Consider a comprehensive management contract with O'Neil Events and Marketing for the 2019 City of Leavenworth festival.



**AGREEMENT WITH THE CITY OF  
LEAVENWORTH FOR THE  
CAMP LEAVENWORTH FESTIVAL 2019  
Event Management Proposal**

**March 7, 2019**

*Presented by:*

O'Neill Events & Marketing

1607 Oak Street

Kansas City, MO 64108



## Overview:

O'Neill Events and Marketing has put together a plan to execute a new annual event in the City of Leavenworth. This plan with tasks and costs is outlined below.

## Summary and Period of Engagement Leavenworth Festival Event Management

March 1, 2019 – November 1, 2019

O'Neill Events & Marketing has been approached by the city of Leavenworth to provide professional services as outlined below, under the direction and supervision of designated Leavenworth Festival representatives, and understands the Scope of Work as defined:

- Event Director
- Event Producer
- Sponsorship Producer
- Marketing Manager
- Public Relations
- Festival Insurance
- Organization Financial Management & Storage
- Festival WIFI Network and onsite IT support

O'Neill Events & Marketing understands the Period of Engagement for the outlined work as follows:

## O'Neill Deliverables and Responsibilities

O'Neill Events & Marketing will serve as the Event Producer for the festival with Keli O'Neill Wenzel as Event Director of Leavenworth Festival. If Keli O'Neill Wenzel is unable to serve as Event Director, any replacement Event Director will be submitted to the Leavenworth Festival City Manager/Office for approval.

The detailed scope of work below, along with the above summary, reflects O'Neill Events & Marketing's understanding of the project. Please initial by each subhead to confirm

\_\_\_\_ City of Leavenworth

Leavenworth Festival's understanding of each section. If you have questions or notice any conflicts, please contact O'Neill Events & Marketing.

## General Timeline Requirements & Process

O'Neill Events & Marketing understands the initial target delivery date for Leavenworth Festival is September 20 – 21, 2019. As such, all work outlined above will reflect said target date and be executed in a timely manner to achieve success. O'Neill Events & Marketing will do all to meet any established deadline, but because of project dependencies beyond O'Neill Events & Marketing's control, O'Neill will not issue a formal project timeline until all defined requirements and approvals are received.

Any changes to Scope of Work or delays in approvals will potentially affect the general timeline and cost of the project. Missed deadlines relating to services, contracts, or information on the part of the client or third party will result in O'Neill Events & Marketing adjusting the general project timeline.

If actions by the client or any other third party creates project delays, the overall project timeline will be reevaluated to account for lost time, and a Change Order may be issued for any additional time required of the O'Neill Events & Marketing team. Any such Change Order issued on behalf of the project is subject to additional fees associated with those changes.

## Event Director

- Create annual festival operations budget with input from Leavenworth Festival Executive Committee and/or City Manager's Office
- Oversee festival financial systems with inclusion of City Manager
- Manage budget and spending, updating City Manager/Office monthly
- Meet with Leavenworth Festival City Manager/Office on a monthly basis to discuss organization strategy and business plans
- Meet with Leavenworth Festival City Manager/Office on a monthly basis to discuss festival operations planning
- Assist Leavenworth Festival City Manager/Office with necessary organization structure development and business documentation
- Provide historical data to the City Manager/Office
- Co-manage event identity and oversee brand management
- Oversee marketing and public relations

\_\_\_\_ City of Leavenworth

- Based upon approved budget numbers, Event Director will communicate, negotiate and send necessary festival agreements to City Manager's office for approval with tenants, venue owners and stakeholders within and surrounding the festival footprint
- Attend and participate in any meetings and conferences with any entities or government agencies as are necessary for developing, implementing and sustaining the event
- Provide consultation throughout the year
- Provide onsite consultation and recommendations for weather, emergency situations, threats and problems that arise
- Provide production oversight
- Be onsite during all festival hours (through tear down and setup)

## Event Producer

### LOGISTICS PLANNING

- Manage and maintain all festival operations costs, ensuring budget accountability
- Maintain a general operating timeline
- Meet with Leavenworth Festival City Manager/Office and provide updates on a monthly basis to discuss festival operations and planning
- Attend and participate in any meetings and conferences with any entities or government agencies as are necessary for developing, implementing and sustaining the event
- Create and develop a festival layout
- Manage and oversee all festival signage needs
- Coordinate, order and fulfill all-related area logistical needs
- Oversee on-site sponsorship logistics, including footprint, power, and site access
- Hire and manage additional on-site labor for festival
- Coordinate and order all festival deliverables and supplies
  - Establish list of festival area needs
  - Supply graphic design team with timelines, content and creative guidelines
  - Designate and distribute credential and festival access list
  - Distribute hospitality packages, including drink tickets, food vouchers and backstage meal tickets
  - Create festival communications plan, including radio assignments, radio order and on-site equipment setup

### STAFFING, COMMITTEE & VOLUNTEER MANAGEMENT

\_\_\_\_ City of Leavenworth

- Develop committee needs and roles and coordinate tasks with City Manager/Office, Executive Committee and staff
- Coordinate Executive Committee Chairs and Weekend Chairs, overseeing their job descriptions and meeting regularly with each to ensure all tasks are being implemented
- Identify and create volunteer staffing plan
  - Shift development
  - Training
  - Communications and system management

#### **ENTERTAINMENT**

- Work with designated entertainment booking agents to create, recommend and manage Leavenworth Festival entertainers, to be approved by the Leavenworth Festival City Manager/Office
- Work with designated entertainment booking agents to solidify entertainer contracts, payments and tax requirements

#### **HOSPITALITY MANAGEMENT**

- Facilitate all festival and sponsor hospitality needs and requests
- Develop guest rooming list and coordinate hotel accommodations for entertainers, various staff and VIPs
- Manage transportation plans to and from festival for entertainers, including airport and hotel needs as contracted, as well as co-manage on-site runner
- Coordinate backstage/green room needs according to entertainer riders and festival budget

#### **PERMITTING & LICENSING**

- Apply for all necessary permits for festival
  - Fire, Noise, Carnival
  - Street Closure
  - Health
  - City and State Liquor
- Obtain and coordinate all permit support documentation including permission letters, tax documents, appropriate fees and all other paperwork

#### **TICKETING, BOX OFFICE & POINT OF SALE (TBD – if ticketed event)**

- Negotiate, select and contract festival and event ticket provider
- Develop ticketing packages, prices and system execution
- Provide content and all information necessary for online ticket sales
- Ticket fulfillment for all festival partners, attendees, and sponsors

- Manage all onsite box office and ticketing operations and equipment
- Oversee festival Point of Sale systems/operations

### **EMERGENCY PREPAREDNESS**

- Develop a public safety plan to include all festival related security and medical needs and coordinate all related entities responsible for executing this plan
- Manage Emergency Incident Coordinator and on-site preparedness plans
- Emergency Action Plan development and distribution in advance and on-site

### **TRANSPORTATION & PARKING**

- Develop a festival parking and traffic plan and work with all contracted vendors, city, Uber, Lyft, police, etc., to execute and communicate properly
- Manage road closures and communications related to all festival transportation and parking

### **BAR & BEVERAGE OPERATIONS**

- Oversee all bar and beverage operations
- Create bar layouts and serving operations
- Product orders including soda, water, ice, and cups and distribution of product on-site
- Work with appointed liquor distributor to coordinate liquor needs, equipment, and logistics on-site

### **VENDOR RELATIONS**

- Coordinate, manage and contract with ALL Leavenworth Festival vendors
  - Cash and Carry: Food vendors + Makers Market vendors
  - Decor: Fabrication, Installations, Lighting
  - Hospitality: Transportation, Hotels, Green Room, Backstage
  - Parking and Transportation
  - Power: Generators, Equipment, Distribution
  - Production: Sound, Stage, Lighting
  - Public Safety: Security, Medical, Crowd Control, Weather
  - Site: Fencing, Tents

### **ON-SITE MANAGEMENT**

- Full on-site event management from setup to tear down
  - \*\*O'Neill Events & Marketing has 4 dedicated staff that will oversee the festival. This includes on-site setup on the Thursday before the festival and post-festival on the day after the event. All other staff and volunteer needs will be the*

*responsibility of the festival's budget. As indicated above, O'Neill will oversee and manage these additional positions.*

## **Sponsorship Producer**

- Develop target sponsor list and festival financial goals for fundraising
- Create general festival sponsorship package and festival overview
- Provide update on prospective sponsor contacts to the Leavenworth Festival City Manager/Office for final approval before solicitation
- Develop, facilitate and maintain relationship(s) with prospective sponsors
- Create custom festival sponsorship packages based on client needs
- Manage all sponsor contracts and invoicing
- Create a sponsorship wrap up report to distribute to City of Leavenworth and sponsors
- Fulfill all sponsor requirements as established in final contract
  - Marketing materials
  - Signage
  - Logistical needs: Permits, power, etc.
- On-site management for all sponsors, including advance communications, load-in, site needs, load-out

## **Marketing Manager**

- Develop and manage a festival marketing plan that aligns with budget and brand
  - Yard Signs
  - Billboards
  - Radio & Television
  - Digital
- Manage all marketing vendors (Graphic designers, social media, Website, etc. – fees not included in O'Neill's scope)
- Establish and manage media partnerships and media buys
- Write media scripts and commercial scripts as needed
- Provide creative direction and content guidelines with unified marketing team
- Work with unified marketing teams to create coordinated festival content calendar that aligns PR, digital and marketing efforts
  - Eblasts
  - Website

- Mobile App
- Media Releases
- Social Media

## **Organization Financial Management (Annually)**

- Manage festival daily accounting needs, including bank deposits and check signings
- Manage all receivables and payables, and balance checkbook
- Creating monthly reports for treasurer review
- Manage annual tax filing with hired tax accountant
- Manage all festival financial documents to keep organization compliant (includes renewals, filings and documentation needed for permits and operations)
- Compile all financial records and supporting documentation for required NPO audits
- Storage of all festival financial operations equipment, tokens and supplies

## **Festival WIFI Network and Onsite IT Support (if needed)**

- Outdoor WIFI distribution setup and equipment rental, including:
  - Routers
  - Wireless access points
  - Antennas
  - Cabling
- WIFI distribution system configuration, installation & support, includes:
  - Sourcing and coordination of landline internet service with neighborhood business
  - Coordinating building access where needed
- Support 3rd party vendors (ticketing, merchant point-of-sale) with onsite IT support and technical troubleshooting
- General onsite technical support for mechanical & electrical issues outside of other vendors' scopes of work
- Supply onsite IT/electrical supply pack for miscellaneous needs that arise onsite

*\*2019 Final cost and equipment determination is based on software demands and final festival footprint. Cost could fluctuate and will be submitted to board for final approval.*

## Project Fee and Compensation

O'Neill Events & Marketing will be compensated in the following manner:

### Festival Event Management

- \$5,625 per month (8 months)
- TOTAL: \$45,000**

### Financial Management

- \$250 per month (8 months)
- TOTAL: \$2,000**

### Sponsorship Bonus Compensation

- City of Leavenworth will pay O'Neill Events & Marketing a 10% bonus on any cash sponsorships.
- City of Leavenworth will pay all commissions on any sponsorship agreements secured by O'Neill Events & Marketing regarding Camp Leavenworth
- O'Neill Events & Marketing will bill sponsorship commissions separately from monthly management fee, two weeks after the festival

### Festival Third Party Software Hard Costs

O'Neill Events and Marketing will procure and solidify the following third-party software services:

- Volunteer Management System - \$800 annually (*estimate*)
- Sponsorship Management System - \$250 annually (*estimate*)

*Based on 2018 software costs. Subject to change based on final 2019 portfolio of events and customized group rate that is a direct result of our role as a multi-event producer.*

## Terms

This agreement shall begin when both parties sign and agree to the scope of work and project details as outlined above and authorizes O'Neill Events & Marketing to proceed and continue until all services are complete and delivered.

Payment schedule:

\$5,875 due on the 15th each month Mar. 15 – Nov. 15\*

Third Party Software costs and sponsorship commission billed separately

\_\_\_\_ City of Leavenworth



## Expiration and Termination

This Scope of Work will be honored for 60 days from the date received. If signature approval is not received within 60 days, this agreement is void and a new agreement must be issued.

The above scope of work and agreement is subject to change if the festival date or venue location changes. Such modifications to festival date or location change, or changes to the scope as defined here, may require additional work not outlined above and result in additional fees to be paid to O'Neill Events & Marketing.

*Termination for Cause:* Either party may terminate this agreement at any time, on written notice to the other party, if the other party breaches any of its material responsibilities or obligations under this Agreement and fails to cure that breach within 5 days of notice.

*Termination for Insolvency:* Either party may terminate this agreement at any time, on written notice to the other party, if the other party ceases to conduct business in its normal course; makes an assignment for the benefit of creditors; is liquidated or otherwise dissolved; becomes insolvent; files a petition in bankruptcy; or a receiver, trustee or custodian is appointed for it.

*Termination by Mutual Agreement:* This agreement may be terminated by the mutual agreement of the parties.

*Termination Fees:* In the event of termination, Client shall pay O'Neill Events & Marketing for the Services performed through the date of termination as well as the work not completed that is listed in the estimate in the amount of a prorated portion of the fees due to the extent work related thereto has been performed. Client shall pay all reasonable and actual expenses, fees and additional costs incurred through the date of termination. Notwithstanding the foregoing, in the event this Agreement is terminated as a result of Vendor's default, Client shall not be responsible for termination fees as described in this section.

## Indemnification and Liability

It is hereby understood and agreed that O'Neill Events & Marketing will in no case be responsible for any loss, damage or injury to any person or property during the term of this agreement except for acts of its non-negligence or misconduct except for acts of O'Neill Events & Marketing's negligence or misconduct, or that of its agents, employees, or contractors. It is

\_\_\_\_ City of Leavenworth

further agreed by and between O'Neill Events & Marketing and Leavenworth Festival that Leavenworth Festival will protect, indemnify and hold harmless O'Neill Events & Marketing, officers, agents and employees, volunteers, individually and collectively, from any and all claims, suits and/or judgements, including attorney's fees and other costs of defense of any said claim and/or suit incurred by O'Neill Events & Marketing, brought by anyone as a result of action or inaction of Leavenworth Festival.

Leavenworth Festival shall effect and maintain adequate insurance coverage (including professional indemnity insurance and event and public liability insurance) to cover all liabilities under the agreement, with a reputable insurer and shall, on O'Neill Events & Marketing's request, produce a copy of the insurance certificate giving details of coverage in the respect of each insurance.

Nothing in these conditions shall operate to exclude or restrict either party's liability for: a) death or personal injury resulting from negligence. b) fraud or deceit. Subject to above terms, the liability of O'Neill Events & Marketing in connection with the agreement whether for negligence, breach of contract, misrepresentation or otherwise, will not extend to any special, indirect or consequential damages or losses, or any loss of profits, loss of revenue, loss of data, loss of contracts or opportunity, whether direct or indirect, even if Leavenworth Festival has advised O'Neill Events & Marketing of the possibility of those losses, or if they were within O'Neill Events & Marketing's contemplation.

## **Confidentiality**

O'Neill Events & Marketing shall view as Leavenworth Festival's property any idea, data, budget, program, technical, business, competitive, customer or other similar information, and any personal, proprietary and confidential information related to Company's Board Members/employees, whether in tangible or intangible form and however conveyed ("Information").

O'Neill Events & Marketing shall keep Information confidential, not disclose it to any third party, and use Information only in performing Services under this Agreement, and shall obligate its Assistants, employees, subcontractors and others working for it, if any, to do so in writing, provided that the foregoing shall not apply to Information previously known to O'Neill Events & Marketing free of obligation, or made public through no fault of vendor. Upon Company's request, O'Neill Events & Marketing shall, at no additional charge to Company, destroy or surrender to Company promptly any copy of such Information. In the event Company permits vendor access to personally identifiable information, vendor acknowledges and agrees that it

\_\_\_\_ City of Leavenworth

has in place and maintains appropriate security measures and safeguards to prevent the disclosure of personally identifiable information, consistent with applicable law.

## Dispute Resolution

*Negotiation:* Parties agree to attempt to resolve any dispute by negotiation between the parties.

*Arbitration/Mediation:* If parties are unable to resolve the dispute by negotiation, either party may start mediation and/or binding arbitration in a forum mutually agreed to by the parties.

*Litigation:* In all other circumstances, the parties specifically consent to the local, state and federal courts located in the state of Kansas. The parties waive any jurisdictional or venue defenses available to them.

*Attorney Fees:* The prevailing party shall be entitled to recover its attorneys' fees and costs in any dispute resolved by binding arbitration or litigation.

## General

*Modification/Waiver:* Modifications to this Agreement must be in writing and signed by both parties. Failure by either party to enforce any right or seek to remedy any breach under this Agreement shall not be construed as a waiver of such rights, nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

*Notices:* All notices under this Agreement shall be given in writing either by: (a) Fax or Email, with return confirmation of receipt; (b) Certified or Registered mail, with return receipt requested. Notice will be effective when received, or in the case of email or fax, on confirmation of receipt.

*No Assignment:* Rights or obligations under this Agreement shall not be transferred, assigned or encumbered without the prior written consent of the other party.

*Governing Law:* This Agreement shall be governed by the law of Kansas.

\_\_\_\_ City of Leavenworth

*Severability:* If any provision of this Agreement is held invalid or unenforceable, the remainder of this agreement shall remain in full force and effect. Where possible, the invalid or unenforceable provision shall be interpreted in such manner as to be effective and valid under applicable law.

*Headings:* Headings used in this Agreement are for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of this Agreement, and shall not have any legal effect.

*Complete Agreement:* This Agreement is the entire understanding of the parties and supersedes all prior understandings and documents relating to the subject matter of this Agreement.

## Approval

By signing this agreement, Leavenworth Festival agrees to the project details outlined above and authorizes O’Neill Events & Marketing to determine final costs and timelines and proceed with the project.

\_\_\_\_\_  
CITY OF LEAVENWORTH, Jermaine Wilson, Mayor

\_\_\_\_\_  
DATE

Attest:

\_\_\_\_\_  
Carla K. Williamson, CMC, City Clerk                      Date

\_\_\_\_\_  
O’NEILL EVENTS & MARKETING, Keli Wenzel, President

\_\_\_\_\_  
DATE

\_\_\_\_ City of Leavenworth