

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

**REGULAR SESSION
Monday, September 11, 2017
7:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: August 7, 2017**

OLD BUSINESS:

None

NEW BUSINESS:

1. 2017-17 SUB – WEST GLEN, 1ST PLAT – FINAL PLAT

Consider a request of a 49 lot preliminary plat for the West Glen residential development, owned by JMK Partners, LLC. The property is currently vacant and zoned R1-6, High Density Single Family Residential District. A preliminary plat for the subject property was approved by the Planning Commission on June 5, 2017, under the name Wolf Farms.

2. DISCUSSION ITEM

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.

OTHER BUSINESS:

ADJOURN:

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048
REGULAR SESSION
Monday, August 7, 2017
7:00 PM

CALL TO ORDER:

Commissioners Present

Jay Byrne
Mike Burke
Claude Wiedower
Linda Bohnsack
John Karrasch

Commissioners Absent

Camalla Leonhard
Sherry Hanson

City Staff Present

Julie Hurley
Michelle Baragary

Chairman Byrne called the meeting to order at 7:00pm and noted a quorum was present.

Approval of Minutes: June 5, 2017

Chairman Byrne asked for comments or a motion on the minutes presented for approval: June 5, 2017. Ms. Bohnsack moved to accept the minutes as presented, seconded by Mr. Wiedower. The minutes were approved by a vote of 5-0.

OLD BUSINESS:

None

PLANNING COMMISSION PUBLIC HEARING PROCESS:

City Planner will provide the staff report based on the request by the applicant and an explanation of the decision factors, which will be used by the Planning Commission with its determination. The City Planner will explain those planning factors and provide the commission with her results of the staff analysis and her recommendation regarding those factors. The Planning Commission can accept or reject the recommendation of the city staff as far as a recommendation but the planning factors themselves are what the commissioners will use as far as making their determination. Once the staff report is provided, the Planning Commissioners may ask questions of the City Planner and the applicant. Once that is completed, the Chairman will open the public hearing. At that time, anyone wishing to speak for or against the rezoning request is invited to the podium. All questions should be addressed to the Planning Commission. The commissioners will then ask the applicant the questions. When the public hearing is complete, there will be a discussion among the commissioners, followed by a motion. There are three motions available: 1) motion to recommend to the City Commission that they approve the rezoning request, 2) motion to recommend to the City Commission that they deny the rezoning request, and 3) motion to table the issue for additional

information/consideration. The Planning Commission is not the final decision makers on the rezoning. The Planning Commission only makes a recommendation to the City Commission.

NEW BUSINESS:

1. 2017-15 REZ – 801 N BROADWAY STREET

Conduct a public hearing for Case No. 2017-15 REZ, 801 N Broadway Street. The applicant, Exact Broadway, LLC, is requesting a rezoning of their property from R1-6, High Density Single Family Residential District to R-MF, Multiple Family District. The property is occupied with the former North Broadway School, which is currently vacant.

Chairman Byrne called for the staff report.

City Planner Julie Hurley stated the applicant, Exact Architects, is requesting of their property located at 801 N Broadway Street from R1-6, High Density Single Family Residential District, to R-MF, Multiple Family Residential District. The property is occupied with the former North Broadway School, which is currently vacant.

The applicant is proposing to modify the interior of the structure for conversion to apartment units. A similar conversion was undertaken at the Ben Day School previously by the same applicant/owner. The applicant intends to make no significant changes to the exterior of the building which would change the character of the structure. New windows will be installed along with a new roof, and sidewalks and curbs will be repaired. The interior of the building will be converted to a total of 27 one bedroom, market-rate apartments. Existing parking will be retained in the rear of the building, providing for 18 surfaces parking spaces and 13 new garage parking spaces, with one Ada accessible space. A community grilling area will be provided on the south side of the building.

The subject property is the former North Broadway School, lying in a residential neighborhood approximately one mile northwest of downtown Leavenworth. The building is a two-story, U-shaped structure built in 1923. The massing, form, materials and functional features are illustrative of schools built during that particular era in Kansas. The North Broadway School was listed on the National Register of Historic Places in 2011. The Leavenworth Preservation Commission considered the proposed project at their meeting on August 2, 2017, and voted 5-0 in favor of the project as proposed.

CONDITIONS OF DETERMINATION

City Planner Julie Hurley reviewed the Conditions of Determination and read through each condition/comment. She noted that 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 the site of the North Broadway School, which is currently vacant. To the south are the Broadway Apartments, another multi-family structure. The remainder of the neighborhood consists of single-family homes. The property is located along Broadway Street, which is classified as an arterial street and designed to handle a high volume of traffic.

- b) The zoning and use of properties nearby;

The property to the south is zoned R-MF, Multiple Family Residential District. All other surrounding properties are zoned R1-6, High Density Single Family District.

- c) The suitability of the subject property for the uses to which it has been restricted;

The subject property was built in 1923 as a school building. Schools are allowed in the R1-6 zoning district with issuance of a special use permit, however, the property is privately owned and the existing building is unsuited for single-family residential use.

- d) The extent to which removal of the restrictions will detrimentally affect nearby property;

The proposed rezoning should have little detrimental effect upon surrounding properties. The subject building was previously utilized as a school, and currently sits vacant. There is another multi-family building directly to the south of the subject property. The applicant completed a similar project in 2015 at the former Ben Day School located at 1100 3rd Avenue, which has had a positive effect on the surrounding neighborhood.

- e) The length of time the subject property has remained vacant as zoned;

The existing building has been vacant since it was sold by the Leavenworth School District in 2010.

- 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 rezoning of this property site will result in a net gain for property value due to the future physical improvement of the property, which will be determined by the county tax assessor at a future time. There appears no reduction of land value will occur from the rezoning of the property mainly due to the permitted uses allowed under R-MF compared to R1-6.

- g) The recommendations of permanent or profession staff;

Staff recommends approval of the rezoning request.

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

The area is identified as appropriate for Multi-Family uses on the Future Land Use map. Therefore, staff finds the proposed use to be in conformance with the overall goals of the adopted Comprehensive Plan.

- 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.

Chairman Byrne called for questions and comments from board members about the staff report.

Mr. Wiedower asked about the new transformer. Ms. Hurley stated the applicant has already assessed the utility needs at the school so they know what is needed.

With no further questions from the commissioners, Chairman Byrne opened the public hearing.

Jahan Shahegh (901 N Broadway Street) stated his concern that there will be no fencing around the subject property. He feels a fence would keep the tenants of the apartment building and their property safe and would also keep him safe from dog attacks or wandering kids. He also stated his concern about the apartments becoming low-income in the future and bringing down his property's resale value. Stated the apartments will bring vandalism, burglary, drug activity, etc. to his neighborhood. He further feels the apartments will bring unnecessary noise. Mr. Shahegh also concerns about tenants parking on the street and headlights shining in his property.

Larry Timkar (813 N 8th Street) stated he's concerned about headlights shining into his house, increased noise level and increased criminal activity.

Jo Timkar (813 N 8th Street) stated her concern with the number of apartments; believes 27 units are too many. Ms. Timkar asked if the overflow parking will park on the street. She spoke of her concern with the outside lighting being too bright.

Ken Gilbert (822 Dakota Street) stated is in favor of the apartments. He would rather have the building used for something than for it to be vacant.

Chairman Byrne asked about the size of the apartments. Jonathan Klocke (representative for the applicant, Exact Architects) stated the average size of the apartments is 700 sqft.

Chairman Byrne asked for more information about the overall parking. Mr. Klocke stated the development regulations require one parking spot per one bedroom unit. There will be 31 parking stalls with one accessible parking stall and 13 of those will have garages. The concern with the parking lights should be alleviated because of the elevated site as well as the parking garages.

Ms. Bohnsack asked if the parking structures are carports or garages. Mr. Klocke stated they will be enclosed with a garage door.

Mr. Wiedower asked where the applicant came up with 27 units. Mr. Klocke stated it is based on the existing circulation and existing classrooms. They must keep the classrooms as they are so they will convert each classroom into a one bedroom unit. Additionally, they will split the gymnasium which will provide a couple more one bedroom units. Ms. Hurley elaborated that the applicant applied for a historical tax credits through the State which requires a different set of requirements than the regular historical review would require. They are required to have the same configuration in keeping with the classroom, keeping that internal circulation and keeping most of the walls.

Ms. Bohnsack asked about the outside lighting. Ms. Hurley responded that cutoff lights will be mounted on the building so there won't be surface lighting in the parking lot. The intent is to contain the lighting to the site. The garages to the west and the south will help with some of the spill over to the west.

Ms. Bohnsack asked if the garage buildings will be compatible with the school. Mr. Klocke stated the garage buildings will be compatible with the neighborhood.

Ms. Bohnsack asked if landscaping will be added to the north side of the school. Mr. Klocke stated the existing trees will remain. There will be landscaping added to shelter the community space to the south and a little landscaping to the west but no landscaping will be added to the north side.

Mr. Wiedower asked about the plan for waste management. Mr. Klocke responded that the primary location for the dumpster is in the southwest corner of the parking lot. Ms. Hurley further stated the development regulations require the dumpster area be enclosed.

Mr. Karrasch asked if this meets the minimum landscape requirements. Ms. Hurley responded in the affirmative.

Mr. Karrasch asked if there is adjacent on-street parking on all four sides of the building. Ms. Hurley stated on-street parking is allowed on all four sides.

Mr. Burke asked about security for the building. Mr. Klocke stated there are two entrances on the east and two on the west and they will all be secured. Security lighting required one footcandle at all walking surfaces.

Mr. Burke asked if there were plans for fencing to go along the north length of the property. Mr. Klocke stated there is not.

Mr. Burke asked how many units are in the Ben Day apartments. Mr. Klocke stated he believes there are 25 units in the Ben Day apartments.

With no one else wishing to speak, Chairman Byrne closed the public hearing and called for discussion among the commissioners.

Mr. Wiedower stated that leaving the building vacant will increase criminal activity. He believes the conversion to apartments is a good thing. There is a need for one bedroom apartments in Leavenworth. It makes sense to get the building on the tax roll and get the building converted to something meaningful.

Mr. Karrasch reaffirms what Commission Wiedower said.

Ms. Bohnsack believes it is a favorable use.

With no further discussion among the commissioners, Chairman Byrne read the action/options:

- Recommend approval of the rezoning request from R1-6 to R-MF to the City Commission
- Recommend denial of the rezoning request from R1-6 to R-MF to the City Commission
- Table the issue for additional information/consideration

With no further discussion, Chairman Byrne called for a motion. Mr. Wiedower moved to recommend approval to the City Commission the rezoning request 2017-015 REZ located at 801 N Broadway Street from R1-6 to R-MF based upon the findings of fact and information presented as stated. The motion was seconded by Ms. Bohnsack and passed by a vote 5-0.

Ms. Hurley stated this will be the start to a 14 day protest petition period. Residents within the 200 foot notification area have 14 days starting tomorrow, August 8, 2017, to gather a valid protest petition to present to the City Clerk prior to this agenda item going to the City Commission meeting.

With no further business the meeting was adjourned at 7:39 pm.


JH/mb

PLANNING COMMISSION AGENDA ITEM
2017-17-SUB
WEST GLEN, 1ST PLAT
FINAL PLAT


SEPTEMBER 11, 2017

SUBJECT:

A request for a final plat of West Glen, 1st Plat



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by JMK Partners, LLC, plat prepared by Napier Engineering. The applicant is requesting approval of a 49 lot preliminary plat for the West Glen residential development. The property is currently vacant and zoned to R1-6, High Density Single Family Residential District. A preliminary plat for the subject property was approved by the Planning Commission on June 5, 2017, under the name Wolf Farms.

The subject property is 18.35 acres in size, and is currently undeveloped. The site lies along New Lawrence Road, directly east of 20th Street. The plat consists of 49 residential lots. Lots 1-26 are intended to be standard single-family homes, with an average lot size of 10,285 sqft. Lots 27-49 are intended to be smaller maintenance provided single-family homes, with an average lot size of 7,914 sqft. Also included are associated utility easements and 11 tracts for various community amenities including landscaping, open space and signage.

The Development Review Committee reviewed the plat at their August 17, 2017 meeting. No major issues were identified at that meeting.

Improvements to New Lawrence Road will be required as part of the development of this property. The Developer is currently working with City staff to coordinate the timing and scope of those improvements. In general, New Lawrence Road will be widened and improved from 20th Street to the northern boundary of the plat.

Staff recommends approval of the West Glen 1st Plat.

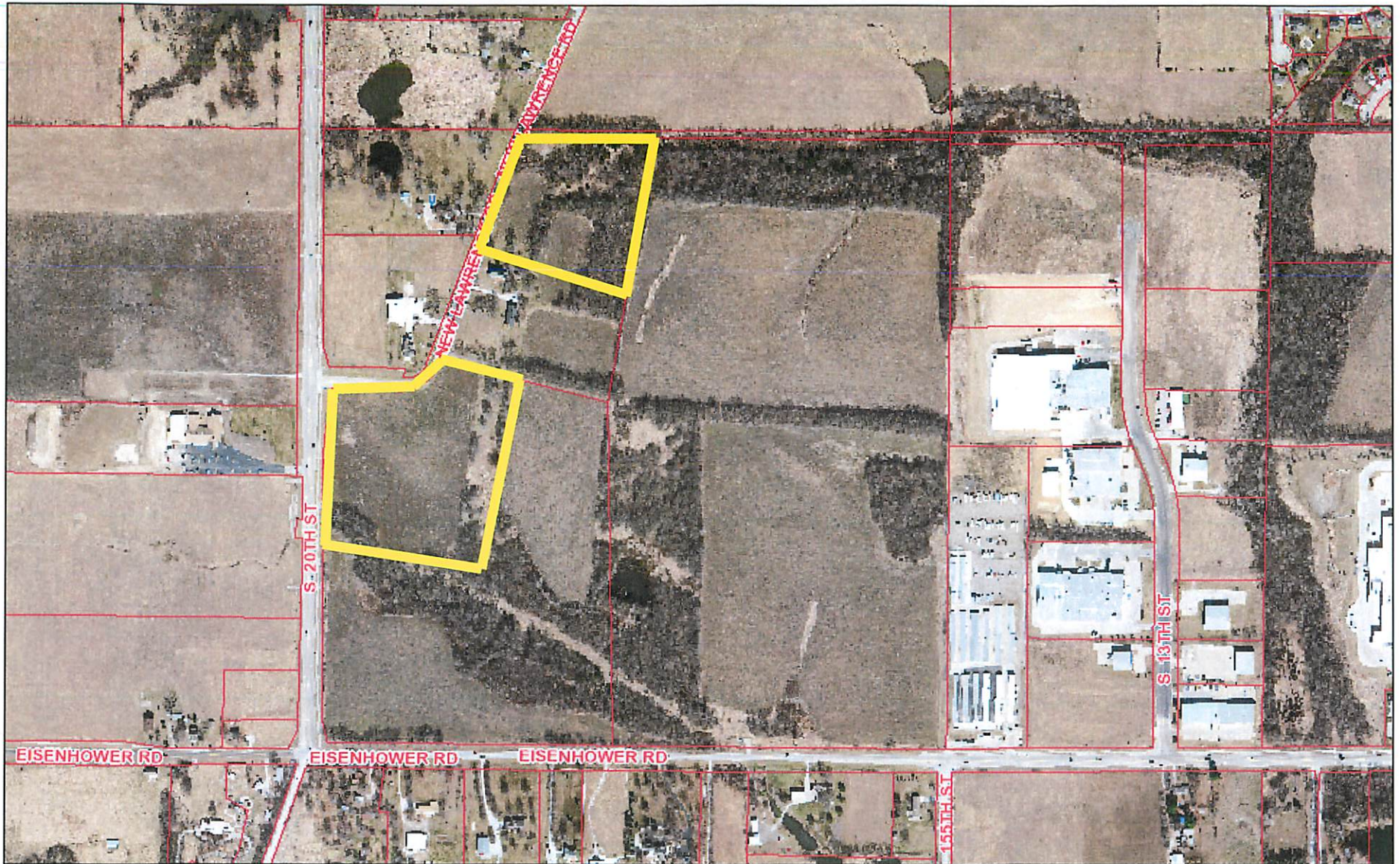
ACTION/OPTIONS:

- Approve the Final Plat
- Deny the Final Plat
- Table the issue for additional information/consideration.

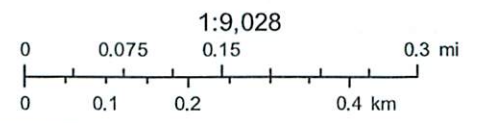
ATTACHMENTS:

Location map
Application materials
DRC Minutes

West Glen, 1st Plat



September 7, 2017



City of LV GIS, 2017
LV GIS Dept 09/23/2016



Development Review Committee Meeting Thursday, August 17, 2017

Committee members present: City Manager Paul Kramer, City Planner Julie Hurley, City Clerk Carla Williamson, Public Works Director Mike McDonald, Chief Inspector Hal Burdette, Health/Safety Officer Mark Demaranville and Administrative Assistant Michelle Baragary

AGENDA ITEM(S):

1. **2017-17 SUB – Final Plat, West Glen, 1st Plat (4811 New Lawrence Road)**

- Attendees: Brett Napier
- Need a temporary turn around
- Need better access to sewer manholes
- 23 maintenance provided homes are to the south; 26 traditional homes to the north
- Townhomes will eventually go to the west of the villas but it needs to be zoned first. Entrance will be off 20th Street
- Maximum of 40 units off one entrance
- Tract D is a high pressured gas line. They will be adding to the elevation; 2'-3' will be added over the gas line
- Need to have approved construction drawings and a bond for 125% of the cost of construction for public improvements before going to City Commission
- Wayne should review prior to securing signatures
- Will go to Planning Commission September 11, 2017
- Estimated construction to begin in spring 2018
- Property owners do not go on the plat. The platted name is used because the owner's name could change

OTHER:

- 520 S 4th Street (Joey McKee) – needs to submit a plan design, to storm water, for the parking lot
- Superior Lawn Care installed a large sign on the old Walmart's south sign structure
- 221 Arch Street – Julie will speak with Pat Kitchens about going to 221 Arch St to stop their operations


Meeting adjourned at 1:56 pm

PLANNING COMMISSION AGENDA ITEM
Proposed Text Amendments
Development Regulations


SEPTEMBER 11, 2017

SUBJECT:

Preliminary review of potential updates to Development Regulations



Prepared By:
Julie Hurley
City Planner



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. The following sections have been identified for update:

- **Section 2.02 Platting; subsection B.3&4**
Application and review processes for “Administrative Plats” and “Minor Subdivisions” are listed to be the same. Administrative Plats are intended to be small changes like lot line adjustments or lot splits that may be approved administratively by staff. Minor Subdivisions are intended to be a small subdivision requiring no new right-of-way or utility easement dedication and consisting of 5 or fewer lots, and should come to the Planning Commission for approval.
- **Section 2.04 Special Use Permits**
Add language regarding process for Protest Petition. Kansas State Statute and prior legal rulings state that the same protest petition process applicable to Rezoning apply to Special Use Permit applications as well. Current language does not address Protest Petitions for Special Use Permits. Add language reflecting need for City Commission action to consider application for Special Use Permit. Language should be the same as listed for Rezoning.
- **Section 4.04 Use Standards; Subsection B**
Specific language regarding Home Occupations and Home Day Cares was inadvertently omitted in the 2016 revision. There were no intended changes to the regulations regarding Home Occupations or Home Day Cares, add language from 2011 Development Regulations.
- **Section 4.04 Use Standards; Subsection B.3.e – Yardicles**
Change “Yardicles” to “Miscellaneous Yard Décor”.

- **Section 5.02 Required Parking**

Add general parking requirement of "1 space for every 200 square feet of building space" for uses not specifically listed in parking requirement table. This language was inadvertently omitted in the 2016 update.

- **Section 5.02 Required Parking; Subsection B**

Consider allowance for reduced parking for historic structures.

- **Section 6.08 Fences; Subsection D – Commercial Areas**

Change "Commercial areas" to "Commercial and Industrial Areas". Include height restriction for commercial areas, current language only addresses height restriction for industrial areas. Suggested 6' height limit for commercially zoned areas.

ACTION/OPTIONS:

No formal action required at this time. Upon conclusion of discussion by Planning Commission, a public hearing will be set for the proposed text amendments at the next regularly scheduled Planning Commission meeting, as provided for in section 2.01 of the Development Regulations.

f. Special setback requirements for arterial, collector and local streets.

3. *Administrative Plat.* Administrative plats shall be processed according to the following criteria and procedures.

a. *Criteria.* An application may be classified as an administrative plat if the Director determines that all of the following are met. Any application not classified as an administrative plat shall be processed as a major subdivision.

- (1) No new street or alley right-of-way, or other public dedication is needed.
- (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
- (3) For lot line adjustments, lot splits or lot combinations, the application affects the boundaries of only four or less existing lots, or is finalizing the legal boundaries of previously approved lots which could only be based on a legal survey after construction of improvements.
- (4) For minor subdivisions of previously unplatted property, the application results in five or fewer new lots, including any remainder parcel.
- (5) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
- (6) 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.
- (7) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.

b. *Filing Requirement.* An administrative plat shall include all applicable information required for final plats.

c. *Review and Approval.* Upon review by the Director, Development Review Committee, or any affected departments or agencies, and within 60 days of filing, the Director shall approve any administrative plats that meet all requirements of these regulations, or deny the application and recommend any further processing as a major subdivision.

d. *Effect of Decision.* Approval of an administrative plat requires the applicant to record the plat with the Leavenworth Register of Deeds. Denial or recommendation of major subdivision shall be processed according to major subdivision review requirements.

4. *Minor Subdivision.* Minor subdivisions shall be processed according to the following criteria and procedures.

a. *Criteria.* An application may be classified as minor subdivision if the Director determines that all of the following are met. Any application not classified as a minor subdivision shall be processed as a major subdivision.

- (1) No new street or alley right-of-way, or other public dedication is needed.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

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- (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) For lot line adjustments, lot splits or lot combinations, the application affects the boundaries of only four or less existing lots, or is finalizing the legal boundaries of previously approved lots which could only be based on a legal survey after construction of improvements.
 - (4) The application results in five or fewer new lots, including any remainder parcel.
 - (5) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (6) 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.
 - (7) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
- b. Filing Requirement. A minor subdivision shall include all applicable information required for final plats.
 - c. Review and Approval. Upon review by the Director, Development Review Committee, or any affected departments or agencies, a minor subdivision may be processed in the same manner as a major subdivision, except that the process may be combined into a single review meeting the requirements and criteria for both a preliminary and final plat.
5. *Major Subdivision*
- a. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures.
 - (1) Development Review Committee. At least seven days prior to the Planning Commission review, the Development Review committee shall review the preliminary plat and submit their recommendation to the Planning Commission.
 - (2) Planning Commission Review. Within 60 days after the submission of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the plat. Action by the Planning Commission shall be conveyed to the applicant in writing within ten days after the official Planning Commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.
 - (3) Effect of Decision. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed an authorization to proceed with the preparation of the final plat. If the Planning Commission
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DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.03 Zoning Change

- d. The extent to which removal of the restrictions will detrimentally affect nearby property;
 - e. The length of time the subject property has remained vacant as zoned;
 - 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;
 - g. The recommendations of permanent or professional staff;
 - h. The conformance of the requested change to the adopted or recognized Comprehensive Land Use Plan being utilized by the city; and
 - i. 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.
6. *Recommendations.* Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations in the form of a proposed Development Regulation and shall submit it with a record of the hearing to the City Commission.
7. *Protest by Petition.* If a written protest against a proposed zoning change is filed in the office of the City Clerk within 14 days as of the date of the conclusion of the public hearing, pursuant to the publication notice, signed by the owners of record or 20% or more of any real property proposed to be rezoned, or by the owners of record of 20% or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths vote of all of the members of the City Commission.
8. *Action by the City Commission.* The City Commission shall not consider a request prior to the lapse of the 14-day protest period. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the City Commission may:
- a. *Adopt:* Adopt such recommendation by ordinance,
 - b. *Override:* Override the Planning Commission's recommendation by a two-thirds majority vote of the membership of the City Commission, or
 - c. *Return:* Return such recommendation to the Planning Commission with a statement specifying the basis for the City Commission's failure to approve or disapprove. If the City Commission returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefore or submit new and amended recommendations. Upon the receipt of such recommendation, the City Commission by a simple majority thereof may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the City Commission following the Planning Commission's next regular meeting after receipt of the City Commission's report, the City Commission shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

Development Regulations: Supplementary District Regulations

4. **Code Compliance:** A wind energy structure, including tower, shall comply with all applicable state construction and electrical codes, and the electrical code as adopted by the city.
5. **Screening:** Ground-level mechanical equipment associated with the wind energy system shall be screened.
6. **Other Standards:**
 - (a) The structure shall comply with all applicable Federal Aviation Administration requirements, including but not limited to Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations in excess of 200 feet in height and, installations close to airports. The system shall also comply with all Kansas aeronautics regulations.
 - (b) All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
 - (c) A VAWT tower shall be designed and installed without step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
 - (d) No part of the system, including guy wire anchors, may be closer than five feet from any property boundary,
 - (e) Temporary meteorological (Met) towers shall be permitted under the same standards as a small wind energy system, except that the requirements shall be the same as those for a temporary structure. A permit for a temporary MET tower shall be valid for a maximum of three years after which an extension may be granted. Permanent Met towers may be permitted under the same standards as a small wind energy system.
- E. **New Technology:** The Director may waive the provisions of these requirements through the alternative equivalent compliance process in Article VI – Redevelopment Overlay District where the availability of proven new technology alleviates the issues addressed by these regulations.
- F. **Private Restrictions Prohibited:** Any person(s) or association(s): regardless of date of establishment - is prohibited from imposing private covenants, conditions, restrictions, deed clauses, or other agreements between the parties, that prevent person(s) from installing and using alternative energy systems.

Section 4.14 Easements

- A. No structure shall be built within or extend over any easement.

Section 4.15 Home Occupations

- A. A home occupation may be established provided:
 1. That no separate outside entrance is provided for the home occupation;

Development Regulations: Supplementary District Regulations

2. That no one, other than members of the immediate family residing on the premises, be employed;
 3. That no use will occupy more than twenty-five percent (25%) of the gross floor area on one floor nor more than 400 square feet of gross floor area;
 4. That a carport, garage, or any accessory structure may not be used for home occupations;
 5. That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;
 6. Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than ½ square foot on a vertical wall below the roof soffit.
 7. That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
 8. That the home occupation shall be conducted entirely within the principal residential building;
 9. 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 (1) rated horsepower;
 10. That only one (1) type of profession or occupation shall be permitted within the occupied dwelling or building;
 11. That two off-street parking spaces are provided; and
 12. That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.
- B. Specific Examples Permitted:** Permitted home occupation includes, but is not limited to, the following list of occupations:
1. A profession such as an engineer, architect, doctor, dentist, lawyer, composer, artist, and the like.
 2. Dressmakers, tailors, or tailors.
 3. Music, dancing and other teachers or tutors, provided the instruction is limited to one (1) pupil at a time except for occasional groups.
 4. Beauty and barber services having not more than one (1) operator.
 5. Any Type 1 and Type 3 Licensed Federal Firearms Dealer.
 6. Real estate offices.
 7. Insurance Services (occupational license required).
 8. Photography studio primarily devoted to photography of individuals or small groups (occupational license required).

Development Regulations: Supplementary District Regulations

9. Child care service for six (6) or less children for any part of day up to a 12-hour period not requiring additional adult supervision. The providers own children under 14 years of age shall be included.
10. Beauty shop supplies or crafts made in the home.
11. Locksmithing and gunsmithing services.

C. Specific Examples Prohibited: Permitted home occupations shall not in any event be deemed to include:

1. Automobile and vehicular repair on other than the property owner's personally owned and currently registered vehicle.
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.

Section 4.16 Manufactured Homes

Residential-design manufactured homes may be located in any residential district providing the manufactured home meets all applicable building, architectural, and/or aesthetic codes of the City of Leavenworth, area and bulk requirements of these Development Regulations, and a Building Permit is obtained, and the home is transported once to be placed on a permanent foundation.

Section 4.17 Fence Regulations

A. Fence Types:

- (a) Open fences means those fences constructed of wood, masonry, metal, woven wire, or other material whose surface area is greater than 50 percent open.
- (b) Solid fences means those fences constructed of wood, masonry, metal, planting, hedge or other material whose surface area is or may become less than 50 percent open.

B. Enforcement: It is made the duty of the Director or his duly appointed representative to see that provisions of this article are enforced.

C. Permit required:

1. It shall be unlawful for any person, property owner or fence construction company to erect or install fencing without first paying the permit fee as set out in Appendix F, Schedule of Fees and Charges, Code of Ordinances, City of

Development Regulations: Administration

E. **Specific SUP Performance Standards:** The following additional conditions shall be a requirement for the approval of the following special uses:

1. **Electronic Changeable Messages Signs:**

- (a) One Electronic Changeable Message Sign May be permitted per parcel for permitted non-residential uses within a Residential, Multi-Family and Mixed Use Residential District upon the approval of a special use permit application pursuant to the procedures set forth in Article 2.06 et al. Special Use Permits.
- (b) Each such sign shall be an On-Premise sign, providing only community, governmental and public informational announcements and/or be a Time and Temperature Sign.
- (c) In addition, each Electronic Changeable Message Sign shall:
 - (A.) not be located closer than one hundred feet to any existing residence; and
 - (B.) for all locations within 100' of Residential use or district lamination and illumination shall be turned off between the hours of 10:00 pm and 6:00 am.

2. **Child Care Centers for seven (7) or more children:**

- (a) 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.
- (b) 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.
- (c) Shall provide a loading zone capable of accommodating at least two (2) automobiles for the easy picking up and discharging of passengers.
- (d) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
- (e) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
- (f) 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.

3. **Kennels:** breeding and boarding:

- (a) The minimum lot size shall not be less than two (2) acres.
- (b) No kennel building or runs shall be located nearer than seventy-five (75) feet to any property lines. All kennel buildings or runs shall be kept clean and sanitary.

4.04. Use Standards

- A. **Permitted and Special Uses.** Permitted and special uses for each zoning district are identified in Appendix A Use Table.
- B. **Accessory Uses.**
1. **Principal Use Required.** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
 2. **Accessory Uses.** Accessory Uses are a structure or use which:
 - a. Is subordinate to and serves a principal building and principal use;
 - b. Is subordinate in area, extent, or purpose of the principal use or building or building served;
 - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
 - d. Is located on the same lot as the principal building or principal use served; and
 - e. The total square footage of all detached structures functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area.
 3. **Permitted Accessory Uses.** Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
 - a. Private garages or carports: Not to exceed the following capacity:
 - (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
 - (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
 - (3) 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 through the special use permit process.
 - 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. Yardicles: 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

ARTICLE 5. ACCESS & PARKING

5.01 Applicability

The parking standards in this article shall apply in the following circumstances:

- A. Whenever a structure is erected, converted, structurally altered or moved;
- B. Whenever an existing structure or use is expanded or a use changed to increase the required parking by more than 10%.
 - 1. Where the increase is between 10% and 25%, parking shall be provided only for the increase caused by the proposed expansion.
 - 2. Where the increase is greater than 25%, parking shall be provided based on the entire building and site.
- C. These off-street parking and loading requirements shall not apply in the CBD (Central Business District) nor shall these requirements be imposed upon existing structures or uses at the time of passage of these Development Regulations.

5.02. Required Parking

- A. **Parking Table:** All uses shall provide the parking specified below, unless reduced by other provisions of this Article. Any required ADA accessible spaces shall be included in this parking requirement. Any use not specifically listed shall be interpreted as a listed use that most similarly matches the proposed use in terms of traffic impacts, site design and performance.

| Table 5-01 Parking Rates | |
|---|---|
| Specific Use | Required Parking Rate |
| Animal Hospital | 1 per 400 s.f. |
| Auditorium, Theater, Stadium, Arena, or Convention Hall | 1 per 4 seats |
| Automobile Service Station | 2 per service bay, plus 1 per employee |
| Automobile Wrecking Yard | 1 per 2 employees, plus 1 per 10,000 s.f. storage. |
| Banks | 1 per 300 s.f., plus 1 per 2 employees. |
| Bowling Alley | 5 per alley, plus 1 per 200 s.f. non-alley |
| Cartage, express, Parcel Delivery and Freight Terminal | 1 per 2 employees, plus 1 per each vehicle on premises |
| Car Washes | 3 waiting spaces per stall |
| Church, Temple, Synagogue, or Place of Assembly | 1 per 4 seats (1 per 30 s.f. if no fixed seating) |
| Country Club or Golf Course | 1 per 200 s.f., plus 1 per 2 practice tees, plus 4 per each green. |
| Day Care Centers and Pre-Schools | 2 per employee |
| Dwelling Unit (single-family or two-family) | 2 per each dwelling unit |
| Dwelling Unit (multi family) | 1 per unit (1BR); 2 per unit (2BR); 2.5 per unit (3BR); except units exclusively for elderly may have 1 per 2 units |

DEVELOPMENT REGULATIONS
ARTICLE 5. ACCESS & PARKING

5.02 Required Parking

| Table 5-01 Parking Rates | |
|---|---|
| Specific Use | Required Parking Rate |
| Elementary, Junior High or High School | 2 per class room, plus 1 per 4 seats of assembly areas |
| Funeral or Mortuary Home | 1 per 4 seats, plus 1 per employee, plus 1 per vehicle on premises. |
| Furniture or Appliance Store, | 1 per 400 s.f. of floor area |
| College, Business or Trade School | 8 per classroom, plus 1 per 2 employees |
| Hospital | 1 per 3 beds, plus per 2 employees, plus 1 per doctor |
| Manufacturing or Industrial | 1 per 3 employees OR at least 1 per 500 s.f. |
| Medical Offices or Clinics | 3 per examination room, plus 1 per employee OR 1 per 200 s.f. |
| Mobile Home Park | 2 per home lot, plus two per office |
| Machinery, Equipment, Automobile and Boat Sales and Services | 1 per 400 s.f., plus 1 per 3000 s.f. of sales lot, plus 1 per employee |
| Office | 1 per 300 s.f. |
| Parks and Open Space (public or private) | 3 per acre, plus 1 per six seats for any spectator or assembly area |
| Plant Nursery, Building Material Yard or Storage Yard. | 1 per 300 s.f. of sales display area |
| Private Clubs or Lodges | 1 per occupant up to 75% capacity OR 1 per 3 persons |
| Restaurant (drive-in or carry out) | 1 per 3 seats, plus 1 per employee |
| Restaurant (dine in); Tavern or Bar | 1 per 3 seats |
| Retail | 1 per 200 s.f. |
| Rooming, Boarding or Lodging House | 1 per guest room |
| Sanitarium, Convalescent Home, Home for the Aged | 1 per 4 beds, plus 1 per employee |
| Skating Rink, Swimming Pool or Recreation without fixed seats | 1 per 250 s.f., plus 1 per 40 s.f. of water area |
| Social Service Center | 1 per 400, plus 1 per employee |
| Tennis or Racquetball Club | 4, plus 2 per court |
| Motel, or Hotel | .75 per guest room, plus auxiliary commercial or assembly areas meet applicable standards |
| Warehouse, Wholesaling | 1 per 750 s.f. |

* Standards based on seating or employee shall be interpreted as maximum capacity; standards with two requirements ("OR") shall require the greater number.

B. Reduced Parking. The following circumstances are eligible for a reduction in required parking:

1. *Mixed-use Districts.* All sites in any mixed use district may reduce the parking requirement by 15 percent to reflect reduced automobile use associated with mixed use developments. The total number of required parking may be further reduced by the Director if the applicant prepares a parking evaluation that demonstrates expended parking needs will be less due to the context, design or operation of the project.
2. *Multi-family Development.* Multifamily development may seek to reduce required off-street parking from between 1.5 to 3.0 spaces per unit to 1.0 space per unit by application to the Director for a minor modification.
3. *On-Street Parking.* Any site on a block containing on-street parking may reduce the required parking by up to 50% for each space within 500 feet. The total number of required parking may be further reduced by the Director if the applicant prepares a

DEVELOPMENT REGULATIONS
ARTICLE 5. ACCESS & PARKING

5.02 Required Parking

parking evaluation that demonstrates expended parking needs will be less due to the context, design or operation of the project.

4. *Shared Parking.* The Director may approve applications for shared parking subject to the following requirements:
- a. All spaces shall be within 500 feet of any public entrance for all uses served by the space, measured along practical walking routes which may include legal crosswalks less than 80 feet.
 - b. All uses sharing a space must be connected to the parking by safe pedestrian access including sidewalks, crosswalks or pedestrian bridge.
 - c. The shared parking area shall be located on a site with the same or more intensive zoned district than required for the primary uses served.
 - d. A shared parking request must be justified with information on the size and type of development, composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads of all uses sharing the spaces.
 - e. The maximum reduction of parking spaces for all uses shall be 50 percent, except sharing with religious institutions or schools can allow a reduction of up to 80 per cent.
 - 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

Leavenworth, Kansas. These installations will then only be permitted when the electric fence is installed behind an open fence separated by three feet.

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

D. Commercial areas—Types permitted.

1. *Decorative Fences.* Decorative fences shall be permitted in the Central Business District upon approval by the Development Review Committee. Decorative fences shall be designed to contribute to the beauty and principal use of the property and not as a retaining structure.
 - (a) Decorative fences shall not exceed four feet in height.

DEVELOPMENT REGULATIONS
ARTICLE 6. LANDSCAPE & SITE DESIGN

6.08 Fences

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