

**CITY OF LEAVENWORTH PLANNING COMMISSION**  
**COMMISSION CHAMBERS, CITY HALL**  
100 N 5<sup>th</sup> Street, Leavenworth, Kansas 66048  
**REGULAR SESSION**  
**Monday, September 12, 2022**  
6:00 PM

---

**CALL TO ORDER:**

**Commissioners Present**

Joe Burks  
Kathy Kem  
Donald Homan  
Brian Stephens  
Bill Waugh  
Sherry Hines Whitson

**Commissioners Absent**

James Diggs

**City Staff Present**

Julie Hurley  
Michelle Baragary

Vice Chairman Burks called the meeting to order at 6:00 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES:** August 1, 2022

Vice Chairman Burks asked for comments or a motion on the minutes presented for approval: August 1, 2022. Commissioner Homan moved to approve the minutes as presented, seconded by Commissioner Whitson and approved by a vote of 6-0.

**OLD BUSINESS:**

**None**

**NEW BUSINESS:**

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

Vice Chairman Burks called for a nomination for Chairman. Commissioner Homan moved to nominate Mr. Burks as Chairman, seconded by Commissioner Stephens and approved 5-0 (Vice Chairman Burks abstained). Commissioner Homan volunteered for Vice Chairman. Commissioner Stephens moved to nominate Mr. Homan as Vice Chairman, seconded by Commissioner Waugh and approved 5-0 (Commissioner Homan abstained).

**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.

Vice Chairman Burks called for the staff report.

Planning Director Julie Hurley stated 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, and 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 “agricultural 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.

Commissioner Stephens asked why there is a maximum allowable size for accessory structures.

Ms. Hurley responded most lots in town are not these acreage type lots. With the standard quarter-acre lot, the city does not want a shed or detached garage sitting in the backyard that is larger than the house. If a property owner does want an accessory structure larger than the primary dwelling, they would need to request a variance through the Board of Zoning Appeals.

Commissioner Kem asked if there is a definition for agricultural buildings.

Ms. Hurley responded the definition for agricultural buildings is in section 12 of the Development Regulations:

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

Ms. Hurley further stated section 4 of the regulations states:

*In residential districts an agricultural accessory building not to exceed two percent of the total square footage of the lot on which it is located on parcels two acres or larger, up to a maximum of 3,400 square feet.*

Referring to tiny homes, Commissioner Stephens asked if someone poured a concrete slab and put their tiny home on it, is that considered a permanent foundation.

Ms. Hurley stated the foundation will be addressed with the building code.

Commissioner Whitson asked about the size of the tiny homes.

Ms. Hurley stated the definition for a tiny home states:

*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.*

Commissioner Stephens asked if this would cover tiny home communities or would that be a different zoning district.

Ms. Hurley responded all the single-family zoning districts allow one principal structure per lot. The multi-family zoning district (R-MF) does not limit the number of structures that are on a lot, and it does not require that each structure house multiple families but it allows multiple residential structures per lot.

Commissioner Stephens asked if there is a limit on how many structures would be allowed.

Ms. Hurley stated the regulations for R-MF zoning district states:

*This district is intended to provide for development for multiple-family residential developments and allows a high population density. The district is residential in character and promotes a high quality environment through aesthetically oriented property development standards. This district is appropriate for many areas of the community and shall be located in accordance with the criteria established in Leavenworth Comprehensive Land Use Plan. These districts need not be contiguous with other multiple family districts.*

Commissioner Stephens stated the tiny home definition states the size is between 200-400 square feet, and asked if the size of the tiny home was 410 square feet it would not fall under the tiny home category but rather just a single-family home.

Ms. Hurley stated that was correct, and further stated the 200-400 square feet is what Shawnee Counties use. The size is up for discussion if the Planning Commission wants to change that. Ms. Hurley also stated there is a minor modification provision in the Development Regulations that allows staff to approve up to a 10% variance on regulations without it needing to go through an appeal process. Any size larger than the 10% would need to go to the Board of Zoning Appeals for a variance.

Commissioner Stephens asked the definition of an accessory dwelling unit.

Ms. Hurley responded the regulations define it as:

*Accessory Dwelling Units: may be approved by Special Use Permit in any residential zoning district subject to the following conditions:*

- 1) Shall be compatible with the design of the principal dwelling unit.*
- 2) Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.*
- 3) Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.*
- 4) Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.*

- 5) *Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.*
- 6) *Shall meet all building code requirements for a single-family dwelling unit.*
- 7) *Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.*

- **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.

Ms. Hurley stated the “stand up curb” is the straightaway of curb not the radius of a curb.

- **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 a member of the 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.

Commissioner Whitson asked if a domestic violence shelter is the only type of shelter permitted.

Ms. Hurley responded the way the Use Table is worded, there are some provisions at the beginning of it that basically states if your specific use is not listed then it is up to the discretion of the Planning Director to figure out which use is most like the use requested. For instance, the domestic violence shelter category was used for the homeless shelter located in the northeast of town because it was the closest use listed in the Use Table.

**ACTION/OPTIONS:**

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

With no further discussion, Vice Chairman Burks called for a motion. Commissioner Waugh moves to recommend approval of the proposed text amendments to the City Commission, seconded by Commissioner Kem and passed by a 6-0 vote.

Ms. Hurley stated this item will go to the City Commission on Tuesday, September 27, 2022.

**OTHER BUSINESS:**

**None**

With no further business, Vice Chairman Burks adjourned the meeting at 6:40 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.