

**CITY OF LEAVENWORTH  
PLANNING COMMISSION  
COMMISSION CHAMBERS, CITY HALL  
100 N. 5<sup>th</sup> Street  
Leavenworth, KS 66048**

**REGULAR SESSION  
Monday, September 12, 2022  
6:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: August 1, 2022**

OLD BUSINESS:

**None**

NEW BUSINESS:

- 1. WELCOME NEW MEMBER KATHY KEM**
- 2. ELECTION OF OFFICERS**

- 3. 2022-18 TXT – TEXT AMENDMENTS**

Conduct a public hearing for Case No. 2022-18 TXT for proposed text amendments to the adopted 2016 Development Regulations.

OTHER BUSINESS:

**None**

ADJOURN

**CITY OF LEAVENWORTH PLANNING COMMISSION**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, June 6, 2022**  
6:00 PM

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**CALL TO ORDER:**

**Commissioners Present**

Claude Wiedower  
Joe Burks  
Donald Homan  
Brian Stephens

**Commissioners Absent**

James Diggs  
Bill Waugh  
Sherry Hines Whitson

**City Staff Present**

Julie Hurley  
Michelle Baragary

Chairman Wiedower called the meeting to order at 6:20 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES: June 6, 2022**

Chairman Wiedower asked for comments or a motion on the minutes presented for approval: June 6, 2022. Commissioner Stephens moved to approve the minutes as presented, seconded by Commissioner Burks and approved by a vote of 4-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2022-13 REZ – 2101 VILAS AND A PORTION OF 2013 VILAS**

Conduct a public hearing for Case No. 2022-13 REZ. The applicant/owner is requesting a rezoning of the property located at 2101 Vilas and a portion of the property located at 2013 Vilas from R1-25, Low Density Single Family Residential District, to R1-9, Medium Density Single Family Residential District.

Chairman Wiedower called for the staff report.

Planning Director Julie Hurley stated the subject property is owned by Greenamyre Rentals, Inc. The applicant is requesting a rezoning of their property located at 2101 Vilas and a portion of the property located at 2013 Vilas from R1-25 to R1-9. The two parcels are situated on the south side of Vilas Street

between 20<sup>th</sup> and 22<sup>nd</sup> Streets and are currently vacant. The total size of the property to be rezoned is 4.54 acres. To the east is Henry Leavenworth Elementary School.

The rezoning is being requested in order to allow for the development 6 single family residential lots. All 6 proposed lots are approximately .75 acres in size. Between 20<sup>th</sup> and 22<sup>nd</sup> Streets, there are a total of 18 existing lots with frontage on Vilas Street, including the property developed with Henry Leavenworth Elementary School. Of those 18 lots, a total of 8 are smaller in size than the lots proposed to be developed with this rezoning request, with the smallest being .35 acres in size. The associated preliminary and final plats are also on this agenda.

The Development Review Committee reviewed the project at their May 12, 2022 meeting and discussed items related to required improvements to Vilas Street, additional dedication of ROW, utilities, sidewalks, and stormwater. All items discussed will be addressed prior to the issuance of building permits.

### **CONDITIONS OF DETERMINATION**

Whenever the Planning Commission or City Commission takes action on an application for amendment to these Development Regulations, and such proposed amendment is not a general revision of existing ordinances, but one which will affect specific property, the Planning Commission and City Commission shall consider the following factors:

- a) The character of the neighborhood;  
*The subject property is vacant and is surrounded by single family residential development. To the east is Henry Leavenworth Elementary School. To the west is a traditional single family residential neighborhood.*
- b) The zoning and use of properties nearby;  
*The immediately surrounding properties are zoned R1-25, Low Density Single Family Residential District. Henry Leavenworth Elementary School to the east, as well as the residential lots on the north side of Vilas closest to 20th Street are zoned R1-9, Medium Density Single Family Residential District. The single family residential neighborhood to the west is zoned PUD, Planned Unit Development.*
- c) The suitability of the subject property for the uses to which it has been restricted;  
*The subject property is currently zoned R1-25, Low Density Single Family Residential, which is typical of agricultural and large lot residential uses in the City. The property is vacant and is surrounded by single family residential uses on varying sizes of lots, but may be suitable for a variety of residential uses.*
- d) The extent to which removal of the restrictions will detrimentally affect nearby property;  
*The proposed rezoning should not have a detrimental impact on nearby property. The proposed 6 residential lots are consistent with the scale of development in the area, and will not introduce a significant increase in traffic. The associated final plat dedicates additional ROW for Vilas Street to accommodate future roadway improvements.*
- e) The length of time the subject property has remained vacant as zoned;  
*The property has always been single-family/agricultural in nature.*
- f) The relative gain to economic development, public health, safety and welfare by the reduction of the value of the landowner's property as compared to the hardship imposed by such reduction upon the individual landowner;

*The proposed rezoning would have a positive effect upon the economic vitality of Leavenworth by allowing for additional residential development.*

- g) The recommendations of permanent or professional staff;

*Staff recommends that the item be approved.*

- h) The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city;

*The subject area is identified as appropriate for Conservation/Open Space. The Comprehensive Plan states in regard to the Conservation/Open Space category that "Conservation areas balance the protection of sensitive environmental features with the development rights of property owners. Areas of conservation are appropriate in areas containing steep slopes, woodlands, drainage corridors, or other valued natural features." The size of the proposed lots will allow for homes to be situated while preserving open space and natural features. The Comprehensive Plan also identifies infill residential development that is "appropriate to the character of the neighborhood" as a strategy to accomplish the goal of promoting growth and development that is "sustainable, responsible, and meets the needs of future generations". This proposed infill development meets that strategy.*

- i) Such other factors as may be relevant to a particular proposed amendment. The factors considered in taking action on any proposed amendment shall be included in the minutes or otherwise be made part of the written record.

*No other factors of note.*

After the required notice was published and mailed to property owners within 200' of the subject property, staff received several inquired about the exact nature of the request from notified property owners.

**REZONING ACTION/OPTIONS:**

- Recommend approval of the rezoning request from R1-25 to R1-9 to the City Commission
- Recommend denial of the rezoning request from R1-25 to R1-9 to the City Commission
- Table the issue for additional information/consideration.

Chairman Wiedower asked the commissioners if there are any questions about the staff report.

Referring to the rezoning application in December 2020, Commissioner Stephens asked if there will be an entrance to this development only from Vilas Street and not Limit Street.

Ms. Hurley responded that all the lots front on Vilas Street so there is no road being proposed as part of this development. All six lots will have direct driveway access onto Vilas Street.

Commissioner Stephens asked about curved gutters in that area.

Ms. Hurley stated that is further to the east on Vilas. As discussed with the property owner at the Development Review Committee (DRC) meeting, there will be future improvements required to Vilas Street. The additional right-of-way (ROW) that is required will accommodate future road improvements.

Commissioner Stephens asked if those improvements are part of this plan.

Ms. Hurley responded that Public Works did not feel it was necessary to require those improvements at this time with just the six proposed lots.

Referring back to the initial rezoning in December 2020, Commissioner Stephens stated the Police Department had made a comment about traffic. Commissioner Stephens asked if the Police Department had any comments for current proposal.

Ms. Hurley responded in the negative.

With no further questions about the staff report, Chairman Wiedower opened the public hearing and asked the applicant to speak.

Jeremy Greenamyre, applicant/owner, stated there had been a discussion with Public Works about a road impact fee. 20 ft. of right-of-way is being dedicated for the future expansion of Vilas Street. Mr. Greenamyre believes at the time of permit, Public Works would address the curb and guttering. Mr. Greenamyre is not sure if that is him putting in the road or paying an impact fee for when the road improvements occur in the future.

Ms. Hurley stated Public Works had covered that and felt comfortable that could be addressed at the time any building permits are applied for. Permits would not be issued until the items with the road are addressed satisfactorily.

Mr. Greenamyre stated another requirement he has for this development is the extension of sewer. Currently sewer stops south on Limit Street. The only way to provide sewer to the proposed development is to pull the sewer up north and to branch off to the proposed lots. The city does not allow you to only bring the sewer to the proposed lots. It is required that the sewer is brought all the way to Vilas Street to accommodate sewer for the property owners across the street. Mr. Greenamyre further stated he does not need to pay for the connection to the sewer for the property owners across the street, but is required to bring the sewer up so those properties to the north of Vilas Street can connect to the sewer.

Ms. Hurley stated Jeremy is correct. Public Works requires the proposed lots be connected to sewer, and instead of bringing the sewer up to the south end of the proposed lots, he is required to extend the sewer to the north of the proposed lots so potential future development could tap into the sewer.

Mr. Greenamyre stated they took the public comments from the initial rezoning request in December 2020 and reworked the development plan. During that initial rezoning meeting, most comments were about issues with Limit Street, which is why there are no requests to rezone the property off Limit Street at this time. Mr. Greenamyre stated they waited to submit the current rezoning request until the parking was added to the school, which alleviates the extended pick-up lines that were occurring along Vilas Street.

Mr. Greenamyre provided the commissioners and the public a map showing 8 properties from 20<sup>th</sup> Street to 22<sup>nd</sup> Street that are nonconforming with the current R1-225 zoning district because the properties do not meet the 160' required road frontage.

Chairman Wiedower stated the subject properties have always been vacant but sooner or later something will be developed on this land. Six single-family homes on .75 acre lots seems appealing and to be a win-win for everyone. Chairman Wiedower asked what the price range will be for the homes.

Mr. Greenamyre responded they have no immediate plans to build anything. The rezoning is a way to put the land in a better situation to make something happen, such as sell the lots.

Commission Homan asked if the applicant knew if the single-family homes would be sold or rented.

Mr. Greenamyre responded he has no interest in renting single-family homes. If the homes are rented, they would be rented by someone else, not by Mr. Greenamyre.

Commissioner Stephens asked Mr. Greenamyre if he thought construction vehicles would be able to navigate Vilas Street and if the road would hold up.

Mr. Greenamyre stated he does not know, and that Vilas Street is a city road. His assumption is that if something gets broken in the duration of construction that it will be required to be repaired.

Ms. Hurley stated Vilas would have been accommodating any construction traffic for the neighborhood to the west when that was built a number of years ago, and Public Works did not express any concerns about construction vehicles on Vilas now.

Ms. Hurley further stated for the record that zoning regulations have nothing to do with rental versus owner occupied. That is not something that zoning legally can address. The "use" is single-family and that is what the commission needs to focus on.

Commissioner Stephens asked if that also includes Airbnb and other vacation type rentals.

Ms. Hurley responded that is a completely separate issue and there are provisions in the Development Regulations for Special Use Permits for those types of uses.

Chairman Wiedower asked for anyone in the audience who would like to speak to come to the podium and provide your name and address for the record.

Jerry Heintzelman, 2089 Limit St., stated his biggest concern is stormwater runoff. There are two creeks across the street that rundown both sides of his property. The new parking lot at the school will cause more water runoff in the main creek to the east of him. The school does have a retention pond but Mr. Heintzelman is not sure if it will accommodate all the water runoff. Mr. Heintzelman stated the creek to the west floods fairly deep. He provided pictures for the commissioners to look at of the creek flooding approximately 10 years ago. Ever since the ditch at 22<sup>nd</sup> Street was worked on, the flooding has been worse. Adding six more houses on Vilas will create more water runoff. Mr. Heintzelman stated the city required him to have 220 feet of road frontage when he built his house 20 years ago and he had to annex into the city.

Commissioner Burks asked when the photos of the creek were taken.

Mr. Heintzelman believes it was in 2009. He further stated if the subject properties were not rezoned, the applicant could still build five houses instead of six. What will the applicant be required to do for stormwater runoff? What is the applicant's plans for the properties to the south that come off Limit Street?

Chairman Wiedower looked to staff for clarification that stormwater would fall under Public Works and if water runoff becomes an issue when the houses are developed, the developer would have to address that issue.

Ms. Hurley stated in the notes that are included in the packet from the Development Review Committee, one of the notes from the Public Works Director does address stormwater quality and quantity. At the time of building permits, the developer would be required to submit a stormwater quality and quantity plan for these lots. When lots are developed, graded and any dirt starts moving, they are required to present a plan to show the lot has been engineered and will be graded so that there will not be any additional runoff coming from that property to any other property.

Chairman Wiedower stated they are sensitive to Mr. Heintzelman's water issue that he presently has now but that is a Public Works issue.

Mr. Heintzelman stated that when he looked into developing his property at 2089 Limit Street, he was told he would need to install a storm drainage system. Will the developer of the subject properties be required to do the same and would the drainage go onto his property or run around his house? Mr. Heintzelman stated he called the city engineer but never received a call back.

Commissioner Stephens asked staff how the stormwater plans are shared when submitted by the developer.

Ms. Hurley responded the plans are reviewed and approved by the Public Works Department.

Chairman Wiedower asked the applicant when the proposed lots are developed and there are known existing water flow issues, would the developer not coordinate with Public Works and take any required corrective action at that time?

Mr. Greenamyre stated that is fair to say. He further added that after the DRC meeting, it was suggested they work with their engineer to provide a drainage report, which has been submitted to the city. Mr. Greenamyre's engineer thought they could keep all the drainage on site. The lots are 110 ft wide by 300 ft deep. Most of the house will be pushed up towards Vilas Street. The engineer's calculations were that any water that runs off the roof, driveway, or any other hard surfaces would end up being captured and absorbed into the 200 ft between the back of the house and the lot line.

Ms. Hurley stated, as with any development, a developer is not required to correct problems outside of their property; they just cannot make them worse.

Commissioner Stephens asked if road improvements and an agreement that water runoff would be taken care of is included on the plat.

Ms. Hurley responded that the additional right-of-way is included in the plat, but something like a requirement for a stormwater plan would not be part of a recorded plat.

Commissioner Stephens asked if the road would be developed.

Ms. Hurley stated the road will not necessarily be built but the right-of-way is being placed there.

Chairman Wiedower stated the zoning request is not dependent on the water issue that exists now. The commissioners are sensitive on the existing water issues, but it is not part of the rezoning the Planning Commission is going to vote on.

Chris Howell, 2115 Vilas St., asked what the difference is between the current zoning of R1-25 and the requesting zoning of R1-9.

Ms. Hurley responded the primary differences are the lot width and lot size requirements.

Mr. Howell stated there is a difference between permanent development for homes that are being sold to somebody versus renting. There is a different quality of care between the two. This is concerning because Greenamyre is a rental company.

Commissioner Burks stated unfortunately as a board they are only looking at the zoning of the properties.

Mr. Howell asked what the future plan is for the properties to the south because taking the northern lots and southern lots in isolation is probably not the right way to look at long-term zoning development. Anticipating what the southern portion would eventually be for the long-term impact, not just taking bite size pieces out of this now and then changing it.

Chairman Wiedower responded the commission cannot deal with the unknown. If and when an application came through for the southern portion, the commission would deal with that at that time it see if it is in harmony with the neighborhood by going through the economic impact factors.

Mr. Howell stated the hydrology aspect and the flow of the land does flow from northeast to southwest. When it rains, there is standing water on the north side of his home, and then it flows down falling on the natural flow of the land. There is concern about water runoff that would come to the north side of his property.

Chairman Wiedower stated the present stormwater runoff is a valid issue but this board cannot deal with that as it is a public works issue.

Everett Rogers, 1206 Joshua Ct, Lansing, KS, owns the property at 2103 Limit. Mr. Everett stated the lot width for R1-25 is 160 ft., therefore, the applicant could have four lots versus the six lots that are being requested. Mr. Everett asked if platting will be discussed separately from the rezoning.

Ms. Hurley responded in the affirmative stating each agenda item will be voted on separately.

Mr. Everett stated he does not have an issue with the rezoning request but he does with the plat.

Ms. Hurley stated the Planning Commission will address the plats because they do not require a public hearing so any concerns about the subject property should be voiced now.

Mr. Everett asked when the portion to the south of the subject property that fronts Limit Street will be discussed.

Ms. Hurley stated that is not part of the plat request.

Mr. Everett had no further questions or concerns.

Kevin Baker, 2101 Limit Street, asked why the commission is talking about rezoning when everyone has a problem with Vilas Street. Vilas will not carry the additional cars and traffic with this rezoning. Furthermore, if construction equipment damages Vilas this will cause all traffic to go through Limit Street. Regardless if it is an additional four houses or six houses added to this area, that would be another two to three cars per house, which just increases the load on Vilas. Vilas Street needs repaired; it needs drains, curb and guttering.

Commissioner Homan stated even if the development is for four lots, and each property has 2-3 vehicles, this increases the traffic on Vilas. However, this is a public works issue and not a situation for the Planning Commission.

Chairman Wiedower stated the property will be developed for something sooner or later. Need to look at the greater good for the area and the economic impact. There are worse things that could be developed at this location than six single-family homes. When property is developed, the developer is required to work with the Public Works to deal with stormwater and runoff, traffic flow, etc.



Commissioner Burks stated it is difficult to predict the future. This is a rezoning request, and that is what this commission has to focus on. Commissioner Burks asked Mr. Baker what he would do with this vacant property if he owned it.

Mr. Baker responded that what Mr. Greenamyre is doing is great, but steps are being bypassed, such as fixing the street before allowing more homes to be developed.

Chairman Wiedower stated he understands the concerns being made. However, this commission is responsible to look at the rezoning request only. The development of the land will require coordination with Public Works, and hopefully their requirements will help with some of the concerns that are being brought up.

Commissioner Stephens stated he hears Mr. Baker saying that as the Planning Commission, there should be plans before doing things. Commissioner Stephens asked staff for clarification that the lots in this area are not on city sewer.

Ms. Hurley responded the two lots that are part of the rezoning request, which are proposed to be subdivided into six lots, will be required to connect to sewer. The Planned Unit Development (PUD) to the west is all connected to sewer.

Commissioner Stephens said if the rezoning request is approved without any plans, then he understands the neighbor's apprehension since this has happened before with the city saying they will add sewer lines and then just skip over people that are currently there.

Ms. Hurley asked if the question is about the sewer line because the sewer line comes down Limit Street, as depicted by the green line on GIS.

There was discussion from the audience not at the podium. Chairman Wiedower stated comments shall be made at the podium to be recorded. Chairman Wiedower again stated they need to focus on the Planning Commission's role on the rezoning only.

Before responding, Ms. Hurley had to request that the background with the people in the audience speaking over her be stopped. Ms. Hurley continued by stating the lots as part of this proposal are required to meet all of the city's current standards. Ms. Hurley cannot speak to what standards were 15 years ago or how that determination was made with utilities in the past when the subdivision to the west was developed. The lots proposed to be developed are required to connect to utilities, and as has been mentioned, the sewer and water is required to connect all the way through that lot for potential development beyond that. Aside from that, it is not required to connect to other lots that are not part of this proposal.

Chairman Wiedower stated this commission's role is not to impose and tell people they can do something after you do this first. Issues are being brought up that are beyond the scope of the Planning Commission. This commission is looking only at the zoning request to allow the applicant to subdivide the parcels into six separate single-family lots, knowing they will have to deal with issues when it is developed. Again, the applicant is not stating when it will be developed. The rezoning would just give the authority to develop it.

Mr. Baker stated by rezoning this, the commission is part of the problem because they would rezone something but still have not got the problem fixed, which is the street.

Chairman Wiedower stated he understands there is an existing stormwater problem, and regardless of what Mr. Greenamyre does, there is still an existing stormwater problem. We cannot make promises but at the same

time the rezoning request gives them authority to develop the land, and as mentioned numerous times, the developer will need to coordinate with Public Works to hopefully improve an existing problem with stormwater and water runoff. But again, this commission does not have the authority to make approval of a rezoning request contingent on Mr. Greenamyre or anyone else fixing an existing problem.

Commissioner Homan stated he noticed the housing development to the west on Vilas Street and the housing development to the south of the school are PUDs. Does that require anything different from the R1-9 zoning, and doesn't a PUD have to have approved plans?

Ms. Hurley responded in the negative stating what a developer will do a PUD for is for differences in lot sizes, lot frontages, etc. A PUD would not remove utility requirements or street improvements. Ms. Hurley further stated that when a development is submitted one of the things city staff looks at in terms of road improvements is that a developer is only required to do what is directly in front of their property. This was a point of discussion with the Public Works Department, such as do we require the developer to improve this section of Vilas Street or do we require the developer to dedicate additional right-of-way, etc. If the requirement is for the developer to improve the section of Vilas in front of their property, there would be no continuity and no connectivity because it would only be for the section directly in front of their property, which would not improve any sort of situations. The determination of the Public Works Department at this point is to get that additional right-of-way because additional right-of-way will also be needed to the east and to the west to do any eventual improvements to the roadway as a whole.

Denise Baker, 2101 Limit Street, asked why this property would even be rezoned instead of leaving it as four lots. There would be less water runoff with four lots. Most of the homes in this area sit on acreage. Creating these smaller frontage lots will look odd in this area and are not welcoming. Mrs. Baker further stated she has lived on her property for 23 years and has dealt with flooding every year.

Chairman Wiedower asked for clarification from Mr. Greenamyre about constructing six single-family homes in the immediate future.

Mr. Greenamyre stated he has no plan to build six family homes.

Ms. Hurley stated should the rezoning request be approved and the subsequent plats be approved, which are for the six lots, that would be recorded with the county and those six lots would be the plan. Land can be platted and nothing built on it for years and years. Therefore, if Mr. Greenamyre, as the owner, decided at some point he does not want to do these six lots but rather do something else that fits within the zoning district, they can come back and request a replat from the Planning Commission.

Chairman Wiedower stated the rezoning and plats just gives Mr. Greenamyre the authority to build six homes but does not force him to do this.

Mr. Greenamyre stated a variety of things could happen. He could advertise these as buildable lots and they could sell out in the first week or there could be someone who wants to put a house in the middle of all those lots and have their own 4.5 acre estate.

Chairman Wiedower asked staff the process for that type of situation.

Ms. Hurley stated, say for instance someone wanted to buy two of the lots and combine them into one lot, or buy three of the lots and combine them into one, they would apply for a replat not a rezoning, unless the owner wanted to do something that did not fit within the R1-9 zoning district.

Chairman Wiedower asked Mr. Greenamyre, as a developer that if he knew there was existing water runoff issues around the area he was going to develop, that he would need to work with public works and the city to make sure that what is being build will not cause more problems.

Mr. Greenamyre responded dealing with water runoff is something they have to deal with for every development. EPA rules changed about 10 years ago and they have been a lot more stringent upon having zero runoff as the goal or at least having onsite retention. Mr. Greenamyre further stated that although he is sympathetic to the neighbor's concerns, he does not think there has been a project done in Leavenworth or Lansing that has not had to have approved engineer plans that construction will not impact downstream water.

Chairman Wiedower asked if that would require Mr. Greenamyre to incur the expense to fix the water problem.

Ms. Hurley responded it would only be for the properties Mr. Greenamyre owns. He would not be required to solve problems outside of his property.

Commissioner Stephens asked what plans Mr. Greenamyre has for this property if the rezoning request does not get approved.

Mr. Greenamyre responded he is here today because his initial proposal submitted two and a half years ago for a multi-family subdivision. At the December 2020 Planning Commission meeting, most of the concerns were with Limit Street. Mr. Greenamyre stated he chose to withdraw the multi-family rezoning application at that time. What is being submitted today is his Plan B. After the December 2020 meeting, Mr. Greenamyre stated he drove out to that area during school drop-off and pick-up, and stated the neighbors had legitimate points about the traffic during these hours as he witnessed traffic backed up all the way down Vilas to 22<sup>nd</sup> Street and around the corner. Taking into consideration people's concerns with traffic and the condition of Limit Street is why this rezoning request does not include the parcels fronting Limit Street. Mr. Greenamyre further stated he waited until now to submit the rezoning so that the parking lot at the school would be complete. It is his understanding the grade levels attending that school have changed and the number of buses needed has changed as well, therefore, there should be little to no traffic actually on Vilas Street.

Commissioner Stephens asked what is behind the decision to split the land into six lots.

Mr. Greenamyre stated it is based on what they believe makes sense in this area and what they think is sellable. Mr. Greenamyre stated he has heard people tonight say he could divide the land into "this" number of lots or "that" number of lots. However, if you divide the lineal footage of what is there by an R1-9, which is what the current rezoning request is for, you could get 8.8 lots across Vilas Street. He could have requested 7 lots or even 8 lots but he is requesting 6 lots because he thought it made more sense to have nice size lots at 3/4 acre each where someone can build their dream home on land larger than just a standard subdivision size of just a quarter acre.

Mr. Greenamyre stated on a personal note, "rentals" is in their company name but their portfolio is about 98% multi-family and a handful of single-family houses, and this is for a variety of reasons such as, they cannot compete in the single-family space and do not want to compete in the single-family space. The subject property is land they purchased that they planned to develop as multi-family but was unable to do that. What is presented today is Plan B as a way to somewhat exit out of it and leave a nice development.

Don Stubbings, 2301 Hebbeln Dr., stated when this property was originally zoned R1-25, the considerations for that were probably many of the items discussed tonight. There have been no improvements to the street, the sewer or anything else to make this viable as a medium condensed housing area. If the roads were improved,

streets widened, sidewalks installed, etc. the neighbors would not even be here tonight. There has been no improvements to any of the existing neighborhoods to add density to this area.

Chairman Wiedower stated Mr. Stubbings brought up a good issue with the city's priority, budget money, commitment, and deciding what projects have priority. Although this is a valid issue, this board cannot address and does not have the authority to address those issues.

Travis Denney, 2610 S. 22<sup>nd</sup> Ter., asked why Mr. Greenamyre is rezoning only half of the land.

Commissioner Burks responded that he was in attendance at the December 2020 Planning Commission meeting, and they originally were trying to rezone this land for multi-family use. The community spoke up about their concerns, which is why Mr. Greenamyre has relooked at this development and is requesting a different rezoning so he can take advantage of the property that he owns.

Mr. Denney asked if the property owner could request rezoning for the southern lots fronting Limit Street and have more lots to sell.

Ms. Hurley stated that Mr. Greenamyre did address that by saying the concern last time was that Limit Street is in a much different state than Vilas Street. This rezoning request keeps any impact off of Limit Street and directs it to Vilas Street.

Mr. Denney responded that people will use both Limit and Vilas Street.

Ms. Hurley responded the current proposal does not introduce any driveways off Limit Street.

Commissioner Burks asked Mr. Denney what he would do with the property on Vilas Street if he owned it.

Mr. Denney responded he is not in opposition of the rezoning or of building homes on the property. He would like to see the streets fixed first. Mr. Denney stated Limit Street should be fixed first, then build the homes, then fix Vilas Street.

With no one else wishing to speak, Chairman Wiedower called for discussion among the commissioners.

Commissioner Homan stated he doesn't understand why go from four lots to six lots because four lots would probably sell for as much as six lots would. Referring to the map Mr. Greenamyre passed out, there are three lots that are 100 ft. in width and five lots that are 140 ft. or 150 ft. in width. If the land was divided into four lots instead of six lots, that would give each of the four lots 150 ft. of road frontage, which is similar to many lots in that area.

Commissioner Burks stated the questions he is asking himself and considering prior to voting on this item is first, does the zoning request meet its intent in front of us as a committee, and it is our responsibility to not speculate. Second, is there a need to rezone? Are four lots versus six lots enough for this property right now given Mr. Greenamyre's work, reconsideration, submitting another application for this and trying to see an economic development that could potentially be positive as well.

Commissioner Stephens stated he too is looking at the size of the lots and how many lots there needs to be, as well as the valid concerns that they have heard tonight about some of the infrastructure and if it could support

this development. There were several questions brought up tonight that Commissioner Stephens is not satisfied with how they were answered.

Chairman Wiedower stated he is well aware of the traffic situation on Vilas and Limit Streets. There are other uses for this property that Chairman Wiedower would have trouble with, but this request is for single-family homes and not for an apartment complex. He is hopeful this rezoning request has a viable impact and that coordinating with the city is going to improve some of the issues the residents have made the board aware of.

Chairman Wiedower stated the options are to recommend approval or denial to the City Commission or to table the issue for further information/consideration. Chairman Wiedower further stated he does feel tabling the issue for another 30 or 60 days would give the board any additional input than what they have heard tonight.

Chairman Wiedower called for a motion. Mr. Stephens moved to table the issue for additional information. Would like another hearing where the Public Works Department could talk through some of the engineering questions that the citizens have brought up.

Chairman Wiedower asked staff if that is a valid request to delay this zoning request and have Public Works attend the next meeting to address some of these issues.

Ms. Hurley stated Public Works could certainly come and answer questions.

Commission Burks asked if brining Public Works in to answer questions wouldn't still be speculative on the commissioner's part.

Commissioner Stephens stated either way it would be speculative. If the board approves this, they are not sure what Mr. Greenamyre is going to build there, so that's speculation.

Commissioner Burks responded to have someone else come to a meeting and answer speculative questions does not change the fact that we have something in front of us to vote on.

Commissioner Stephens stated he feels he needs for information, which is why he made the motion.

Chairman Wiedower asked staff if Public Works were to attend the next meeting, they still could not make promises that the streets are going to change, the sewer will be fixed and the water runoff will be taken care of before Mr. Greenamyre could proceed.

Ms. Hurley responded Public Works would just be answering more technical questions, but there would not be any sort of guarantees. Public Works could speak more in detail to their specific requirements.

Commissioner Stephens stated there was a discussion about permits. He wants Public Works to explain the permit needed to build, what those requirements are and what the expectation is.

Commissioner Homan seconded the motion to table the issue for additional information/consideration.

Chairman Wiedower state Commissioner Stephens made a motion to defer the issue, further stating the commissioners can either vote on that or we can go to another motion.

Ms. Hurley stated the procedure is when a motion is made, it must be seconded and then the commissioners will vote on that motion.

Chairman Wiedower asked staff if they need to specify in the motion that the issue will be tabled for 30 days.

Ms. Hurley responded the board will just table it to the next Planning Commission meeting. Further stating at whatever point this moves on to the City Commission, at that point there will be another public hearing, and Public Works staff is present at City Commission meetings to address concerns at that meeting.

Commissioner Stephens stated he does not want the same questions to go unanswered at this meeting to then just get shifted to the City Commission meeting when that is this board's responsibility here to be that buffer.

Chairman Wiedower asked staff if the folks who have attended tonight's meeting will be notified of the next Planning Commission meeting that Public Works will be present at.

Ms. Hurley responded in the negative stating State Statute requires staff to notify people who are within a 200 ft. radius of the subject property but staff does not send out notices to update on motions or meeting results. Information about city meetings is posted on the City's website.

Commissioner Burks stated they are in a difficult situation. There are four commissioners and there is another motion that could be made right now. Commissioner Burks moves to make a motion to recommend denial to the City Commission for the rezoning request. He further stated he does not see a need or reason for six lots. Commissioner Stephens seconded the motion.

Chairman Wiedower looked to staff about Robert's Rule of Order to handling the different motions being made.

Commissioner Stephens stated he withdraws his motion to table the rezoning request.

Chairman Wiedower stated Commissioner Stephens moved to table the rezoning request until the next Planning Commission meeting and requests that Public Works to be present at the meeting, seconded by Commissioner Homan; however, the commissioners did not vote on that motion.

Commissioner Stephens stated a vote was not made on his first motion to table the issue so he now wants to withdraw his motion.

Chairman Wiedower states that a new motion was made by Commissioner Burks to recommend denial of the rezoning, and seconded by Commissioner Stephens. Chairman Wiedower called for a roll call. The motion to recommend denial to the City Commission on the rezoning request carries 3-1. Chairman Wiedower voted nay.

Chairman Wiedower stated he wants the citizens present tonight to understand this is the Planning Commission, and we have heard your concerns and have assessed the total situation. Further stating the applicant still has the right to request an appeal of this board's decision to recommend denial to the City Commission.

Ms. Hurley responded this is not an appeal. The Planning Commission's recommendation goes to the City Commission on Tuesday, August 23, 2022, and so (inaudible with too many people speaking over her).

Commissioner Stephens stated the people would have public comment during that time to share their concerns.

Chairman Wiedower stated to the audience present that the City Commission could reverse the Planning Commission's recommendation of denial.

**2. 2022-14 SUB – GREENAMYRE SUBDIVISION PRELIMINARY PLAT**

Consider a preliminary plat for Greenamyre Addition.

Ms. Hurley stated there is a preliminary and final plat associated with the rezoning request. Since the plats are contingent upon the rezoning, Ms. Hurley suggests the plats be tabled until such time the City Commission has made a final ruling on the rezoning request. Should the City Commission approve the rezoning, the plats can just come back to the Planning Commission and would not need a new application.

Chairman Wiedower asked if each plat needs a separate motion and vote.

Ms. Hurley responded in the affirmative.

Chairman Wiedower called for a motion for the preliminary plat. Commissioner Stephens moved to recommend to table the preliminary plat until the City Commission makes a final ruling, seconded by Commissioner Homan, and passed by a vote of 4-0.

**3. 2022-15 SUB – GREENAMYRE SUBDIVISION FINAL PLAT**

Consider a final plat for Greenamyre Addition.

Chairman Wiedower called for a motion for the final plat. Commissioner Stephens moved to recommend to table the final plat until the City Commission makes a final ruling, seconded by Commissioner Homan, and passed by a vote of 4-0.

**4. 2022-17 SUP – 3400 IOWA STREET**

Conduct a public hearing for Case No. 2022-17 SUP. The applicants/owners are requesting a Special Use Permit to allow the operation of a Child Care Center in their home located at 3400 Iowa Street. The property is currently zoned R1-9, Medium Density Single Family Residential District. Child Care Centers are allowed in the R1-9 zoning district with issuance of a special use permit.

Chairman Wiedower called for the staff report.

Planning Director Julie Hurley stated the applicants, Brenda Reza and Liberty Hazelton, are requesting a Special Use Permit to allow the operation of Child Care Center in their home located at 3400 Iowa Street. The property is currently zoned R1-9 (Medium Density Single Family Residential). Child Care Centers are allowed in the R1-9 zoning district with issuance of a special use permit. The applicant previously received approval of a Special Use Permit in 2017 to operate a Child Care Center in their home at 3611 Shrine Park Road. The family has recently moved and intends to continue their Child Care operation in their new home. No concerns or complaints were received by the City regarding the operation of a Child Care Center at their previous home.

The applicant is licensed by the State of Kansas to care for a maximum of 12 children, dependent upon the ages of the children in care.

## **CONDITIONS OF DETERMINATION**

In recommending approval of a special use, the Planning Commission may impose such conditions, safeguards and restrictions as may be necessary to carry out the general purpose and intent of the ordinance. The development regulations stipulate specific conditions as a requirement for the approval of Child Care Centers as follows:

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.

*The subject property is located along Iowa Street, which is classified as a Residential street.*

2. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be 100% enclosed by a minimum four (4) foot high fence or wall.

*The subject property includes a back yard area of approximately 10,700 sqft., enclosed by a 4' chain link fence.*

3. Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.

*The subject property includes a driveway capable of accommodating 4 cars.*

4. Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.

*The applicants have provided a copy of their Group Day Care Home permit from the Kansas Department of Health and Environment.*

5. All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.

*The home functions as the only residence of the operator/owner.*

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 one non-illuminated sign affixed to the main structure of 3 square feet.

*Any signage displayed will conform to this requirement.*

## **COMMISSION FINDINGS**

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

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

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

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



*Child Care Centers are an essential service to working parents in the community, and promote the economic development, welfare and convenience of the public.*

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

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

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

*No new structures or building modifications are proposed as part of this special use permit. The property will continue to look and function as a residential structure.*

Notification was sent to property owners within 200' of the subject property, as required by Kansas State statute. Since notifications were mailed, staff has not received any contact from notified property owners.

**STAFF RECOMMENDATION:**

Staff recommends approval of the Special Use Permit request based on the analysis and findings included herein, subject to the following conditions:

1. A minimum of 1,200 square feet of open space 100% enclosed by a minimum 4' high fence or wall shall be provided and maintained in good condition.
2. A copy of the permanent Group Day Care Home license shall be provided annually upon renewal by the State of Kansas.
3. The operation shall be limited to a maximum of 12 children.
4. No additional home occupations may be carried out at the residence.

Failure to maintain compliance with all conditions shall result in revocation of the Special Use Permit.

**ACTION/OPTIONS:**

- Motion, based upon findings as stated and conditions as presented, to recommend approval to the City Commission with included conditions.
- Motion, to recommend denial to the City Commission.
- Table the issue for additional information/consideration.

Chairman Wiedower asked for questions about the staff report.

Commissioner Homan asked what the maximum number of children they can care for.

Ms. Hurley responded up to 12 children.

Chairman Wiedower asked for the applicant(s) to speak about their child care center.

Liberty Hazelton, 3400 Iowa Street, stated he is co-owner of the child care center, and they are permitted to have up to 12 children present at a time.

Chairman Wiedower stated there are five violations listed in the agenda packet. Two of those were rectified immediately. Chairman Wiedower stated the other three violations have also been corrected but asked what the nature of those three violations were.

Mr. Hazelton stated the violations can be anything as simple as their child leaving a tube of toothpaste in the bathroom that is used as the public restroom for the child care center. Mr. Hazelton further stated they have never had a violation where they had to shut down the child care center. Most of their violations are with incomplete paperwork, such as current immunizations records, on a new child entering the child care center.

Chairman Wiedower asked how long the business has been open.

Mr. Hazelton responded for over 10 years.

Chairman Wiedower asked if it is typical to have 12 children at a time, and if so how is that staffed.

Mr. Hazelton responded in the affirmative stating the staff include himself and Brenda Reza, which meets State requirements.

Chairman Wiedower opened the public hearing. With no one wishing to speak, Chairman Wiedower closed the public hearing and asked for discussion among the commissioners.

With no further discussion, Chairman Wiedower called for a motion. Commissioner Homan moved to recommend approval to the City Commission for the Special Use Permit to allow the operation of a child care center located at 3400 Iowa Street, seconded by Commissioner Stephens and passed by a vote of 4-0.

**OTHER BUSINESS:**

Ms. Hurley presented outgoing Chairman Wiedower with a certificate of appreciation for his 7 years served on the Planning Commission.

Chairman Wiedower stated he has enjoyed his years on the Planning Commission. One thing he has learned through the years and feels to be of extreme importance is that people need to vent and have their concerns heard. This helps people accept the determination or recommendation from the Planning Commission because they know they have been heard and their concerns were considered when making a decision.

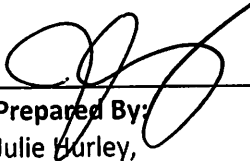
With no further business, Chairman Wiedower adjourned the meeting at 7:59 p.m.


The next Planning Commission meeting is scheduled for Monday, September 12, 2022.

Minutes taken by Administrative Assistant Michelle Baragary.

**PLANNING COMMISSION AGENDA ITEM**  
**Text Amendments**  
**Development Regulations**

**SEPTEMBER 12, 2022**

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

  
Reviewed By:  
Paul Kramer,  
City Manager

**DISCUSSION:**

The Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. Many of the proposed amendments consist of clarifying existing language, with no substantial policy change. The following modifications have been drafted by staff and are now presented for public hearing and vote.

- **Article 2; Applications & Procedures**
  - Clarify language regarding City Commission approval for dedication of land for public purposes.
  - Revise language regarding recording process for plats to reflect actual practice.
  - Stipulate that a parcel may only be split or combined one time through an Administrative Plat Process, any further subdivision requires Minor or Major subdivision process.
  - Clarify language that all plats must be recorded within 18 months, regardless of whether or not City Commission approval for dedication of land for public purposes is needed.
  
- **Article 4; Zoning Districts and Standards**
  - Remove restriction to allow only one principal structure per lot in RMX zoning district.
  - Add provision to allow "agriculture buildings" to exceed square footage of primary structure.
  - Add section to allow for construction of "tiny homes" on residential lots.
  - Update allowable size of home occupation sign to align with existing provisions in Article 8; Signs.
  - Clarify language regarding what counts as an Accessory Structure.
  
- **Article 5; Access & Parking**
  - Revise technical specifications for parking area construction material to match Public Works requirements.
  - Add language to specify maximum depth of gravel parking pad allowed in rear yard off of alley.
  - Add language to define "stand up curb" for access spacing purposes.
  
- **Article 8; Signs**
  - Clarify language regarding spacing of allowed freestanding signs in commercial districts.
  - Clarify that allowable number of temporary signs is related to individual businesses, not parcels.
  - Add language requiring additional setback from ROW for inflatable temporary signs.

- **Article 11; Board of Zoning Appeals**
  - Revise language regarding time frame for appeals as allowed by Kansas Statute.
  - Remove language requiring one board member to be member of Planning Commission.
  
- **Article 12; Definitions**
  - Multiple definitions for “Bed and Breakfast”, revise and consolidate.
  - Remove requirement for weekly housekeeping services and allow for only a portion of the structure to be used in definition of “Residential Home Stay”.
  - Add definition of “Community Playfields, Playgrounds and Parks”.
  - Add definition of “Tiny Home”
  
- **Appendix A; Use Table**
  - Allow “Domestic Violence” shelter to be permitted by right in all residential zoning districts.
  - Remove “Bed and Breakfast Guest House” and “Bed and Breakfast Home Stay” based on consolidation and revision of definitions.

**ACTION/OPTIONS:**

Recommend approval or denial of proposed text amendments for final action by the City Commission.

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

- with the approval of the applicant, table the plat. Action by the Planning Commission shall be conveyed to the applicant in writing within ten days after the official Planning Commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.
- (3) Effect of Decision. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed an authorization to proceed with the preparation of the final plat. If the Planning Commission rejects or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the City Commission and the Planning Commission shall forward the proposed plat, together with their report, stating the reason or reasons for the action taken. The City Commission may make such finding and determinations as are deemed proper.
  - (4) Effective Date. The approval of the preliminary plat shall be effective for one year.
- b. Final Plat. After approval of the Preliminary Plat, the applicant may submit a Final Plat for all or portions of the preliminary plat area.
- (1) Planning Commission. Within 60 days after submission of a final plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the final plat. If the Planning Commission approves or conditionally approves the final plat, it shall be forwarded to the City Commission with a recommendation that they accept dedication of easements and rights-of-way.
  - (2) Dedication of Land for Public Purposes. The City Commission shall approve or disapprove the dedication of land for public purposes within 30 days ~~after the first meeting of the City Commission following the date of the submission of the Planning Commission action to the Clerk following the action of the Planning Commission.~~ The City Commission may defer action for an additional 30 days to allow modifications to comply with requirements established by the City Commission. If the City Commission defers or disapproves such dedication, it shall advise the Planning Commission of the reasons therefore.
  - (3) Recording. If the City Commission accepts the proposed easements and rights-of-way, the final plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.
  - (4) Effective Date. Final plats shall be recorded with the Register of Deeds within 18 months following approval by the Planning Commission, or City

Commission approval of land dedicated to public purposes, if required. Final plats which are not recorded within said time period shall be deemed null and void

- c. Disposition of Final Plats. After the plat has been recorded, the applicant shall provide two full-sized copies of the recorded plat to the Department of Planning and Community Development. Secretary of the Planning Commission is responsible for distribution of the Final Plat as follows:

~~(1) — Original Mylar and one print to Register of Deeds, Reproducible Mylar and one print to Director of Public Works.~~

C. **Improvement Procedures.**

1. *General.* After the approval, but prior to the recording of the final plat, the applicant may do the grading and any drainage work that is required, all according to plans approved by the Director of Public Works. Prior to the issuance of building permits, all street paving, sanitary sewer, storm drainage, and utility lines must be installed in accordance with the most recent version of the Engineering and Public Works Department's Infrastructure Design and Construction Manual and plans approved by the appropriate utility company.
2. *Plans and Specifications.* Upon the approval of the Final Plat, the applicant shall have a licensed professional engineer prepare engineering drawings for proposed required improvements which will be constructed by the developer containing information and details required by the Infrastructure Design and Construction Manual or Public Works Department standards. The Director of Public Works shall review all engineering drawings in order to determine whether such drawings are consistent with the approved Final Plat and comply with their design standards.
3. *Construction of Improvements.* No improvements shall be constructed nor shall any work preliminary thereto be done until such time as a Final Plat and the engineering drawings accompanying it have been approved and there has been compliance with all of the requirements relating to an agreement, bond or deposit specified in these regulations. The developer may install 6" x 5' sidewalks in conjunction with the street paving and forgo the required sidewalk bond.
4. *Inspections.* All improvements constructed or erected shall be subject to inspection by the City or its designated representative responsible for setting and enforcing the applicable design and construction standards of the required improvement. The cost attributable to all inspections required by this regulation shall be charged to and paid by the applicant. Before any required inspections take place, the applicant may be required to post a deposit with the City Clerk to cover the cost of such inspections. Onsite inspections may be conducted at any times and work may be terminated if it does not comply with standards of final drawings.
5. *Final Inspection.* Upon completion of all improvements within the area covered by the Final Plat, the applicant shall notify the Director of Public Works who shall conduct a final inspection of all improvements installed. If the final inspection indicates that there are

DEVELOPMENT REGULATIONS  
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.02 Establishment of Districts & Intent

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and compatible based upon the existing development pattern. These districts do not need to be contiguous with other multiple family districts.

- G. ***RMX, Residential Mixed Use.*** The RMX district is intended to provide for high-density, multi-family residential dwellings along with a mix of appropriate neighborhood-serving commercial, civic, and other uses. This district allows for single-family detached homes, townhomes, duplexes, triplexes, and apartments. Commercial uses may be included in some residential structures pursuant to the appropriate design standards, or may be permitted as stand-alone structures. This district implements the North Neighborhood area as identified in the 2010 Northeast and Downtown Leavenworth Redevelopment Plan. ~~There shall be only one principal structure per lot in this district.~~
- H. ***MP, Mobile/Manufactured Home Park District.*** The purpose of this district is to provide low-density mobile/manufactured home park developments, which are compatible with the character of the surrounding neighborhood in which they are located. Mobile/manufactured home parks are considered as residential uses and should be located in areas where services and amenities are available such as those found in conventional residential areas. Mobile homes may be on leased spaces and may be permitted to be placed on permanent foundations.
- I. ***NBD, Neighborhood Business District.*** This district is intended to provide a center for convenience shopping in a residential neighborhood. This district provides for retail and service establishments, which supply commodities or perform services to meet the daily needs of the neighborhood, and shall be in locations where analysis of residential population demonstrates that such facilities are justified.
- J. ***OBD, Office Business District.*** The intent of this district is to allow office facilities for business and professional service uses. Density and intensity of use may be considered moderate and located in areas where analysis of residential consideration demonstrates that such facilities are justified (i.e., traffic, school, pedestrians, can be safely and efficiently accommodated.)
- K. ***CBD, Central Business District.*** The purpose of this district is to provide locations for a variety of commercial retail and service activities and wholesale and storage uses normally found in the core area of the city. These uses must be compatible to a dense commercially developed area and may serve local community or regional needs.
- L. ***GBD, General Business District.*** The purpose of this district is to provide locations for a variety of commercial, retail, and service activities serving the entire community but primarily include activities, which require large land areas or offer service to the motoring public.
- M. ***I-1, Light Industrial District.*** This district is to provide locations for a variety of less intense industrial, warehousing, and wholesale distribution uses. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees or those conducted in conjunction with manufacturing or wholesaling operations or those commercial uses requiring large land areas.
- N. ***I-2, Heavy Industrial District.*** The purpose of this district is to provide locations for basic or primary industries and related industrial activities. Many of these industries characteristically



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

#### 4.04. Use Standards

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

B. **Accessory Uses.**

1. **Principal Use Required.** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
2. **Accessory Uses.** Accessory Uses are a structure or use which:
  - a. Is subordinate to and serves a principal building and principal use;
  - b. Is subordinate in area, extent, or purpose of the principal use or building or building served;
  - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
  - d. Is located on the same lot as the principal building or principal use served; and
  - e. The total square footage of all detached structures, including second stories of any such structures, functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. Agriculture buildings, as allowed by these regulations, may exceed the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted.

DEVELOPMENT REGULATIONS  
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

f. -No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area. For these purposes, "detached accessory structures" means any detached, garage, storage building, agriculture building, gazebo, or other such similar above-ground structure erected in conformance with these regulations.

3. *Permitted Accessory Uses.* Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
- a. Private garages or carports: Not to exceed the following capacity:
    - (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
    - (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
    - (3) Requests for garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger may be approved by the Board of Zoning Appeals.
  - b. Storage Buildings: A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
  - c. Play Structures: A child's playhouse, including tree houses.
  - d. Pools & Courts: A private swimming pool, bathhouse, or tennis court.
  - e. Miscellaneous Yard Decor: Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges, and solar collectors.
  - f. Shelters: Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
  - g. Signs: Signs, when permitted by Article 8 – Sign Regulations.
  - h. Parking: Off-street parking and loading spaces as required by these regulations.
  - i. Recreational Vehicles, Campers, Trailers, and Boats: Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these Development Regulations.
  - j. Commercial Accessories: Restaurants, drug stores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
  - k. Supplemental Employee Services: Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
  - l. Office Space: Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
  - m. Retail Sales: Retail sales in conjunction with permitted industrial uses when located on the same site as the industrial use.

- c. That a carport, garage, or any accessory structure may only be used for home occupations with issuance of a Special Use Permit;
- d. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
- e. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than  $\frac{1}{3}$  square ~~foot-feet~~ on a vertical wall below the roof soffit or placed in the front yard.
- f. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
- g. That the home occupation shall be conducted entirely within the principal residential building except with issuance of a Special Use Permit;
- h. That no machinery or equipment shall be installed which interferes with radio or television reception, and which is not customarily incidental to the practice of such occupation or profession, but in no case shall any machine exceed one rated horsepower;
- i. That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
- j. That two off-street parking spaces are provided; and
- k. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
- l. Permitted home occupations shall not in any event be deemed to include:
  - (1) Automobile and vehicular repair on any other than the property owner's personally owned and currently registered vehicle(s)
  - (2) Antique sales.
  - (3) Equipment rental business.
  - (4) Stables, kennels, veterinarian services, pet shops, and animal hospitals.
  - (5) Eating or drinking places.
  - (6) Mortuaries and embalming establishments.
  - (7) Private clubs, including fraternity and sorority houses.
  - (8) Retail sales (over the counter).
  - (9) Repair of home appliance and electronic equipment.

**C. *Temporary Uses Permitted.***

- 1. *Sidewalk Sales.* The retail sale of merchandise not within an enclosed structure shall be permitted for a period not to exceed three days and need not comply with the yard and setback requirements. Yard sales are permitted in the residential district after obtaining necessary permits from City Clerk. Sidewalk sales are permitted in the commercial and industrial districts after obtaining necessary permits from the City Clerk. No merchandise will be displayed in the vision clearance triangle and street right-of-way except in the Central Business District.
- 2. *Christmas Tree Sales.* Christmas tree sales shall be permitted in any commercial or industrial district for a period not to exceed 60 days. Display of these need not comply

DEVELOPMENT REGULATIONS  
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

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with the yard and set-back requirements of these regulations, provided that no trees shall be displayed within the vision clearance triangle or in the street right-of-way except in the Central Business District.

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

D. *Tiny Homes*

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

#### 4.05. Redevelopment Overlay District

The following standards for the ROD district replace or supplement standards of the underlying district. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment in order to implement the Redevelopment Master Plan vision for a more attractive, efficient, and livable community.

##### A. *Residential Uses.*

1. Dwelling, Live/Work: In the CBD subdistrict, the residential living portion of the live/work unit is not permitted within the front half or front 30 feet of space, whichever is greater, on the first floor.
2. Dwelling, Residential: Residential dwelling units shall only be permitted in the CBD subdistrict as part of a vertical mixed-use building where the residential uses can be located either behind the front half or front 30 feet of space, whichever is greater, on the first floor or on the second or higher floors.

##### B. *Public and Institutional Uses*

1. *Arboretum or Botanical Garden.*
  - a. In all residential zone districts, the use shall abut an arterial or collector street.
  - b. No sales are allowed except through gift shops that are approved accessory uses.
2. *Hospital/Medical Center.*
  - a. The application shall be accompanied by written proof that the proposal meets all federal, state, and county regulations.
  - b. A minimum of 25% of the net lot area shall be provided in open space.
    - (1) A minimum of three-fourths of the total open space requirement shall be provided as frontage open space to provide a setting for the building, visual continuity within the community, and a variety of spaces in the streetscape. The frontage open space shall not be required to exceed

DEVELOPMENT REGULATIONS  
ARTICLE 5. ACCESS & PARKING

5.02 Required Parking

- f. A shared parking plan shall be enforced through a written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded at the Register of Deeds, prior to issuance of any building permits.
- g. A shared parking agreement may be revoked by the affected property owners only if all required off-street parking spaces for both parties are provisioned before the agreement is revoked.

C. ***Non-Contiguous Off-Street Parking.***

- 1. *Separation Distance:* Off-street parking facilities to fulfill a multiple-family, commercial, industrial or special use permit requirement may be located within 200 feet of the development (measured between property lines) if off-street parking requirements cannot be met on the site.
- 2. *Special Use Permit Required:* Separate off-street parking facilities must meet the following requirements and be approved as a Special Use:
  - a. Screened or enclosed with a fence, wall, or other suitable enclosure having a height of not less than three feet, and maintained in good condition.
  - b. Any lights used to illuminate the parking areas shall be so arranged as to direct the light away from any adjoining residential premises.
  - c. Approval of the site plan, drawn to scale; showing proposed parking lot. The developer will submit a site plan for off-street parking together with his application for a building permit. This parking plan will be reviewed by the DRC for adequacy prior to the issuance of a building permit.

**5.03. General**

- A. ***Use.*** Required parking used only for parking operable motor vehicles using the site or use. Any other use of parking areas for outside storage, display or commercial activity shall be permitted by different provisions of these regulations
- B. ***Surfaces and Markings.*** All off-street parking areas and driveways shall be surfaced and provided with a minimum of:
  - 1. *Residential Parking:* (All dwelling units) ~~Four-Six~~ inches of Portland Cement concrete, ~~reinforced~~, or four inches of stone and ~~two-four~~ inches of asphaltic concrete.
    - a. A gravel parking pad in the rear yard may be installed with a border to contain the gravel. Such gravel parking pad must be accessed directly off the alley and may be a maximum depth of 37 feet as measured from the rear property line.
    - b. For lots over 2 acres in size on which the primary structure will be set back a minimum of 100 feet from the front property line, a gravel driveway may be

installed past the required 25' front setback, provided that all other applicable building and fire codes are met.

2. *Commercial and Industrial Loading and Parking:* ~~Six-Eight~~ inches of Portland Cement concrete, ~~reinforced~~, or six inches of stone and ~~two-six~~ inches of asphaltic concrete.
3. *Parking Lot Marking:* Parking spaces in lots of more than six spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
4. *Bumper Guards:* Wheel or bumper guards when used shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways, or come in contact with walls, fences, or plantings.

C. **Drainage:**

1. Off-street parking facilities shall be drained to eliminate ponding water and prevent damage to abutting property and/or public streets and alleys.
2. No surface water from such parking area shall be permitted to drain onto adjoining private property without adequate drainage precaution being taken by the developer.
3. All new and redeveloped parking areas shall be required to present a drainage study prepared by an engineer licensed in the State of Kansas.

### 5.04. Parking Design

- A. Parking lots should be designed with a hierarchy of circulation. For example, major driveways should be clearly delineated by landscaped areas and should have limited or no parking along them while parking aisles should provide direct access to parking spaces. Parking lot circulation shall accommodate emergency response vehicles.
- B. Parking lots should be located behind buildings or in the interior of a block whenever possible.
- C. Parking lots containing more than 200 parking stalls shall be divided into two or more lots, separated by a 15-foot wide landscaped area that may be counted toward the required off-street parking landscaping area.
- D. Within each parking lot, parking spaces shall be grouped into blocks of 40-50 spaces with each block separated from the others by curbed planting areas at least the size of one parking stall.
- E. Parking stalls shall measure at least 8.5 feet by 18 feet, except angled stalls as low as 30 degrees may be used to reduce the lengthwise right-angle of the stall proportionately. Additionally, up to 10 percent of all parking may be reduced to 7.5 feet by 15 feet, if specifically marked for compact cars.

- F. Generally there shall be at least 25 feet of back-up space in drive aisles beyond the parking stalls, unless configurations of parking and drives allow for better arrangements. Configurations which incorporate two or more parallel rows of parking may use common back up space.

### 5.05. Access

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

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

### 5.06. Off-street Loading

- A. Loading and unloading spaces shall be provided off-street for such uses involving receipt and distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be so located to avoid undue interference with public use of streets, alleys, and walkways. Such space shall include loading areas as specified below for loading and unloading operations and shall have a minimum height clearance of 14 feet. The number of spaces shall be provided as follows:
1. *Gross Floor Area Space Required:*
    - a. Under 5,000 sq. ft. None
    - b. 5,000 to 9,999 sq. ft. 1 space (12'x25')
    - c. 10,000 to 24,999 sq. ft. 1 space (12'x70')
    - d. 25,000 to 49,999 sq. ft. 2 spaces (12'x70')



DEVELOPMENT REGULATIONS  
ARTICLE 8. SIGNS

8.11 Commercial & Industrial

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2. No part of a free standing sign face or sign structure shall be closer than five feet to any property line and shall not obstruct traffic vision.
  3. Free standing signs may have two faces and shall not exceed 50 square feet per face or one square foot of sign per lineal foot of lot frontage, whichever is less, in OBD or CBD, and 100 square feet in-per face or two square feet of sign per lineal foot of lot frontage, whichever is less, in GBD, I-1 or I-2.
  4. No free standing sign face, frame or base shall be closer than 50 feet to another free standing sign.
  5. Separate and distinct street frontages shall be computed individually for allowable signage; however, signs shall be located on that street frontage which is used for computation (No accumulation is allowed for unused street frontage.)
  6. The free standing signs may be electronic changeable message signs, provided they comply with all applicable standards.
- E. Window signs, as otherwise restricted and permitted herein shall be allowed provided that:
1. The total window sign area in a tenant space shall not exceed 33% of the window area, for each front, side or rear wall, provided that, the total sign surface shall not exceed 150 square feet per side of the building. For the purposes of this subsection, the term "window area" includes the non-opaque parts of any doors or other fenestrations.
  2. The allowable window sign area as defined herein may be illuminated and may be an electronic changeable message sign.

### 8.12. Temporary Signs

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- A. The following restrictions, in addition to any other restriction set forth in this sign code, shall apply to any permitted temporary sign.
1. All temporary signs shall obtain a permit before placement except as otherwise specifically stated in this sign code.
  2. Application for a permit after placement shall cause the permit fee to triple.
  3. Temporary signs shall be set back a minimum of six feet from the street line.
  4. Temporary sign permits shall be for no more than 60 days.
  5. A temporary sign permit may be renewed for a second consecutive 60-day period.
  6. No parcel-business shall display a temporary sign for more 120 days in any calendar year.
  7. No parcel-business shall have more than one temporary sign displayed at any time except as otherwise specifically stated in this sign code.

DEVELOPMENT REGULATIONS  
ARTICLE 8. SIGNS

8.12 Temporary Signs

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8. No temporary sign, except as otherwise specifically provided, shall have a sign surface greater than 25% of the allowable permanent signage which might be permitted per parcel.
9. No temporary sign shall exceed 100 square feet in area. Example; a two-sided sign with 50 square feet of sign surface equals 100 square feet of sign area.
10. No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
11. Temporary signs shall not be posted on trees or utility poles.
12. No temporary sign shall be placed off-premise or in any road right-of-way except as otherwise specifically stated in this sign code.
13. No temporary sign shall be internally or indirectly illuminated or painted with light-reflecting paint.
14. A temporary sign related to an event shall be removed no later than three days after the event has taken place.
15. Except as otherwise provided in this sign code, a temporary sign may be posted for so long as it remains in good condition. Once a temporary sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced.
16. If the Director determines a temporary sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three days of that notification. Signs that are not removed or replaced within three days of the notification shall be deemed a nuisance and shall be subject to abatement or removal by City staff. The Director's determination that a temporary sign is not in good condition may be appealed to the City Commission under the procedures set forth in this article.
17. Temporary signs shall be allowed in the public right-of-way for 45 days immediately preceeding any primary, general or special elections as defined by the Leavenworth County Clerk, and shall be removed 2 days following said election. The person, party or parties responsible for the erection or distribution of any such signs shall be jointly and individually responsible for their removal. All temporary signs placed in the public right-of-way during this time period shall be subject to the following size and setback distance regulations:
  1. Signs shall be set back a minimum of 6 feet from the back of curb.
  2. Signs shall not be placed where they interfere with intersection sight distances.
  3. Signs shall not exceed 3 square feet in face area and 3 feet in height.
  4. Signs shall not be affixed to any utility poles, trees, street lights, bridges, benches or other similar public structures.

18. Any inflatable temporary sign shall be set back a distance from the curb at least equal to the fully inflated height of the sign.

**B. Excluded Temporary Signs.**

1. Temporary commercial signs carried by a person(s) are not regulated in these Development Regulations. However, if the sign is affixed to any structure or the

## ARTICLE 11. BOARD OF ZONING APPEALS

### 11.01. Creation

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

### 11.02. General

The word "Board" when used in this article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, regulations, or resolutions. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of facts by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board immediately and shall be of public record.

- A. **Secretary:** The Secretary of the Board of Zoning Appeals shall be a member of the city staff appointed by the Director.
- B. **Meetings:** Unless notified otherwise the members of the Board of Zoning Appeals will meet regularly once each month, at such time and place as is fixed by resolution. They shall select one of their members as chairman and one as vice-chairman, who shall serve one year or until their successors have been selected. Special meetings may be called at any time by the chair or in his absence, by the vice-chairman. A majority of the Board shall constitute quorum for the transaction of business. The Board shall cause a proper record to be kept of its proceedings.
- C. **Quorum:** A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

### 11.03. Powers and Jurisdiction

The Board shall have those powers and duties authorized by this ordinance and by KSA 12-759 and any amendments thereto.

- A. **Appeals:** After proper hearing to decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of these regulations, except where the City Commission is specifically empowered to hear an appeal.

DEVELOPMENT REGULATIONS  
ARTICLE 11. BOARD OF ZONING APPEALS

11.04 Applications

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required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

**11.05. Appeal of the Board Decision**

~~Any person, persons, department, or departments of the government, jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a petition, as provided by Kansas Statutes.~~

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

DEVELOPMENT REGULATIONS  
ARTICLE 12. DEFINITIONS

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**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 5 guest rooms~~ when 1 or more guests are in residence.

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

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

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

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

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

**Buffer Strip:** A strip of land, identified in the Development Regulations of the City of Leavenworth, Kansas, established to protect one type of land use from another with which it is incompatible. Additional

DEVELOPMENT REGULATIONS  
ARTICLE 12. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

DEVELOPMENT REGULATIONS  
ARTICLE 12. DEFINITIONS

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

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

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

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

**Ranching:** The raising of livestock for commercial sale.

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

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

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

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

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

**Residential Home-Stay:** Any furnished residential structure wherein one limited-term boarder (not to exceed 180 days) is allowed the use of an entire structure, or a portion of a structure, and its grounds ~~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

DEVELOPMENT REGULATIONS  
ARTICLE 12. DEFINITIONS

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

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

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

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

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

**Travel Trailer Parks:** See camp grounds

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

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

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

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

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

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

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

**Variance:** A grant of relief to a property owner from certain provisions of the Zoning Ordinance when because of the particular physical surroundings, shape or topographical conditions of the property,



DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

Table A1-{ SEQ Table \* ARABIC \s 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	P	P		P	P							P	S	
Dwelling, Townhouse				S	P	P		P	P							P	P	
Dwelling, Multi-Family					P	P		P								P	P	
Dwelling in Mixed-Use Structure Note [1]								P	P	P	P	P				P	P	P
Dwelling, Live/Work								P	P	P	P	P				P	P	P
Dwelling, Manufactured	P	P	P	P			P											
Dwelling, Mobile Home							P											
<b>Group Living</b>																		
Assisted Living Facility	S	S	S	S	S	S		S			P	P				S	S	S
Convent/Monastery	P	P	P	P	P	P	P	P										
Dormitory	S	S	S	S	S	S		S										
Fraternity/Sorority Home	S	S	S	S	S													
Group Home: Disabled (K.S.A. 12-736)	P	P	P	P	P	P	P	P								S	S	S
Nursing Home/Hospice	S	S	S	S	P	S						P				S	S	S
Senior Housing	S	S	S	S	P	P		S			P	P				S	S	S
Shelter, Domestic Violence	P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P				P	P	P
Student Housing	S	S	S	S	P	P		P			P	P						
<b>PUBLIC AND INSTITUTIONAL USES</b>																		
<b>Community Services</b>																		
Adult Day Center	S	S	S	S					P	P	P	P				S	P	P
Cemetery	S	S	S	S														
Mausoleum	S	S	S	S							P	P						

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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