

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**CORECIVIC, INC.,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **CITY OF LEAVENWORTH, KANSAS,** )  
 **MAYOR HOLLY PITTMAN, MAYOR PRO** ) **Case No. 2:25-cv-2457**  
 **TEM NANCY BAUDER, COMMISSIONERS** )  
 **GRIFF MARTIN, JERMAINE WILSON AND** )  
 **EDD HINGULA, IN THEIR OFFICIAL** )  
 **CAPACITIES AS MEMBERS OF THE** )  
 **LEAVENWORTH CITY COMMISSION,** )  
 )  
 **Defendants.** )

## COMPLAINT

Plaintiff CoreCivic, Inc. (“CoreCivic” or “Plaintiff”), by and through undersigned counsel, brings this Complaint against Defendants the City of Leavenworth, Kansas (the “City” or the “City of Leavenworth”); Mayor Holly Pittman; Mayor Pro Tem Nancy Bauder; and Commissioners Griff Martin, Jermaine Wilson, and Edd Hingula, in their official capacities and as members of the Leavenworth City Commission (collectively with the City, “Defendants”).

## INTRODUCTION

1. This is a civil rights action brought under 42 U.S.C. § 1983 to enjoin and remedy ongoing violations of the Supremacy Clause of the United States Constitution and other federal rights.

2. Plaintiff CoreCivic is a private company that has reached an agreement with the Federal Government to manage and operate the Midwest Regional Reception Center, a detention facility located at 100 Highway Terrace in Leavenworth, Kansas (the “Property”). The City of Leavenworth, through its City Commission, is unlawfully requiring Plaintiff to obtain a local

Special Use Permit (a “SUP”) before it may carry out its obligations to the Federal Government. This constitutes an unconstitutional interference with the operations of the Federal Government and a violation of rights secured by federal law.

3. On March 25, 2025, the City of Leavenworth adopted Resolution No. B-2394 entitled “A Resolution of the City Commission of the City of Leavenworth, Kansas, Regarding Certain Jail and Prison Uses on Property Located at 100 Highway Terrace, Leavenworth, Kansas.” (“Resolution No. B-2394” or the “Resolution”). A true and correct copy of the Resolution is attached hereto as Exhibit A.

4. Adopted by a 5-0 vote by City Commission members Mayor Holly Pittman, Mayor Pro Tem Nancy Bauder, and Commissioners Griff Martin, Jermaine Wilson and Edd Hingula, Resolution No. B-2394 prohibits CoreCivic from using the Property as a federal detention center under the guise that a SUP is now required, even though the City acknowledged for more than a decade that CoreCivic was exempt from a SUP based on its historic and existing use of the Property, and the City allowed its operation as a detention center during that time without a SUP.

5. Resolution No. B-2394 substantially interferes with and obstructs the Congressionally funded and approved enforcement of federal immigration law by U.S. Immigration and Customs Enforcement (“ICE”). In particular, Resolution No. B-2394 prohibits performance of the agreement that ICE entered into with CoreCivic in March 2025 (the “ICE Agreement”), pursuant to which CoreCivic is to operate and manage the Property – as it has done since 1992 with other partners, including the United States Marshals Service.

6. The Federal Government has express statutory power to detain individuals in connection with federal immigration proceedings (8 U.S.C. § 1231(g)(1)), and to make arrangements with third parties to house federal detainees in private facilities (8 U.S.C. §

1231(g)(1)).

7. Yet, because of Resolution No. B-2394, the City now contends it is illegal for the Federal Government or CoreCivic to perform under their agreement to use the Property as an immigration detention facility.

8. Any state law that interferes with or is contrary to the laws of Congress is invalid pursuant to Article VI, ¶2 of the United States Constitution (the “Supremacy Clause”). The immunity of the Federal Government from state, local or city regulation is a fundamental principle of the Constitution.

9. The ICE Agreement provides for CoreCivic to house federal immigration detainees at the Property. CoreCivic would perform the ICE Agreement but for Resolution No. B-2394.

10. Because it prevents ICE from performing the ICE Agreement with CoreCivic, Resolution No. B-2394 directly regulates the authority of the Federal Government in its exercise of sovereign powers within the supreme sphere of federal action. Because the City has applied Resolution No. B-2394 to CoreCivic’s operations at the Property to directly target CoreCivic’s role as a federal contractor, that application constitutes impermissible discrimination against the Federal Government and CoreCivic as its contractor. As applied to CoreCivic’s operations at the Property under the ICE Agreement, Resolution No. B-2394 substantially interferes with and obstructs the operation of federal immigration law.

11. This Court should therefore declare that Resolution No. B-2394 is unconstitutional as contrary to the principles of intergovernmental immunity and preemption, and enter a permanent injunction 1) restraining the City from enforcing the Resolution against CoreCivic, and 2) permitting CoreCivic to perform under its agreement with ICE to use the Property as an immigration detention facility.

### **JURISDICTION AND VENUE**

12. This Court has jurisdiction under 28 U.S.C. § 1343(a)(3) because the action arises under 42 U.S.C. § 1983.

13. This Court also has jurisdiction under 28 U.S.C. § 1331 because the question of whether Resolution No. B-2394 violates the United States Constitution is a federal question.

14. This Court also has jurisdiction under 28 U.S.C. § 1332 because a) CoreCivic and Defendants are citizens of different states, and b) the monetary value of the benefit that would flow to CoreCivic if the injunction were granted exceeds \$75,000, exclusive of interest and costs.

15. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this claim occurred, and the Property that is the subject of this action is situated in this District and the effects of Resolution No. B-2394 are being and will continue to be felt in this District.

### **THE PARTIES**

16. Plaintiff CoreCivic is a Maryland corporation with its principal place of business in Brentwood, Tennessee. CoreCivic operates private correctional and detention facilities throughout the United States.

17. Defendant City of Leavenworth, Kansas, is a city in the State of Kansas, Leavenworth County.

18. Defendants Mayor Holly Pittman, Mayor Pro Tem Nancy Bauder, Griff Martin, Jermaine Wilson and Edd Hingula are members of the City Commission and, upon information and belief, citizens, residents and domiciliaries of the State of Kansas.

## **FACTUAL BACKGROUND**

### **A. CoreCivic's Use of the Property in Leavenworth, Kansas, and the City's Development Regulations**

19. CoreCivic is a private corporation that operates prisons and jails across the United States.

20. Since 1992, CoreCivic has owned and operated a detention facility, located at 100 Highway Terrace in Leavenworth, Kansas, including under a contract with the United States Department of Justice's U.S. Marshals Service for substantially all of that time. From its inception, the Property has been used as a jail or prison, as those terms are defined under the City of Leavenworth's Development Regulations. The relevant sections of the City's Development Regulations cited in this complaint are attached hereto as Exhibit B ("Dev. Regs.").<sup>1</sup>

21. In 2012, the City of Leavenworth enacted Ordinance No. 7911, which amended the Development Regulations, prohibiting the operation of a jail or prison without a SUP issued by the City. A true and correct copy of Ordinance No. 7911 is attached hereto as Exhibit C; *see also* Dev. Regs., Exhibit B, Sec. 2.04.A.

22. With the enactment of Ordinance No. 7911, a party whose property was subject to a SUP was required to submit an application and supporting documentation to the City Commission before using the property for a particular purpose. Dev. Regs., Exhibit B, Sec. 2.04.B. The application would then be subject to a series of procedures: among others, a notice of the application would be made to the public (Sec. 2.04.B.3); a public hearing before the Planning Commission would be held (Sec. 2.04.B.2 & 4); the Planning Commission would issue

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<sup>1</sup> A complete copy of the City of Leavenworth's Development Regulations is available at the following link: [https://www.leavenworthks.gov/sites/default/files/fileattachments/planning\\_amp\\_community\\_development/page/4941/2024\\_complete\\_development\\_regulations.pdf](https://www.leavenworthks.gov/sites/default/files/fileattachments/planning_amp_community_development/page/4941/2024_complete_development_regulations.pdf).

recommendations on the application (Sec. 2.04.B.5); the public could submit protest petitions relating to the application (Sec. 2.04.B.6); and the City Commission would ultimately decide whether to issue the SUP (Sec. 2.04.B.6), namely a “signed document from a designated community official authorizing development” (Art. 12) (defining “Permit”).

23. The Development Regulations also set rules for the continuation and rescission of a SUP. Section 2.04.C of the Regulations explained that

A [SUP] may be granted by and continued annually by the City Commission, City of Leavenworth, Kansas. The continuation of a [SUP] exists within the property as long as such [SUP] is used in accordance with its original intended and approved purpose and the annual SUP fee is paid. Any discontinuance of more than 12 months, violation of permit conditions, or failure to pay a fee may enable the City Commission to administratively rescind a [SUP].

24. Having operated its Property at 100 Highway Terrace as a jail since 1992, CoreCivic was not subject to the Development Regulations’ provisions regarding SUPs. CoreCivic was expressly *exempt* from the SUP requirement as its use of the Property was grandfathered under Section 1.05.E.2 of the Development Regulations, which deemed the Property both an “existing special use” and a “lawful conforming use”:

Status of existing uses designated as special uses. Any existing legal use at the effective date [November 13, 2012] of these Development Regulations which is designated as a special use by these Development Regulations shall be deemed as **[1] an existing special use and [2] a lawful conforming use.**

Dev. Regs., Exhibit B, Sec. 1.05.E.2 (emphasis and brackets added).

25. Given its exempt status, CoreCivic has never had, and was never required to have, a SUP, nor has it been required to pay the annual fee associated with a SUP.

26. On January 26, 2021, President Biden issued Executive Order 14006, titled “Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities,” directing that the Department of Justice not renew contracts with privately

operated criminal detention facilities.

27. In late 2021, CoreCivic's contract with the U.S. Marshals Service ended and CoreCivic ceased housing detainees at the Property shortly thereafter. Nonetheless, CoreCivic continued to maintain the Property so as to ensure it could remain in use as a detention center. Among other things, CoreCivic maintained staff at the Property, employed individuals at the Property, marketed the Property, responded to requests for proposals for the Property, and engaged in contract negotiations for detention services at the Property with potential partners, including with ICE.

**B. U.S. Immigration and Customs Enforcement's Legal Mandate to Manage Immigration Detention**

28. ICE manages and oversees the Nation's civil immigration detention system.

29. Congress reassigned the border-enforcement functions formerly assigned to the Immigration and Naturalization Service to ICE, part of the U.S. Department of Homeland Security, in November 2002. ICE began operations in March 2003 as The Bureau of Immigration and Customs Enforcement and was renamed U.S. Immigration and Customs Enforcement in March 2007.

30. Congress has authorized or required the detention of aliens under several different statutes and conditions. *See, e.g.*, 8 U.S.C. §§ 1225(b)(1)(B)(ii), 1225(b)(2)(A), 1226(a), 1226(c).

31. Congress has also directed that the Secretary of Homeland Security "shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal," 8 U.S.C. § 1231(g)(1),<sup>2</sup> and instructed that ICE "shall consider the availability for purchase or

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<sup>2</sup> The authority granted to the Attorney General by §1231(g) and related provisions now resides in the Secretary of Homeland Security and divisions of his Department, including ICE.

lease of any existing prison, jail, detention center, or other comparable facility for [detention]” “[prior] to initiating any project for the construction of any new detention facility,” *id.* § 1231(g)(2). Thus, Section 1231(g)(2) authorizes ICE to use private contractors to arrange for detention.

32. The Secretary also has “authority to make contracts . . . as may be necessary and proper to carry out the Secretary’s responsibilities.” 6 U.S.C. § 112(b)(2). And pursuant to federal regulations, the Secretary may “delegate broad authority to manage the agency’s contracting functions to heads of such contracting activities.” 48 C.F.R. § 1.601(a). ICE officials “may enter into contracts of up to fifteen years’ duration for detention or incarceration space or facilities, including related services.” 48 C.F.R. § 3017.204-90.

### **C. ICE’s Agreement with CoreCivic to House Detainees at the Property**

33. On January 20, 2025, President Trump signed Executive Order 14159, titled “Protecting the American People Against Invasion,” reversing Executive Order 14006 and allowing the Federal Government to contract with private companies for the operation of detention facilities.

34. In early March 2025, CoreCivic entered into the ICE Agreement, confirming a relationship at the Property valued by CoreCivic at over \$50 million annually for a period of five years, to provide urgent and essential detention services to ICE for individuals in federal immigration custody and to house more than 1,000 detainees pending the outcome of immigration proceedings.

35. The ICE Agreement is essential as the Property plays a critical role in supporting the operational and logistical needs of ICE in the region. Strategically positioned in the central United States, the Property serves as a vital hub for the short-term and transitional housing of



detainees who are subject to removal proceedings or awaiting deportation. Additionally, its proximity to major transportation corridors and ICE field offices allows for efficient detainee processing, court appearances, and transfer operations. The Property is also essential to relieve pressure on other overcrowded detention centers, ensuring compliance with federal detention standards and supporting ICE’s mandate to enforce the nation’s immigration laws effectively. Interruptions to the availability or operation of the Property significantly disrupt ICE’s regional enforcement capabilities and strain its national detention network.

#### **D. Defendants Adopt Resolution No. B-2394 Thwarting ICE’s Use of the Property**

36. In response to CoreCivic’s announcement that it had agreed with ICE to house detainees at the Property, the City adopted Resolution No. B-2394 on March 25, 2025.

37. The City Commission proclaimed in the Resolution – incorrectly – that the use of the Property by CoreCivic “as a jail or prison was discontinued and abandoned on or about January 1, 2022, and has not been reestablished as of the date of this resolution, such that the use was discontinued or abandoned for a period exceeding twelve (12) months.” Resolution, Exhibit A, Sec. 2. According to the City Commission, this purported discontinuance or abandonment of use authorized it – “pursuant to Sec. 2.04.C of the Development Regulations” (addressing SUP discontinuances or violations) – to “administratively rescind[] any and all special use permits or special use designations for ... the Property as a jail and/or prison” *Id.*, Sec. 4.<sup>3</sup> However, as stated above, the Property never had or required a SUP and was not subject to the requirements of Sec.

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<sup>3</sup> The Resolution also erroneously determined that the Property could no longer operate as a jail or prison because its use was no longer “a lawful **nonconforming** use” under Section 1.05.D.8 of the Development Regulations, *id.* at Sec. 2 and 3 (emphasis added), and, as such, the Property now needed a SUP to operate. *Id.* at Sec. 3. However, the Property was never deemed a “nonconforming use.” In fact, when its use was grandfathered in 2012, it was designated as a “lawful **conforming** use,” Dev. Reg., Exhibit B, Sec. 1.05.E.2 (emphasis added), and nothing in the Development Regulations provides for the revocation of such a designation.

2.04.C of the Development Regulations.

**E. The City Initiates Litigation in Federal and State Court**

38. On March 31, 2025, the City filed a lawsuit in the United States District Court for the District of Kansas based solely on the Declaratory Judgment Act, seeking declaratory and injunctive relief to prevent CoreCivic from operating the Property without a SUP. *City of Leavenworth, Kansas v. CoreCivic, Inc.*, No. 25-cv-02169-TC-BGS. On May 22, 2025, the Honorable Toby Crouse, U.S.D.J., dismissed the City’s complaint for lack of subject matter jurisdiction because the City had failed “to allege that the sum or value of the dispute exceeds \$75,000 as required to establish diversity jurisdiction under Section 1332.” *See* Memorandum and Order, Dkt No. 37, at 5. The Court also noted that “[o]ne may (and CoreCivic does) reasonably argue that the City’s claim must be dismissed under Fed. R. Civ. P. 12(b)(6) for failure to state a claim because it fails to assert any valid cause of action.” *Id.* (citations omitted.)

39. On May 23, 2025, the City filed a petition in the District Court of Leavenworth County, Kansas. *City of Leavenworth, Kansas v. CoreCivic, Inc., et al.*, Case No. LV-2025-CV-000180 (Bryant, John J). And on June 2, 2025, it filed an amended petition. As described in the amended petition, the issue presented in that case is “whether CoreCivic may use its property for a jail or prison within the City without first obtaining from the City a special use permit, as required by the City’s Development Regulations.” *See* Amended Petition (Dkt. No. 13), ¶ 2. The City’s amended petition asks the state court to determine that the City Commission correctly found that CoreCivic had “abandoned” the Property in early 2022, and that the City Commission applied municipal law correctly when requiring, in accordance with the Development Regulations, that CoreCivic obtain a SUP before operating the Property as a jail or prison. The City thus seeks a declaration and injunction under Kansas state law (Kan. Stat. Ann. §§ 60-1701 and 12-761) that

prevents CoreCivic from housing detainees at the Property without first obtaining a SUP. *See* Amended Petition at 20 (Count I), 21 (Count II).

40. The City’s amended petition also contains a public nuisance count against CoreCivic pursuant to Kan. Stat. Ann. §§ 60-908, 12-761(b), and Ordinance 8113 of the City of Leavenworth, alleging that the operation of “a jail or prison without a special use permit will interfere with the interests of the community and the comfort and convenience of the general public,” and “will annoy a substantial portion of the community.” *Id.* at 24, ¶¶ 84-85.<sup>4</sup>

41. On June 11, 2025, the District Court of Leavenworth County issued a temporary injunction “[b]ecause CoreCivic has no special use permit to operate a detention center, jail, or prison.” Temporary Injunction (Dkt. No. 45), at 5. The state court temporarily enjoined CoreCivic from operating the Property as a jail or prison pending a full determination on the merits or as “otherwise expressly permitted ... by this Court or another court of competent jurisdiction.” *Id.* at 6. CoreCivic has timely appealed the state court’s injunction.

### **COUNT I**

#### **VIOLATION OF 42 U.S.C. § 1983 – DECLARATORY JUDGMENT/PERMANENT INJUNCTION REGARDING SUPREMACY CLAUSE**

42. Plaintiff repeats and realleges the allegations in the preceding paragraphs as if fully set forth herein.

43. Defendant City of Leavenworth is a municipal corporation and is a “person” within the meaning of 42 U.S.C. § 1983.

44. Resolution B-2394 was taken under color of state law and pursuant to official

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<sup>4</sup> The City’s amended petition also asserts claims against CoreCivic’s Warden Misty Mackey for public nuisance, injunctive relief, and aiding and abetting CoreCivic. *Id.* at 21 (Count II), 23 (Count III), 24 (Count IV).

municipal policy or custom, as reflected by a formal vote and adoption by the City Commission, and its exercise of policymaking authority with respect to land use and zoning decisions.

45. The City’s enforcement of Resolution B-2394 to prohibit CoreCivic from operating a civil detention facility on the Property without first obtaining a SUP violates rights secured to CoreCivic by the Constitution and laws of the United States.

46. The City’s enforcement of Resolution B-2394 to prohibit CoreCivic from operating a civil detention facility on the Property without first obtaining a SUP regulates the operations of the Federal Government by obstructing, controlling, burdening and substantially interfering with federally authorized or mandated activity, in violation of rights secured by the Constitution and laws of the United States, including but not limited to the Supremacy Clause of Article VI of the Constitution.

47. Federal immigration law provides that ICE “shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal,” and “[w]hen United States facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General [now ICE] may expend . . . amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities . . . necessary for detention.” 8 U.S.C. § 1231(g)(1).

48. Congress has instructed that ICE “shall consider the availability for purchase *or lease* of any existing prison, jail, detention center, or other comparable facility suitable for [detention]” before beginning any project to develop a new detention facility. 8 U.S.C. § 1231(g)(2) (emphasis added).

49. Section 1231(g)(1) vests ICE with broad discretion to determine where aliens are detained. *See also* 28 U.S.C. § 530C(a)(4) (authorizing Attorney General/ICE, in their “reasonable

discretion,” to carry out the activities of the Department of Justice “through any means,” including “through contracts, grants, or cooperative agreements with non-Federal parties”).

50. The City’s actions directly and proximately caused Plaintiff to suffer violations of constitutional rights, including but not limited to interference with Plaintiff’s contractual or statutory obligations to the Federal Government, delay or denial of use of its Property, and exposure to legal, financial, and operational harm.

51. The City’s conduct constitutes an actionable violation of 42 U.S.C. § 1983. CoreCivic is therefore entitled to declaratory and injunctive relief, attorneys’ fees under 42 U.S.C. § 1988, and all other just and proper relief.

**COUNT II**  
**VIOLATION OF 42 U.S.C. § 1983 – DECLARATORY JUDGMENT/PERMANENT  
 INJUNCTION REGARDING VIOLATION OF INTERGOVERNMENTAL  
 IMMUNITY/DIRECT REGULATION**

52. Plaintiff repeats and realleges the allegations in the preceding paragraphs as if fully set forth herein.

53. CoreCivic, as a contractor for the United States, enjoys and is clothed in the Federal Government’s intergovernmental immunity under the Supremacy Clause.

54. Intergovernmental immunity “prohibit[s] state laws that *either* ‘regulat[e] the United States directly *or* discriminat[e] against the Federal Government or those with whom it deals.’” *United States v. Washington*, 142 S. Ct. 1976, 1984 (2022) (emphasis in original, citation omitted).

55. Congress has not authorized the City of Leavenworth to interfere with the Federal Government’s activities with respect to private detention facilities like CoreCivic’s.

56. Resolution No. B-2394 prohibits the Federal Government from operating with its

desired personnel and exercising its discretion to arrange for immigration detention in the privately run facilities it has deemed appropriate.

57. Resolution No. B-2394 is unconstitutional, and invalid as applied to CoreCivic's operations at the Property on behalf of ICE, under the principle of intergovernmental immunity/direct regulation.

58. The City's actions directly and proximately caused Plaintiff to suffer violations of constitutional rights, including but not limited to interference with Plaintiff's contractual or statutory obligations to the Federal Government, delay or denial of use of its Property, and exposure to legal, financial, and operational harm.

59. The City's conduct constitutes an actionable violation of 42 U.S.C. § 1983. CoreCivic is therefore entitled to declaratory and injunctive relief, attorneys' fees under 42 U.S.C. § 1988, and all other just and proper relief.

**COUNT III**  
**VIOLATION OF 42 U.S.C. § 1983 – DECLARATORY JUDGMENT/PERMANENT  
INJUNCTION REGARDING VIOLATION OF INTERGOVERNMENTAL  
IMMUNITY/DISCRIMINATION**

60. Plaintiff repeats and realleges the allegations in the preceding paragraphs as if fully set forth herein.

61. The City has applied the Resolution to CoreCivic's operations at the Property on behalf of ICE for reasons particular to CoreCivic's role as a federal contractor housing civil immigration detainees.

62. Resolution No. B-2394 is unconstitutional, and invalid as applied to CoreCivic's operations at the Property on behalf of ICE, under the principle of intergovernmental immunity/discrimination.

63. The City's actions directly and proximately caused Plaintiff to suffer violations of constitutional rights, including but not limited to interference with Plaintiff's contractual or statutory obligations to the Federal Government, delay or denial of use of its Property, and exposure to legal, financial, and operational harm.

64. The City's conduct constitutes an actionable violation of 42 U.S.C. § 1983. CoreCivic is therefore entitled to declaratory and injunctive relief, attorneys' fees under 42 U.S.C. § 1988, and all other just and proper relief.

**COUNT IV**  
**VIOLATION OF 42 U.S.C. § 1983 – DECLARATORY JUDGMENT PERMANENT  
 INJUNCTION REGARDING FEDERAL PREEMPTION OF STATE LAW**

65. Plaintiff repeats and realleges the allegations in the preceding paragraphs as if fully set forth herein.

66. By prohibiting ICE's use of the Property as a detention facility for civil immigration detainees, Resolution No. B-2394 reduces ICE's discretion to determine where to house federal immigration detainees, and it prohibits a means of federal detention that Congress authorized. It frustrates Congress's delegation of discretion to ICE to discharge its Constitutional and statutory responsibilities, and it obstructs the Federal Government's contracting decisions by displacing the Federal Government's determination of what immigration detention facilities are "appropriate." 8 U.S.C. § 1231(g)(1).

67. Resolution No. B-2394 is therefore in conflict with federal immigration law, interferes with the purpose behind the federal immigration law, and presents a substantial obstacle to the purposes of Congress in enacting the federal immigration law.

68. Resolution No. B-2394 is unconstitutional and invalid as applied to CoreCivic's operations at the Property on behalf of ICE under principles of conflict and obstacle preemption.

69. The City's actions directly and proximately caused Plaintiff to suffer violations of constitutional rights, including but not limited to interference with Plaintiff's contractual or statutory obligations to the Federal Government, delay or denial of use of its Property, and exposure to legal, financial, and operational harm.

70. The City's conduct constitutes an actionable violation of 42 U.S.C. § 1983. CoreCivic is therefore entitled to declaratory and injunctive relief, attorneys' fees under 42 U.S.C. § 1988, and all other just and proper relief.

### **PRAYER FOR RELIEF**

WHEREFORE, CoreCivic respectfully requests that this Court enter judgment:

- a. Declaring that the City of Leavenworth's requirement that CoreCivic obtain a local Special Use Permit before operating a federal detention facility at 100 Highway Terrace in Leavenworth, Kansas, is unconstitutional and unenforceable;
- b. Declaring that Resolution No. B-2394, as applied to CoreCivic's operations at the Property on behalf of ICE, violates the Supremacy Clause of the United States Constitution and the doctrine of intergovernmental immunity;
- c. Permanently enjoining the City of Leavenworth, as well as its successors, agents, employees, and all those under its supervision, from enforcing or attempting to enforce Resolution No. B-2394 as to CoreCivic's operations at the Property on behalf of ICE;
- d. Awarding CoreCivic its costs, attorneys' fees, and any other relief to which it may be entitled under 42 U.S.C. § 1988 or as justice requires; and
- e. Granting such other and further relief as the Court deems just and proper.



Dated: August 8, 2025

Respectfully submitted,

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# EXHIBIT A

**RESOLUTION NO. B-2394**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEAVENWORTH, KANSAS, REGARDING CERTAIN JAIL AND PRISON USES ON PROPERTY LOCATED AT 100 HIGHWAY TERRACE, LEAVENWORTH, KANSAS.**

WHEREAS, the Kansas planning and zoning act, K.S.A. 12-741 *et seq.* (the "Act"), is enabling legislation for the enactment by cities and counties of planning and zoning laws and regulations "for the protection of the public health, safety and welfare" (K.S.A. 12-741(a)); and

WHEREAS, pursuant to the Act, the City of Leavenworth, Kansas (the "City") has adopted certain "Development Regulations" as more particularly set forth in Appendix A of and to the Code of Ordinances, Leavenworth, Kansas (the "City Code"); and

WHEREAS, the Development Regulations, at Sec. 1.01.B, provide that the Development Regulations serve certain purposes, including but not limited to "promote the health, safety, comfort and economic development of the city", to "preserve and protect property values throughout the city", and to "regulate the location and use of buildings and land within each district or zone"; and

WHEREAS, reference is hereby made to that certain jail and prison use (the "Facility") which commenced operations in or about 1992 on and upon that certain real property commonly known and numbered as 100 Highway Terrace, Leavenworth, Kansas, Parcel No. 052-094-18-0-20-01-002.00-0 (the "Property"), which Property is zoned "I-2" Heavy Industrial District; and

WHEREAS, pursuant to Sec. 1.04 of the Development Regulations, if any building, structure, use, or other action or condition is found to be in violation of the Development Regulations, then in addition to other remedies, the City may institute any appropriate action or proceeding to, among other things, (1) prevent the continuance of any unlawful action or condition, (2) correct or abate any violation, and withhold public improvements until the violation is abated or corrected, and (3) prevent the issuance of permits, occupancy of the building, structure or land, and otherwise prevent any further illegal act, conduct business, or use of the premises; and

WHEREAS, pursuant to Sec. 1.05.D.8 of the Development Regulations, when a nonconforming use is abandoned for a period of twenty-four (24) consecutive months, any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located; and

WHEREAS, pursuant to Sec. 2.04.C of the Development Regulations, any discontinuance of a special use for more than twelve (12) months enables the City Commission to administratively rescind any right to engage in such special use; and

WHEREAS, the Facility and the Property have not been used as a jail or prison for more than thirty-six (36) calendar months, with such uses having been discontinued and/or abandoned on or about January 1, 2022.

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

Section 1. The above recitals are hereby incorporated into this resolution. This resolution is adopted pursuant to the City's authority, obligation, and responsibility to, among other things, protect the public health, safety, and welfare.

Section 2. The Governing Body hereby finds that the use of the Facility and the Property as a jail or prison was discontinued and abandoned on or about January 1, 2022, and has not been reestablished as of the date of this resolution, such that the use was discontinued or abandoned for a period exceeding twelve (12) months for purposes of Sec. 2.04.C of the Development Regulations and for a period exceeding twenty-four (24) consecutive months for purposes of Sec. 1.05.D.8 of the Development Regulations.

Section 3. To the extent the Facility or the Property could be deemed to be or to have been a lawful nonconforming use, then pursuant to Sec. 1.05.D.8 of the Development Regulations, the Governing Body hereby finds that any use of the Facility and/or the Property as a jail or prison is no longer a lawful nonconforming use and that any use as a jail or prison shall and does require a special use permit as provided for in the City's Development Regulations, and that such uses must otherwise comply with all use regulations applicable to new uses in the I-2 zoning district.

Section 4. To the extent the Facility or the Property could be deemed to have or to have had a special use permit or special use designation, then pursuant to Sec. 2.04.C of the Development Regulations, the Governing Body hereby administratively rescinds any and all special use permits or special use designations for the Facility and the Property as a jail and/or prison under City Code and the City's Development Regulations.

Section 5. Nothing herein shall be deemed, by itself, to constitute a waiver by the Governing Body or the City of any provision of the Development Regulations or other applicable law.

Section 6. The Mayor, City Manager, City Attorney, and Director of Planning & Community Development are hereby authorized and directed to take such other actions as may be appropriate, desirable, or necessary to accomplish the purposes of this resolution, including but not limited to the institution or defense of any appropriate legal proceedings related to Facility, the Property, and/or the matters that are the subject of this resolution.

Section 7. This resolution shall be effective upon its adoption by the Governing Body of the City of Leavenworth, Kansas.

**PASSED AND ADOPTED** by the City Commission of the City of Leavenworth, Kansas, this 25th day of March, 2025.

  
Holly Pittman, Mayor

{SEAL}

**ATTEST:**

  
Sarah Bodehsteiner, CMC, City Clerk



# EXHIBIT B

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DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.01 Overview

## ARTICLE 1. GENERAL PROVISIONS

### 1.01 Overview

- A. **Title.** These regulations, shall be known, as the "Development Regulations of the City of Leavenworth, Kansas." These regulations are adopted pursuant to Kansas Statutes 12-747 *et. seq.* and 12-757 *et. seq.*
- B. **Purpose.** These regulations serve the following purposes:
1. To promote the health, safety, comfort and economic development of the city;
  2. To preserve and protect property values throughout the city;
  3. To regulate the height, number of stories and size of buildings; the percentage of lot coverage; the size of yards, courts, and other open spaces; and density of population;
  4. To divide the jurisdictional area into zones and districts;
  5. To regulate the location and use of buildings and land within each district or zone.
- C. **Jurisdiction.** These regulations apply to all land and structures within the incorporated area of the City of Leavenworth, Kansas. Fort Leavenworth, the U.S. Penitentiary, and the Veterans Administration Reservations are excluded from the jurisdiction of these regulations.
- D. **Exemptions.** The following structures and uses shall be exempt from the provisions of these regulations:
1. **Utilities.** Poles, wires, cables, conduits, vaults, laterals, pipes, street lighting, mains, valves, or other similar equipment or improvements for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility.
  2. **Railroads.** Railroad track, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
- E. **Annexation.**
1. All territory annexed into the City of Leavenworth, voluntarily or involuntarily, shall be zoned after annexation in accordance with the zoning district most closely matching the Comprehensive Land Use Plan for that area, determined by Table 1-01 below.
  2. The landowner may propose a different zoning classification through an application for rezoning, as provided elsewhere in this code. The rezoning must be completed at or before the time the annexation petition is presented to the City Commission for consideration.

<b>Table 1-01: Zoning District &amp; Direct Future Land Use Map Associations</b>
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**DEVELOPMENT REGULATIONS**  
**ARTICLE 1. GENERAL PROVISIONS**

**1.01 Overview**

Zoning District	Future Land Use Map Designation
R1-25 Low Density Single-Family Residential District	Low Density Residential
R1-9 Medium Density Single-Family Residential District	Low or Medium Density Residential
R1-7.5 Medium Single-Family Residential District	High Density Residential
R1-6 High Density Single-Family Residential District	High Density Residential
R4-16 Medium Density Multiple Family Residential District	High Density Residential
R-MF Multiple-Family Residential District	Multi Family
RMX-Residential Mixed Use	Urban Residential
MP Mobile/Manufactured Home Park District	Multi Family
NBD Neighborhood Business District	Commercial
OBD Office Business District	Commercial
CBD Central Business District	Commercial
GBD General Business District	Commercial
I-1 Light Industrial District	Industrial
I-2 Heavy Industrial District	Industrial
PUD Planned Unit Development District	Not Applicable
FP Flood Plain District	Not Applicable

- F. **Severability.** It is intended that each and every provision of these regulations, to the extent they may reasonably be interpreted and applied independently from any other provision, shall stand alone as an independent and separate regulation of the city. If any section, subsection, clause, phrase, or portion of these regulations is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining or any other portions of these regulations.

**1.02. Administration**

- A. **Authorities.** The following authorities are responsible for the administration of specified aspects of these regulations:
1. **Planning Commission.** It is the duty of the Planning Commission (PC) to publicly hear testimony concerning proposed changes in zoning districts, amendments to this ordinance, proposed annexations, proposed special use permits, and review disputed site plans and then to make appropriate recommendations to the City Commission. The Planning Commission shall operate according to a set of bylaws approved by the City Commission.
  2. **Board of Zoning Appeals.** It is the duty of the Board of Zoning Appeals (BZA) to conduct public hearings and to take final action on appeals from interpretation and enforcement actions of administrative officials; to conduct public hearings and act on requests for variances from this ordinance; to conduct public hearings and act on requests for exceptions to the provisions of this ordinance in those instances where the Board is specifically authorized to grant such exceptions and only under the terms of this ordinance. Appeal of decisions by the Board is made to District Court. The Board of Zoning Appeals shall operate according to a set of bylaws approved by the City Commission.

DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.02 Administration

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3. *Development Review Committee.* It is the duty of the Development Review Committee (DRC) to plan, coordinate, review, and facilitate all new development and substantial redevelopment within the City; including all development applications and requests for variances and exceptions.
    - a. Development issues will entail the adequate provision of power, potable water, sewage service, communications, road access and capacity, solid waste disposal, life safety aspects, comprehensive plan compatibility, requests for minor modifications, zoning appropriateness, storm drainage, visual aesthetics, and all other issues which may be necessary to provide for the health, safety, and welfare of the citizens of Leavenworth.
    - b. The Development Review Committee (DRC) shall be comprised of the following persons or their designated representatives, or other similar city representatives designated by the City Manager:
      - (1) Chief Building Inspector
      - (2) City Clerk
      - (3) City Manager
      - (4) Assistant City Manager
      - (5) City Planner
      - (6) Economic Development Director
      - (7) Fire Chief
      - (8) Parks & Recreation Director
      - (9) Planning & Community Development Director
      - (10) Police Chief
      - (11) Public Works Director
    - c. *Meetings.* The Development Review Committee (DRC) shall meet weekly in the City Commission Chambers, as needed. The City Planner, or designee, shall prepare the weekly agenda, and shall provide the necessary staff to record meeting minutes and maintain a record of documents submitted for each agenda item.
    - d. *Chair.* The City Planner shall be the administrative coordinator of the Development Review Committee (DRC) and shall preside as the Chair.
  4. *City Commission.* Upon receipt of recommendations from the Planning Commission, the City Commission shall act as the final local authority on all requests for district boundary changes, amendments to the text of this ordinance, annexation requests, approval of disputed site plans and special use permits. The City Commission may grant extensions of time for submission or completion of projects, as it deems expedient. Appeals from decisions of the City Commission are made to District Court. The City Commission shall hear all appeals from staff decisions referred to it under these Development Regulations.
  5. *Administrative Staff.* The Director is responsible for the enforcement of this Ordinance. Implementation and administration of the provisions of the Development Regulations shall be the responsibility of the administrative officials listed throughout these Development Regulations. Administrative staff duties will include, but are not limited to, the following:
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DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.02 Administration

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- a. Scheduling and conducting inspections of buildings, structures, and uses of land to determine compliance with the provisions of the Development Regulations.
  - b. Maintaining permanent and current records of the Development Regulations, including, but not limited to, all zoning district maps, amendments, special uses, variances, exceptions, appeals and applications therefore and records of hearings thereon.
  - c. Preparing and having available in book, pamphlet, or map form, on or before March 31 of each year:
    - (1) The compiled text of the zoning regulations and amendments thereto, including all amendments adopted through the preceding December 31, and
    - (2) A zoning district map or maps, showing the zoning districts, divisions, and classifications in effect on the preceding December 31.
  - d. Maintaining for distribution to the public paper and electronic copies of the zoning district map, the text of the Development Regulations and the bylaws, agendas and meeting minutes of the Planning Commission and the Board of Zoning Appeals.
  - e. Providing such clerical, technical, and consultative assistance as may be required by the City Commission, Planning Commission, Board of Zoning Appeals, Preservation Commission and other boards or commissions in the exercise of their duties relating to these Development Regulations.
  - f. Preparing and distributing hearing notices as required.
  - g. Providing information, clerical, technical, and consultative assistance to developers and property owners with regard to the application process and requirements of this ordinance generally.
6. *Leavenworth Preservation Commission.* The Leavenworth Preservation Commission authority and procedures are established in Article 9.
- B. **Schedule of Fees.** The Schedule of Fees and Charges for any applicable fees shall be on file with the City Clerk according to all city ordinances.

### 1.03. Interpretation

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- A. **Rules of Construction.** In interpreting these regulations, the following rules shall apply:
- 1. Words used in the present tense shall include the future.
  - 2. Words in the singular number include the plural number, and words in the plural number include the single number.
  - 3. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
  - 4. The word "shall" is mandatory.
  - 5. The word "may" is permissive.
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DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.03 Interpretation

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6. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies and all other legal entities.
  7. Any word or phrase which is defined in in these regulations shall have the meaning as so defined, unless such definition is expressly limited in its meaning or application.
- B. **Computations of Time.** Unless specifically stated in individual sections, wherever these regulations state a time period, it shall be interpreted as follows:
1. The day of the act, event, or other means which commences the time period shall not be counted.
  2. The last day of the time period shall be included in the time period, unless it is a Saturday, Sunday, or legal City holiday, in which case the next working day shall end the time period.
  3. Whenever the time period is expressed to require a formal submittal to the City, the time period shall end at 5:00 P.M. on the last day of the time period.
  4. Any time period expressed in years shall include a full calendar year from the act, event or other means which commences the time period.
- C. **Minimum Requirements.** The provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health and welfare.
- D. **Conflicts.** Where the conditions imposed by any provision of these regulations are either more restrictive or less restrictive than any other law, ordinance, resolution, rule or regulations of any kind, the more restrictive shall control. In making a determination of which regulation is more restrictive, the Director shall determine which regulation establishes a higher standard for the promotion of the public health, safety, and general welfare shall control and more closely follows the policies of the Comprehensive Plan.
- E. **Private Agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
- F. **Existing Uses.** Any existing structure, use, or occupation of land previously approved as of the effective date of this ordinance shall be permitted to continue as a lawful use or occupation. The approved site plan and all terms, covenants and conditions applicable as of the effective date of this ordinance shall continue to apply and control the use or occupation of such land. However, any proposed change or modification in the use or occupation of such land, or in the approved site plan for such land, shall be made in accordance with the standards and procedures of this ordinance.
- G. **Interpretation of District Boundaries.** Where uncertainty exists with respect to the boundaries of any district on the zoning district map, the following rules shall apply:
1. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  2. Boundaries indicated, as approximately following city limits shall be construed as following such city limits;
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DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.03 Interpretation

3. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks of the railroad line;
4. Boundaries indicated as following shorelines shall be construed to follow such shore lines, and in the event of change in the shore line, the boundaries shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams shall be construed to follow such center lines;
5. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines; where public ways have been vacated, boundaries shall be construed to follow either the original center line or new property line;
6. Boundaries indicated as parallel to or extensions of features shall also so be construed as to follow a parallel path;
7. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map; and
8. No single parcel subdivided or rezoned after the adoption of these development regulations shall have 2 or more zoning districts.

#### 1.04. Enforcement

- A. **Violations.** If any building, structure, use, or other action or condition is found to be in violation of these regulations the city, in addition to other remedies, may institute any appropriate action or proceeding to:

1. Prevent the continuance of any unlawful action or condition;
2. Correct or abate any violation, and withhold public improvements until the violation is abated or corrected;
3. Prevent the issuance of permits, occupancy of the building, structure or land, and otherwise prevent any further illegal act, conduct business, or use of the premises;
4. Prevent the sale, transfer, lease or recording of any land or lot.

Such regulations shall be enforced by the Director or other administrative official so authorized in writing.

- B. **Penalties.** Any person violating any of the provisions of this Code shall be guilty of a misdemeanor, each day, or portion thereof, constituting a separate offense. Each offense shall be punishable by a term of confinement in the City or county jail, which shall be fixed by the court, shall not exceed one year, and may, in addition to, or instead of the confinement, be sentenced to pay a fine not exceeding \$500 in addition to any other fine or remedy provided by law.

#### 1.05. Nonconformances

DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.05 Nonconformances

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- A. **General.** Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. A definition of each type is as follows:
1. *Nonconforming Lot of Record.* A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of the original Subdivision Regulations in the city, July 19, 1966, and neither the lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.
  2. *Nonconforming Structure.* An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.
  3. *Nonconforming Use.* An existing use which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- B. **Nonconforming Lots of Record.** The Building Inspector shall issue a building permit for any nonconforming lot of record provided that:
1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
  2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
  3. The lot or group of continuous nonconforming lots can meet all setback requirements for the district in which it is located, and
  4. The lot can connect with a public sewer system or can meet the minimum sanitary sewer requirements of the city.
- C. **Nonconforming Structures.**
1. *Authority to Continue.* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable property development standards on the effective date of these Development Regulations, may be continued, so long as it remains otherwise lawful.
  2. *Enlargement, Repair, Alterations.* Any nonconforming structure may be enlarged, maintained, repaired or remodeled, provided however, that no such enlargement, maintenance, repair, or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
  3. *Setbacks and Yards.* A structure which is in nonconformance with respect to a side or rear yard setback shall not use the existing setback in expanding or enlarging but may be enlarged if the new part of the structure complies with the setbacks of the district.
  4. *Destruction.* If a nonconforming structure is damaged by more than fifty percent (50%) of its fair market value, such building shall not be restored if such building is
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DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.05 Nonconformances

not in conformance with the regulations for the zoning district in which it is located, or an exception is granted by the Board of Zoning Appeals.

5. *Moving.* No nonconforming structure shall be moved in whole or in part for any distance, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**D. Nonconforming Uses.**

1. *Authority to Continue.* Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.
2. *Ordinary Repair and Maintenance.*
  - a. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing may be performed on any structure that is devoted in whole or in part to a nonconforming use.
  - b. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure unsafe and orders its restoration to a safe condition.
3. *Extension.* Any nonconforming use shall not be physically extended, expanded, or enlarged. Such prohibited activities shall include, without being limited to:
  - a. Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments or that cause such use to become nonconforming).
  - b. Extension of such use within a building or other structure to a portion of the floor area that was not occupied by such nonconforming use on the effective date of subsequent amendments hereto that cause such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that is lawfully and manifestly designed or arranged for such use on such effective date.
4. *Enlargement.* No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
5. *Damage or Destruction.* If a structure devoted to a nonconforming use is damaged or destroyed by more than fifty percent (50%) of its fair market value, such building shall not be restored if the use of such building is not in conformance with the regulations of the zoning district in which it is located.
6. *Moving.* No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance, to any location on the same or other lot, unless the entire structure and the use thereof



DEVELOPMENT REGULATIONS  
ARTICLE 1. GENERAL PROVISIONS

1.05 Nonconformances

or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

7. *Change in Use.* Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, as an exception granted by Board of Zoning Appeals in accordance with Article 11. Board of Zoning Appeals, provided that the Board of Zoning Appeals, either by general rule or by findings of fact in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards
8. *Abandonment or Discontinuance.* When a nonconforming use is abandoned for a period of twenty-four (24) consecutive months any subsequent use or occupancy of such land after this period shall comply with the regulations of the zoning district in which such land is located.
9. *Nonconforming Accessory Uses.* No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

**E. Status of Special Use Permits.**

1. *Status of Existing Special Use Permits.* Where a Special Use Permit exists at the effective date of these Development Regulations and is permitted by these regulations as a Special Use Permit in the zoning district in which it is located, such use shall be deemed a lawful conforming use in such zoning district, as provided by prior approval. Where a Special Use Permit exists at the effective date of these Development Regulations and is not permitted as a Special Use Permit in the zoning district in which it is located, such use shall be deemed a continuing nonconforming use.
2. *Status of Existing Legal Uses Designated as Special Uses.* Any existing legal use at the effective date of these Development Regulations which is designated as a special use by these Development Regulations shall be deemed as an existing special use and a lawful conforming use.

**F. Signs for Nonconforming Uses.** The lawful use of any sign existing at the time of the passage of these Development Regulations, in conjunction with a nonconforming use, may be continued. Any sign installed subsequent to the passage of these Development Regulations for a nonconforming use must conform to the Article 8, Signs in compliance with the district in which the nonconforming use is located.

DEVELOPMENT REGULATIONS  
ARTICLE 2. APPLICATIONS & PROCEDURES

2.01 Text Amendments

## ARTICLE 2. APPLICATIONS & PROCEDURES

### 2.01 Text Amendments

- A. ***Applicability:*** Text amendments to these regulations may be initiated by City Staff, the City Commission or the Planning Commission.
- B. ***Amendment Procedure:***
1. ***Public Hearing.*** The Planning Commission shall hold a public hearing on each proposed amendment. The Planning Commission shall select a reasonable hour and place for the public hearing, but it shall hold the hearing within 60 days from the date on which the proposed amendment is filed. An applicant for an amendment may waive the requirement that such hearing be held within 60 days.
  2. ***Notice.*** Public notice of a hearing on a proposed amendment shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. The notice shall fix the time and place for the hearing and contain a statement regarding the proposed changes and regulations or restrictions or in the boundary or classification of any zone or district.
  3. ***Conduct of Hearing.*** The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested persons and shall be available for review in the offices of the Secretary, Leavenworth City Planning Commission at least three business days before the date set for the public hearing.
  4. ***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.
  5. ***Action by the City Commission.*** 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

DEVELOPMENT REGULATIONS  
ARTICLE 2. APPLICATIONS & PROCEDURES

2.01 Text Amendments

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.

6. *Publication.* If the City Commission approves an application, it shall adopt an ordinance to that effect, but the ordinance shall not become effective until its publication in the official newspaper.

## 2.02 Platting

- A. ***Applicability:*** Plat applications are required to establish or alter the legal boundaries of property, and may be the owners or agents of any property affected.
- B. ***Platting Procedures:*** Applications for platting shall be proposed on forms established by the Director of the Planning Department and filed with the City Clerk. Applications shall be processed according to the following specific procedures:
1. *Types of Plats.* Plat applications are classified and processed as one of the following types:
    - a. Administrative Plats, which are routine applications for lot splits or lot combinations that do not alter development patterns or impact public services; or
    - b. Minor Subdivisions, which are platting of five or fewer new lots, including any remainder parcel, that do not alter development patterns or impact public services; or
    - c. Major Subdivisions, which larger subdivisions are with new ownership and development patterns that impact public services.
  2. *Pre-application Conference.* Prior to the filing of any plat, the applicant shall (preferably with 2 copies of a rough sketch plan of the proposed subdivision) contact the City staff to determine:
    - a. Classification of the plat.
    - b. Procedure for filing plats.
    - c. Availability of City sewers and water, and other major utilities, including a letter or similar proof of availability from any utility.
    - d. Comprehensive Land Use Plan requirements for major streets, land use, parks, schools and public open spaces.
    - e. Zoning requirements for the property in question and adjacent property.
    - f. Special setback requirements for arterial, collector and local streets.

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ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

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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.*

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- f. 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
  - 4. *Minor Subdivision.* Minor subdivisions shall be processed according to the following criteria and procedures.
    - a. Criteria. An application may be classified as minor subdivision if the Director determines that all of the following are met. Any application not classified as a minor subdivision shall be processed as a major subdivision.
      - (1) No new street or alley right-of-way, or other public dedication is needed.
      - (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
      - (3) The application results in five or fewer new lots, including any remainder parcel.
      - (4) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
      - (5) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
      - (6) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
    - b. Filing Requirement. A minor subdivision shall include all applicable information required for final plats.
    - c. Review and Approval. Within 60 days after submission of a plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the plat. If the Planning Commission approves the plat, the plat shall have house numbers assigned and shall be recorded with the office of the Leavenworth County Register of Deeds.
    - d. The plat shall be recorded with the Register of Deeds within 18 months of approval by the Planning Commission. Plats which are not recorded within said time period shall be deemed null and void.
    - e. 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
  - 5. *Major Subdivision*
    - a. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures.
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- (1) Development Review Committee. At least seven days prior to the Planning Commission review, the Development Review committee shall review the preliminary plat and submit their recommendation to the Planning Commission.
  - (2) Planning Commission Review. Within 60 days after the submission of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the plat. Action by the Planning Commission shall be conveyed to the applicant in writing within ten days after the official Planning Commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.
  - (3) Effect of Decision. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed an authorization to proceed with the preparation of the final plat. If the Planning Commission rejects or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the City Commission and the Planning Commission shall forward the proposed plat, together with their report, stating the reason or reasons for the action taken. The City Commission may make such finding and determinations as are deemed proper.
  - (4) Effective Date. The approval of the preliminary plat shall be effective for one year.
- b. Final Plat. After approval of the Preliminary Plat, the applicant may submit a Final Plat for all or portions of the preliminary plat area.
- (1) Planning Commission. Within 60 days after submission of a final plat, the Planning Commission shall approve, disapprove, conditionally approve, or with approval of the applicant, table the final plat. If the Planning Commission approves or conditionally approves the final plat, it shall be forwarded to the City Commission with a recommendation that they accept dedication of easements and rights-of-way.
  - (2) Dedication of Land for Public Purposes. The City Commission shall approve or disapprove the dedication of land for public purposes within 30 days 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
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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.

**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



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inspection of all improvements installed. If the final inspection indicates that there are any defects or deficiencies in any the improvements as installed, or if there are any deviations in the improvements as installed from the final engineering plans and specifications, he shall notify the applicant in writing of such defects, deficiencies, or deviations, and the applicant shall, at his sole cost and expense, correct the defects or deviations. When the defects, deficiencies, or deviations have been corrected, the applicant shall notify the official that the improvements are ready for final re-inspection.

6. *Acceptance.* Upon receipt by the City Commission of the certificate of the Director of Public Works that all improvements have been installed in conformance with the approved engineering drawings, and with the requirements of these regulations, and all other applicable statutes, ordinances and regulations, the City Commission and/or such appropriate utility shall thereupon, by letter or motion, formally accept such improvements. The improvements shall become the property of the City Commission or appropriate utility company involved.

## 2.03 Zoning Change

- A. **Applicability:** Zoning changes to specific property may be initiated by a City Commissioner, the City Commission, the Planning Commission, or the owners or agents of any property affected.
- B. **Zone Change Procedure:** Applications for a zoning change shall be proposed on forms established by the Director of the Planning Department and filed with the City Clerk. Applications shall be processed according to the following specific procedures:
  1. *Certified Ownership List.* The application shall be accompanied by an ownership list certified by an attorney or a title company or a list and map prepared by the Leavenworth County GIS Department listing the legal description and name and address of the owners of record of all property located within 200 feet of the property proposed to be rezoned if within the incorporated limits of the city and if rezoning of property located adjacent to or outside the city limits, the area of notification is extended to 1,000 feet in the unincorporated area.
  2. *Public Hearing.* The Planning Commission shall hold a public hearing on each proposed amendment. The Planning Commission shall select a reasonable hour and place for the public hearing, but it shall hold the hearing within 60 days from the date on which the proposed amendment is filed. An applicant for an amendment may waive the requirement that such hearing be held within 60 days.
  3. *Notice.* Public notice of a hearing on a proposed amendment shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. The notice shall fix the time and place for the hearing and contain a statement regarding the proposed changes and regulations or restrictions or in the boundary or classification of any zone or district, and the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to publication notice, written notice of the proposed zoning change shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet



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2.03 Zoning Change

of the area proposed to be rezoned within the city. If the area proposed to be rezoned is adjacent to or outside the city limits, the area of notification of the city's action shall be extended to 1,000 feet in the unincorporated area. .

4. *Conduct of Hearing.* The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested persons and shall be available for review in the offices of the Secretary, Leavenworth City Planning Commission at least three business days before the date set for the public hearing.
5. *Conditions of Determination.* Whenever the Planning Commission or City Commission takes action on an application for a zoning change the Planning Commission and City Commission shall consider the following factors:
  - a. The character of the neighborhood;
  - b. The zoning and use of properties nearby;
  - c. The suitability of the subject property for the uses to which it has been restricted;
  - 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.

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2.03 Zoning Change

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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.
  9. *Publication.* If the City Commission approves an application, it shall adopt an ordinance to that effect, but the ordinance shall not become effective until its publication in the official newspaper. If the official zoning district map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning district map to be changed to reflect such amendment and shall amend the section of the regulations incorporating the same and shall reincorporate such map as amended.

## 2.04. Special Use Permits

- A. **Applicability:** All uses identified in the zoning districts, use table or elsewhere in these regulations as a special use in any particular zoning district shall require a special use permit. Applications for special use permits may be submitted by the owners or agents of any property affected.
- B. **Special Use Permit Procedures:** Applications for a special use permit shall be proposed on forms established by the Director of the Planning Department and filed with the Clerk.
  1. *Certified Ownership List.* The application shall be accompanied by an ownership list certified by an attorney or a title company or a list and map prepared by the Leavenworth County GIS Department listing the legal description and name and address of the owners of record of all property located within 200 feet of the subject property if within the

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2.04 Special Use Permits

incorporated limits of the city and if rezoning of property located adjacent to or outside the city limits, the area of notification is extended to 1,000 feet in the unincorporated area.

2. *Public Hearing.* The Planning Commission shall hold a public hearing on each proposed special use request. The Planning Commission shall select a reasonable hour and place for the public hearing, but it shall hold the hearing within 60 days from the date on which the application is filed. An applicant for a special use permit may waive the requirement that such hearing be held within 60 days.
3. *Notice.* Public notice of a hearing on a special use permit shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. The notice shall fix the time and place for the hearing and contain a statement regarding the proposed special use, and the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to publication notice, written notice of the proposed special use permit shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the subject property within the city. If the subject property is adjacent to or outside the city limits, the area of notification of the city's action shall be extended to 1,000 feet in the unincorporated area. .
4. *Conduct of Hearing.* The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested persons and shall be available for review in the offices of the Secretary, Leavenworth City Planning Commission at least three business days before the date set for the public hearing
5. *Planning Commission Recommendations.* The Planning Commission may recommend issuance of those Special Uses which are expressly authorized to be permitted in a particular zoning district or districts as found in Article 4 – Zoning Districts and Standards and Appendix A - Use Table.
6. *Protest by Petition.* If a written protest against a proposed special use permit 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 of 20% or more of the total area required to be notified by this application for a special use permit, 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.
7. *Final Approval.* The City Commission may recommend issuance of a Special Use Permit whenever it finds that:
  - a. The proposed special use complies with all applicable provisions of this ordinance.

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2.04 Special Use Permits

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- b. The proposed special use at the specified location will contribute to and promote the economic development, welfare or convenience of the public
  - c. The special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  - d. 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. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:
    - (1) The location, nature and height of buildings, structures, walls, and fences on the site, and
    - (2) The nature and extent of landscaping and screening on the site.
    - (3) Off-street parking and loading areas whether on the premises or auxiliary to the premises will be provided in accordance with the standards set forth in this ordinance and such areas adjoining residential uses will be located to protect such residential uses from any injurious effect.
    - (4) Adequate utility, drainage, and other necessary facilities have been or will be provided.
    - (5) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- C. ***Discontinuance or Violation of Permit Conditions:*** A Special Use Permit may be granted by and continued annually by the City Commission, City of Leavenworth, Kansas. The continuation of a Special Use Permit exists with the property as long as such Special Use Permit is used in accordance with its original intended and approved purpose and the annual SUP fee is paid. Any discontinuance of more than 12 months, violation of permit conditions, or failure to pay a fee may enable the City Commission to administratively rescind a special use permit.
- D. ***Revocation:*** A special use permit may be revoked for cause upon the finding that the special use permit has violated any criteria of approval, changed circumstances supporting the approval or a determination that the use has become a nuisance by reason of design or operation of the use, site or buildings. Revocation shall require that the City Commission hold a public hearing with at least 21 days' notice and no more than 60 days' notice, with a certified letter being sent to the property owner and general notice to the public. Notice shall contain the date, time, place and purpose of the hearing and cite the reason for the proposed revocation.

## 2.05 Site Plan

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- A. ***Applicability:*** All applications for multi-family, commercial, industrial, SUPs, PUDs and rezoning shall be accompanied by a site plan and all submissions for a building permit for

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2.05 Site Plan

any permitted use therein must be accompanied by a Site Development Plan. Single family dwellings are exempt from this requirement.

- B. **Site Plan Procedures:** Applications for a site plan shall be proposed on forms established by the Director of the Planning Department and filed with the Planning Department. Except for site plans that accompany other required approval processes, applications shall be processed according to the following specific procedures:

1. The City Planner shall determine if submitted site plans are in accordance with these regulations and then forward all site plan submissions to the Development Review Committee along with a written opinion on the plan's merits.
2. The Development Review Committee is responsible for final review and approval of site plans for multi-family residential, mixed-use, mobile home parks, planned unit developments, commercial or industrial developments which are in accordance with these regulations.
3. In its review, the Development Review Committee will consult and consider the recommendation of the various departments and agencies affected by the proposed site plan.
4. If the Development Review Committee rejects or withholds approval of the site plan the applicant may appeal the decision to the Planning Commission at its next regular meeting. The Planning Commission may recommend approval, disapproval or approval with conditions to the City Commission.

- C. **Criteria:** Site design shall ensure that all provisions of these Development Regulations and all other ordinances, Comprehensive Land Use Plan, and general plans and standards of the City of Leavenworth shall be complied with, where applicable. In determining the applicability of a site plan to the standards, and in interpreting the standards, the following criteria shall be used:

1. The proposed development shall not have any detrimental effect upon the general health, welfare, safety, and convenience of persons residing or working in the neighborhood; and shall not be detrimental or injurious to the neighborhood.
2. The proposed development shall promote a desirable relationship of structures: to one another; to open spaces; and to the topography on the site and in the surrounding area.
3. The height, area, setbacks, and overall mass, as well as parts of any structure (buildings, walls, signs, lighting, etc.) and landscaping shall be adequate and appropriate to the development, the neighborhood, and the community.
4. Ingress, egress, internal traffic circulation, off-street parking facilities, loading and service areas, and pedestrian walkways shall be so designed as to promote safety and convenience.
5. The architectural character of the proposed structure shall meet the requirements of Article 7, Design Standards.

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2.05 Site Plan

- D. **Amendment to Site Plan:** No approved Site Plan may be modified, or expanded in ground or structural area more than 10% of the gross floor area unless the Site Plan is amended and approved in accordance with the procedures applicable to initial approval, or as otherwise approved through Minor Modifications in Section II.F. Such changes will require the applicant to resubmit the Site Plan as outlined in the preceding sections.
- E. **Effect of Decision.** All elements of the approved site plan must be executed in association with a building permit or certificate of occupancy, except that installation of landscape may be delayed for up to six months to allow optimal planting, and provided other adequate assurances of implementation are provided by applicant.

## 2.06 Minor Modifications

- A. **General.** This section sets forth the required review and approval procedures for “minor modifications,” that are minor deviations from otherwise applicable standards that may be approved by the Director. Minor modifications are to be used when the small size of the modification requested and the unlikelihood of any adverse effects on nearby properties or the neighborhood make it infeasible to seek a formal variance. Minor modifications to development standards may only be requested where no additional permit, such as conditional use or special use, is required prior to construction.
- B. **Applicability.** Requests for minor modifications must be made in writing to the Director who shall have 21 days from receipt to respond in writing. If the Director does not act on the request within 21 calendar days, the application shall be deemed denied. The Director may approve a single minor modification per development of up to a maximum of 10% from the following general development and zoning district standards:
1. Minimum lot area requirements,
  2. Setback requirements, and
  3. Quantitative development standards generally applicable throughout the Development Regulations of the City of Leavenworth, Kansas.

The Director shall have sole decision-making authority for a minor modification.

- C. **Limitations.** In no circumstance shall the Director approve a minor modification that results in:
1. Any change in required floodplain elevations;
  2. An increase in overall project density;
  3. A change in permitted uses or mix of uses;
  4. A deviation from the use-specific standards in Article 4, Zoning Districts & Standards;
  5. A change in conditions attached to the approval of any site plan or special use permit;

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2.06 Minor Modifications

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- 6. A change to a development feature already modified through a variance or other minor modification; or
  - 7. Any change in the maximum area of signage.
  - 8. No more than two standards may be modified on any single development project;
- D. **Criteria.** The review and approval of a minor modification is administrative and shall not require any form of notice or a public hearing prior to determination. The following criteria shall be met for a minor modification:
- 1. Evidence of substantial compliance with the provisions of the Comprehensive Land Use Plan, any other applicable city plans and the Development Regulations;
  - 2. Compatibility with surrounding land uses; and
- E. **Appeal.** Appeal of the Director's determination shall be to the Development Review Committee.
- F. **Approval Termination:** An approved minor modification terminates at the same time as the original approval. Minor modification of an approval does not extend the lapse period of the original approval.
- G. **Record of Minor Modifications and Annual Review:** The Director shall keep a record of all minor modifications that includes information about the date of the request, the location of the project, a brief description of the minor modification request, and the Director's action. The Director shall submit the minor modification log to the Planning Commission annually for review. Upon reviewing the record, the Planning Commission may determine whether changes to the Zoning & Development Ordinance of the City of Leavenworth, Kansas are necessary.

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## **2.07 Appeals**

Any person wishing to appeal a provision of this document as it has been applied to their case shall make application for appeal to the appropriate entity as listed below.

- A. Zoning Regulations. Zoning regulations shall be appealed to the Board of Zoning Appeals as specified in Article 11. Specifically this shall include:
1. Article 1. Section 1.05 Non-conformances
  2. Article 2. Section 2.05 Site Development Plans
  3. Article 4. District Regulations
  4. Article 5. Parking
  5. Article 6. Landscaping
  6. Article 8. Signs
  7. Article 10. Supplementary District Regulations
- B. Development Regulations. Development regulations shall be appealed to the City Commission where specified in these regulations. Specifically this shall include:
1. Article 3. Subdivision Standards
  2. Article 9. Historic Preservation

Summary Table:

	Pre-application Meetings		Review Body				Notice		
	Staff	Community	Staff	PC	CC	BZA	Published	Posted	Mailed
Text Amendment	<input type="checkbox"/>		R	R/H	D		■		
Rezoning	■	<input type="checkbox"/>	R	R/H	D		■	■	■
Plat, Minor	■		R	D	A				



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Plat, Preliminary	■		R	D	A			■	
Plat, Final			R	R	D			■	
Site Plan	□		D	A/D		A			
Planned Zoning	■	■	R	R/H	D		■	■	■
Special Use Permit	■		R	R/H	D		■		■
Minor Modification	■		D	A					
Other Appeals (specified in these regulations)	Dependent on specific applicable code sections								
Variance	□		R			D	■		■
Appeal of Administrative Decision						D	■		■

R = Review/Recommendation

PC = Planning Commission

D = Decision

CC = City Commission

A = Appeal

BZA = Board of Zoning Appeals

H = Public Hearing

■ = Required

□ = Optional or Recommended

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ARTICLE 11. BOARD OF ZONING APPEALS

11.01 Creation

## 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. 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.

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11.03 Power and Jurisdiction

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1. Appeals to the Board may be taken by the person aggrieved, or by any officer or department of the city government affected by the rigid enforcement of these Development Regulations. Such appeal shall be filed with the Secretary of the Board, as shall be herein prescribed. The administrative official shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.
  2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Secretary of the Board certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record.
- B. ***Variances:*** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.
1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
  2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met:
    - a. The Board shall make a determination on each condition, and the finding shall be entered in the record.
    - b. That the variance requested arises from such condition which is unique to the property in question and is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
    - c. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
    - d. That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
    - e. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;

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- f. That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.
3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.
- C. **Exceptions:** To grant exceptions which are specifically listed as permitted in these Development Regulations. In no event shall exceptions to the provisions of the Development Regulations be granted where the exception contemplated is not specifically listed as in the Development Regulations of the City of Leavenworth, Kansas. An exception is not a variance. Further, under no conditions shall the Board have the power to grant an exception when the conditions of this exception, as established by these Development Regulations, are not found to be present.
- D. **Conditions of Determination:** In exercising the foregoing powers, the Board, in conformity with the provisions of these Development Regulations, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the administrative official and may attach appropriate conditions, restrictions or safeguards necessary to protect public interest and welfare.

#### 11.04. Applications

- A. The procedure for requesting a hearing before the Board shall be as follows:
  1. *Application Submission:* All applications to the Board shall be in writing on forms provided by the Secretary of the Board. Said application shall be completed in its entirety and filed in the office of the City Clerk with all supporting data.
  2. *Notification of Nearby Property Owners:* All applications shall be accompanied by an ownership list certified by an attorney, a title company or a list and map prepared by the Leavenworth County GIS Department listing the names and addresses of all property owners located within 200 feet, excluding streets and alleys, of the boundaries of the property included in the application. If the property is adjacent to the city limits, the area shall be expanded to 1,000 feet of property owners outside the city limits.
  3. *Public Notification:* The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the City Commission) at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and the chair of the Planning Commission.
- B. In addition to the above requirements, certain applications require additional information as follows:
  1. *Appeals:*

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- a. An application for an appeal shall be filed within 10 days after a ruling has been made by an Administrative Official and furnished to the appellant in writing.
  - b. A copy of the written ruling of the Administrative Official which the applicant believes to be in error shall be submitted.
  - c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
  - d. Where necessary, a plot plan, drawn to scale, showing existing and proposed plans for the area in question shall be submitted.
2. *Variances:*
- a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating the enforcement provisions of the specific regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in herein.
  - b. The applicant shall submit six (6) copies of a sketch drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.
3. *Exceptions:*
- a. The applicant shall submit a statement in writing justifying the exception applied for and indicating under which article and section of the Development Regulations the Board of Zoning Appeals is believed to have jurisdiction.
  - b. The applicant shall prepare and submit at the time of filing, the application, six copies of a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways, and any other information which would be helpful to the Board in consideration of the application.
- C. **Conditions of Approval:** In making any decision varying or modifying any provisions of the Development Regulations, or in granting an exception to the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
- D. **Performance Bonds:** The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board for 125% of necessary improvements, and shall be enforceable by or payable to the City Commission in the sum equal to the cost of constructing the required improvement. In lieu of the performance bond requirements, the Board may specify a time limit for the completion of such
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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**

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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.

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## ARTICLE 12. DEFINITIONS

Terms defined in this Article shall be the basis for interpretation of all such terms throughout these Development Regulations. If not so defined a term shall be assigned the meanings found in Webster's most current New Collegiate Dictionary.

**100-year Flood:** The Base Flood.

**Abandoned Sign:** Any sign on any building, structure or premises that has been vacated for a six (6) month period.

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

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

**Accessory Building, Accessory Structure, or Accessory Use:** A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent or purpose to the principal building or principal use served; (3) contributes to the comfort convenience, or necessity of occupants of the principal building or principal use; (4) is located on the same zoning lot as the principal building or principal use. The same as "appurtenant structure."

**Actuarial Rates:** "risk premium rates."

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

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

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

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

**Administrative Official:** A member of the city staff who is empowered to administer and implement the provisions of this Ordinance. Specifically, the Director of Planning and Community Development, City Planner, Planning and Zoning Technician, Director of Public Works, Building Inspector and Environmental Officer.

**Administrator:** As used in Article X, Floodplain Management, means the Federal Insurance Administrator.

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

**Agency:** means the Federal Emergency Management Agency (FEMA).

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

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

**Agriculture Uses:** The use of a tract of land for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary accessory uses, including the structures necessary for carrying out farming operations; provided, however, such agricultural use shall not include the following uses: (1) the maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted; (2) wholesale or retail sales as an accessory use unless the same are specifically permitted in this ordinance; (3) the feeding, grazing, or sheltering of animals or poultry in either penned enclosures or in open pasture within one hundred (100) feet of any lot line. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur-bearing animals as a principal use, or the operation or maintenance of a commercial stockyard, or feed yard.

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

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

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

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

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

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

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



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**Animal Day Care:** See Kennel

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

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

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

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

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

**Apiary:** A place for the keeping of bees

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

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

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

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

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

**Area of Shallow Flooding:** A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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

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

**Arterial Street:** A major thoroughfare designed to carry traffic from one area to another and as designated in the Future Land Use Map, which is a part of the Leavenworth Comprehensive Land Use Plan.

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

**Assisted Living Facility:** Facilities which provide residents with supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being. Other licensure terms used for this philosophy of care include Residential Care Home, Assisted Care Living Facilities, and Personal Care Homes.

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

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

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

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

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

**Automobile Towing Service Storage Yard; Impound Lot:** A place where automobile tow trucks are stationed between calls and where automobiles are temporarily stored after being towed for reasons other than mechanical malfunction. The dismantling or salvage of vehicles is not included in this definition.

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**Automobile, Boat, Truck, Motorcycle, RV Sales, Rental, and Service:** A place where automobiles and other power sport vehicles are sold, rented or repaired by any of the following; mechanics, body shop technicians or electricians.

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

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

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

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

**Bed and Breakfast Inn:** Any residential structure within a zoning district which allows this land use wherein boarders are allowed to share 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 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.

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**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 use, yard, or height restriction may be imposed but normally a properly screened area can provide a buffer.

**Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store):**

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

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

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

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

**Building Supplies and Equipment:** A wholesale sales and warehousing operation catering to building contractors and not open to the public.

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

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

**Bus Garage and Equipment Maintenance:** Any facility for the storage, maintenance or operation of transportation equipment.

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

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

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

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

**Car Wash/Truck Wash:** A facility for the washing and further cleaning of cars or trucks.

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**CBD:** Central Business District as defined by the most current Development Regulations.

**Cellar:** See Basement.

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

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

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

**Certificate of Occupancy:** Official certification that a premises and its identified use conforms to the provisions of the Development Regulations of the City of Leavenworth, Kansas and building codes and may be used or occupied. This certificate is granted for new construction.

**Certified Ownership List:** A current list of names and addresses of property owners of record, and a legal description of the property owned that would lie within 200 feet (1000 in the rural area of the County) of the external boundaries of any land proposed for rezoning, special use permit, variance, or exception. This list may be prepared and certified by an abstractor, attorney, surveyor, or the County GIS department. The Director may accept a list prepared by city staff.

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

**Changeable Message Sign, Manual –** A sign on which the message or copy is changed manually in the field.

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

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

**Chief Executive Officer or Chief Elected Official:** The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community; i.e., the City Manager.

**Child Care Center:** A day nursery providing care for seven (7) or more children, for part or all of a day or night, away from the home of the parent or legal guardian; including full day child care, nursery schools, play groups, Head Start, centers giving emphasis to programming for special children, kindergartens not operated by the public schools, and other establishments offering care to groups of children for part or all of the day or night. Centers for infants and toddlers or for handicapped children may have fewer than seven (7) children but be licensed as a center because the program meets child care center regulations.

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**City Commission:** The elected, governing body of the City of Leavenworth.

**City Manager:** Executive appointed by the City Commission

**City Planning Commission:** The Leavenworth City Planning Commission.

**City:** The City of Leavenworth, Kansas.

**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.

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

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

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

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

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

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

**Contributing/Key contributing:** A building, site, structure or object which adds to the architectural qualities, historic association or archeological values of historic register property for which a property is significant because: (a) it was present during the pertinent historic time; (b) it possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period or (c) it independently meets the standards and criteria of the Historic Preservation regulations.

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

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

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

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



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

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

**Day Care Home:** A day nursery providing care for not more than six (6) children under kindergarten age. To qualify for a home occupation, no one other than members of the immediate family residing on the premises can be employed (see Child Care Center)

**Deciduous Trees:** Generally those trees, which shed their leaves annually, such as Ash, Sycamore, Willow, etc.

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

**Design guideline/standard:** The standards set forth by the Secretary of the US Department of the Interior for the preservation of historic places.

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

**Developable Area (Gross):** The total acreage or square footage in a lot or tract proposed to be developed

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

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

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

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

**Directional Sign:** Any sign that provides direction for the safe and efficient flow of vehicular or pedestrian traffic on a property, and shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises. A directional sign may contain the name or logo of



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an establishment, but no commercial message. Examples are parking and entrance signs. The logo area shall not exceed 25% of sign area. Off-premise directional signs are only allowed, as regulated, under Special Event Signs.

**Director:** The Director of Planning & Community Development or a person designated in writing by the Director.

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

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

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

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

**Drinking Establishment:** A place of business, which sells liquor-by-the-drink and maintains at least 30% of receipts in food sales as regulated by the Alcoholic Beverage Control Division, Department of Revenue.

**Driveway, Customary:** A private lane which leads from a street or an alley to a garage, carport, rear yard parking area, a parking space established in accordance with the provisions of this ordinance, or to another street or alley. Such driveway may extend in front of, alongside of, or in the rear of a principal structure either planned for or erected upon a building site.

**Duly Authorized Representative:** Any individual or person or any section, division or department of the city administration or any individual or person within the designated section, division or department of the city administration who has been designated by the Director to implement, administer, and enforce the provisions of these Development Regulations. Generally, references are to the City Planner and his/her designee, assignee, agent, or designated person as used in the text of the ordinance.

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

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

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

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**Dwelling, Detached:** A dwelling which is separated from any other principal structure

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

**Dwelling, Elderly or Retirement Home:** A dwelling unit or high-rise apartment building specifically designed to be occupied by residents who are at least sixty-two (62) years of age, and who are ambulatory and able to take care of themselves.

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

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

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

**Dwelling, Mobile Home:** A movable dwelling over thirty-two (32) feet in length or over eight (8) feet wide, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence when connected to utilities. The term shall not include travel trailers, campers or self-contained motor homes or camper buses.

**Dwelling, Multi-Family:** A building or portion thereof, designed for occupancy by three (3) or more families.

**Dwelling, Single Family:** A building designed for occupancy by one (1) family.

**Dwelling, Single-Family Detached:** A building designed for occupancy by one (1) family, which has required yards and setbacks from other residential structures.

**Dwelling, Townhouse:** A building designed for occupancy by one (1) family in a style of medium-density housing that originated in Europe in the late 17th century, where a row of identical or mirror-image houses share side walls.

**Dwelling, Two-Family:** A building designed for occupancy by two (2) families

**Dwelling:** A dwelling is any building or portion thereof not including mobile homes, which is designed or used exclusively for residential purposes including an attached garage, provided the attached garage is

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subordinate in area to the living portion of the structure. An attached garage shall have a common wall with a main structure for a distance of at least 25% of the length of the longest dimension of the garage. An attached garage not meeting this test may qualify as a detached garage, which need not comply with the five (5) foot setback requirement between buildings but shall meet all setback requirements of the principal structure.

**Easement:** A right of the owner of one (1) parcel of land by reason of such ownership, or a right of the public, to use the land of another for a special purpose as designated.

**Educational and Scientific Research, Development, and Testing Services:**

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

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

**Eligible Community or Participating Community:** A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**Environmental Officer:** The Director of Planning & Community Development.

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

**Evergreen Trees:** Generally those trees which do not shed their leaves annually, such as Pine, Spruce, Juniper, etc.

**Exception:** A grant of permission to depart from the general provision of the Development Regulations of the City of Leavenworth, Kansas which is expressly authorized by provisions of the ordinance after a finding of fact and imposition of conditions by the applicable governing body.

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

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

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

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

**Facade:** The front elevation of a building.

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

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

**Family:** A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship; (2) two unrelated people; (3) two unrelated people and any children related to either of them; or (4) not more than eight people and up to two caretakers who are residents of a "Group Home" as defined in K.S.A. 12-736 and this ordinance. This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. §802(6). Exceptions: "Family" does not include: any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; or any group of individuals who are in a group living arrangement because of criminal offenses.

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

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

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

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

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

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

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

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

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

**Flood Boundary and Floodway Map (FBFM):** An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

**Flood Elevation Study:** An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

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

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

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**Flood Hazard Map:** The document adopted by the City Commission showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

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

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

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

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

**Floodway Encroachment Lines:** The lines marking the limits of floodways on Federal, State and local floodplain maps.

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

**Floodway Use:** A use that can be approved by the City Engineer upon the application of certain criteria for uses in the 100-year floodway as regulated by Article X – Floodplain Management.

**Floor Area Defined:** For the purpose of applying the requirement of off-street loading and parking, the term "floor area" in the cases of offices, merchandising, or service types of use, shall mean the gross floor area used or intended to be used by tenants, or for the service to the public as customers, patrons,



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clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used principally for non-public purposes, such as storage, incidental repair, processing, or packaging of merchandise, offices incidental to the management or maintenance of stores or buildings, restrooms, facilities, or exterior balconies.

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

**Foster Home:** A residence or building in which 12 to 24-hour care is provided to no more than five (5) children, two (2) or more of which are unrelated to the foster parent. Foster homes are permitted in all residential districts as they are considered a family

**Frame Effect:** A visual effect on an Electronic Changeable Message Sign applied to a Frame to transition from one Frame to the next.

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

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

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

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

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

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

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

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**Future Land Use Map:** A component of the Comprehensive Land Use Plan.

**Gas Station:** See Service Station.

**GBD:** General Business District as defined by the most current Development Regulations.

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

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

**Governing Body:** The City Commission of Leavenworth, Kansas. **Government Activities or Services:** The rendering of services of a governmental nature (police, fire protection, refuse collection, or code enforcement for example) required within or upon any property regardless of zoning classification.

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

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

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

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

**Group Home: Disabled (defined by K.S.A. 12-736):** A dwelling unit occupied by not more than ten (10) persons, including eight (8) or fewer persons with a "disability", which is licensed by a regulatory agency of the state. "Disability" refers to persons with physical or mental impairments substantially limiting major life activities.

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



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

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

**Heavy Vehicle/Equipment Sales, Rentals, and Service:**

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

**Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic and Monument Sites:** Any site so designated by the local, state, or federal Government.

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

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

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

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

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

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**Historic Structure:** Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

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

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

**Home Occupation:** A business, profession, service, or trade, meeting the qualifications of and permitted by the Supplementary District Regulations of this ordinance, conducted for gain or support within a residential building.

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

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

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

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

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**Illegal Lot Combination/Transfer:** A lot that contains one (1) or more portions of a lot or lots of record. The transference of a portion of a platted lot without a replat of both the donor and recipient lots is illegal.

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

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

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

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

**Indirectly Illuminated Sign:** A sign whose source of Illumination is exterior to the body of the sign with the light shining directly on the sign.

**Indoor Commercial Recreation/ Entertainment:** Any facility for recreation, which is indoors, and commercial in nature.

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

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

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

**Internally Illuminated Sign** – A sign in which the source of Illumination is contained within the sign.

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

**Jails and Prisons:** Places in which people are physically confined and, usually, deprived of a range of personal freedoms. In the United States, "jail" and "prison" refer to separate levels of incarceration; generally speaking, jails are county or city administrated institutions which house both inmates awaiting trial on the local level and convicted misdemeanants serving a term of one year or less, while prisons are state or federal facilities housing those awaiting trial on the state or federal level and convicted felons

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serving a term of more than one year. On the federal level, this terminology has been largely superseded by a more complex five-tier system implemented by the Federal Bureau of Prisons that ranges from low security "Prison Camps" to medium security "Correctional Institutions" and finally maximum security "Penitentiaries."

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

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

**Kansas Register/State Register:** The current State Register of Historic Places as prepared, approved and amended by the State Historic Sites Board of Review and authorized by KSA 75-2701, et.seq.

**Kennel:** A facility, which houses, boards, breeds, or trains five (5) or more dogs or cats by other than the owner.

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

**Landfill, Cut And Fill:** A location wherein clean fill dirt may be deposited or cut with the approval and review of the Director of Public Works.

**Landfill, Municipal Solid Waste:** A landfill accepting all types of material as regulated by the State of Kansas not including Construction and Demolition Landfills or Cut and Fill Landfills. Municipal Solid Waste Landfills are not allowed in the City of Leavenworth.

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

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

**Landscaped Open Space:** All land area within the property lines not covered by building or pavement.

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

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**Legal Setback Line:** A line established by the Development Regulations beyond which no building may be built. A legal setback line shall be measured from the property line, not the curb line.

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

**Light Industrial:** Light industry is usually less capital intensive than heavy industry, and is more consumer-oriented than business-oriented. Most light industry products are produced for end users rather than as intermediates for use by other industries. Light industry facilities typically have less environmental impact than those associated with heavy industry. Light industry is a manufacturing activity that uses moderate amounts of partially processed materials to produce items of relatively high value per unit weight. Examples of light industries include the manufacture of clothes, shoes, furniture, consumer electronics, and home appliances. Light industries require only a small amount of raw materials, area, and power.

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

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

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

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

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

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

**Lot Line:** Lot boundary line or property line.

**Lot of Record:** A lot which is a part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Leavenworth County; or a parcel of land described by metes and bounds, the deed to which was recorded in the office of the Register of Deeds prior to the adoption of this ordinance.

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

**Lot, Depth Of:** The average horizontal distance between the front and rear lot lines.

**Lot, Double Frontage:** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

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**Lot, Interior:** Any lot other than a corner lot.

**Lot/Parcel/Tract:** As defined by the State of Kansas.

**Lot:** A parcel or tract of land under single ownership or control. A lot may consist of one (1) or more lots of record. Multiple lots may be developed as one lot if internal easements are voided. A portion of land in a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development.

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

**LPC:** The Leavenworth Preservation Commission.

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

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

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

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

**Map:** The Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

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

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

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

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

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

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

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

**Mean Sea Level:** For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

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

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

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

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



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

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

**Mobile Home Space:** A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

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

**Motel:** See Hotel.

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

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

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

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

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

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



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

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

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

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

**NFIP:** The National Flood Insurance Program.

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

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

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

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

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

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

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

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

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

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**Non-Residential Swimming Pools:** Swimming pools operated by a private membership organization or government.

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

**Nursery Care or School:** See Child Care Center or Day Care Home.

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

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

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

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

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

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

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

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

**Parking Lot or Garage (Commercial, Non-Accessory):** Defined in the Off Street Parking section of these regulations.

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

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

**Parking Space:** The portion of a parking lot sufficient in size to store one automobile. The minimum design established is 8 1/2' x 18'.

**Parks and Open Space:**

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

**PC:** Planning Commission

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

**Permit:** A signed document from a designated community official authorizing development. As relating to floodplain management a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

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

**Pervious Pavement:** A pavement system with traditional strength characteristics but which allows rainfall to percolate through it rather than running off. A pervious pavement system uses either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded course aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water that allows for passage of run-off and air. Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco-stone®.2

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

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

**Petroleum Pipeline and Pressure Control Stations:** Any facility used to measure or maintain the conditions in a pipeline operated by a public utility.

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

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

**Planning Commission:** Shall mean the Leavenworth City Planning Commission.

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

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

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

**Post Office Branches:** Any physical subdivision or staffed permanent presence of the United States Postal Service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Recycling Collection Station:** As opposed to 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

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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. No management or owner presence is required and no meals are served. In approval of a **Residential Home Stay** the city may consider impact on neighbors' parking needs, etc. and place additional requirements as deemed appropriate. Such a business shall be registered with the City Clerk as a rental property.

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

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

**Restaurant:** An establishment whose primary business is the serving of food to the public, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains.

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

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

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

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

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

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

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

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

**School, Elementary and Middle (Public and Private):** As defined by the State of Kansas.

**School, Senior High:** As defined by the State of Kansas.

**School, Vocational-Technical and Trade:** As defined by the State of Kansas.

**Screening (Screening Enclosure Or Properly Screened):** A solid or semisolid fence or wall at least six (6) feet high but not more than eight (8) feet high, having a density of not less than eighty (80) percent per square foot. A landscape screen consisting of trees, shrubs or hedges meeting density requirement may be used to meet the requirement. Fence or wall shall be maintained in good condition by owner or owners of the property.

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

**Secretary:** Secretary of the Planning Commission.

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

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

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

**Setback Line or Building Line:** A line fixed parallel to the lot line beyond which a building cannot extend under the terms of the Development Regulations. It is equivalent to the yard requirement.

**Set-Back:** The required distance between each structure located on a building lot and the property lines of the lot. **Setting:** The immediate physical environment of a building, structure, site, or district.



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

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

**Shelter Home:** Shelter Home means an enclosed building, or portion thereof, operated by a nonprofit entity for the purpose of providing shelter, bathing and restroom facilities, a secure place for belongings, and sleeping accommodations for people at no charge. A shelter home may include related support such as meals, medical services, social services, counseling, and training.

**Shelter, Domestic Violence:** A place of temporary refuge and support for people escaping violent or abusive situations.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

**Solid Waste Facility:** Any facility, which serves to collect, distributes or temporarily store household generated solid waste.

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

**Special Flood Hazard Area:** See "area of special flood hazard."

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

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**Sports/Entertainment Arena or Stadium:** Any place or structure where more than 100 people can gather to watch a sporting or entertainment event.

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

**State Coordinating Agency:** The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**State Historic Preservation Officer or SHPO:** The person who has been designated by law and by the Governor of the State of Kansas to administer the State Historic Preservation Program for carrying out the provisions of the National Historic Preservation Act of 1966, as amended and related laws and regulations.

**State Review Board:** The Kansas Historic Sites Board of Review as established in KSA 75-2719a.

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

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

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

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

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

**Studio, Music/Movie/TV:** A place for the nurturing and recording of the visual and auditory arts.

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

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

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

**Subdivision (Minor):** The division of a tract of land into not more than five (5) tracts, parcels, or lots meeting the requirements set forth herein.

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

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial-damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Substantial Renovation:** Any alteration affecting the front elevation of a building or costing more than 50 % of the current assessed County tax valuation.

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

**Sundries, Pharmaceuticals, Convenience Store      Retail Sales:**

**Tailoring, Custom:** Making or altering apparel according to personal or special order. The distinction between tailor shops and apparel manufacturing for zoning purposes is: 1. A custom tailoring shop should not have more than the equivalent of fifteen (15) full-time employees and; 2. Building space devoted to tailoring operations and product storage shall not exceed 12,000 square feet of floor space as measured by the exterior spatial dimensions.

**Tattoo Parlor/Piercing/Body Art:** Any place or structure, which is regulated by the Kansas Board of Cosmetology and where any form of elective body modifications occurs.

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

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

**Temporary Sign:** Any sign, banner, searchlight, sidewalk or curb sign, pennant, valance, flag, balloon, air- or gas-filled figure, or advertising display that is intended to be displayed for a limited period of time

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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,

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

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

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

**Veterinary Clinic:** Any place or structure where animal health services are provided by a one or more people licensed to provide veterinary services by the State of Kansas.

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

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

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

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

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

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

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

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

**Wearing Apparel and Accessories Retail Sales:** Any place or structure where the retail sale of apparel and or accessory goods is conducted.

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

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

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

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

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

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

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

**Zoning District Map:** A map or maps with all notations, dimensions, references, and symbols shown thereon depicting individual zoned districts as adopted and amended by the City Commission.

**Zoning Ordinance:** The text of this ordinance and the accompanying Zoning District Map.

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

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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- A. **Table Organization.** Table A1-1 Table of Permitted Uses classifies land uses and activities into general “use categories” and specific “use types” based on common functional or physical characteristics, such as the type and amount of activity, the type of customers or residents, types of products, how goods or services are sold or delivered, and site conditions. Regardless of whether a use is allowed by right or permitted as a special use, there may be additional standards that are applicable to the use. Uses are allowed as follows:
1. *Permitted By-Right Uses.* “P” in a cell indicates that the use is permitted by right in the respective zoning district and overlay district. Permitted uses are subject to all other applicable regulations in this document, including the use-specific standards in this section.
  2. *Special Uses.* “S” in a cell indicates that the use is allowed only if reviewed and approved as a special use in accordance with the procedures of Article II - Administration regarding Special Use Permits. Special uses are subject to all other applicable regulations of this document including the use-specific standards in this section and the requirements of Article IV – Supplementary District Regulations.
  3. *Prohibited Uses:* A blank cell indicates that the use is prohibited in the respective zoning district.
- B. **Classification by Interpretation.** This classification does not list every use or activity that may appropriately exist within the categories and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The categories are intended merely as an indexing tool for the specific use type and are not regulatory. When application is made for a use type that is not specifically listed in Table A1-1, Table of Permitted Uses but that appears similar to uses in that table, the Director shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:
1. The Director shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
  2. Standards for new and unlisted uses may be interpreted as those applicable to a similar use.
  3. The Director may choose to send a proposed use to the City Commission for interpretation where classification options are unclear or where the potential impact must be considered in the interpretation process.
  4. When the Director determines that a new or unanticipated use is so similar in impact to a specific use type, or uses generally within the use category the Director may:
    - a. Make the interpretation the use type is generally broad enough to include the use in question; or
    - b. For ease of future application and interpretation add the use to the appropriate category in the table. Such administrative adjustment to the table shall not be considered an amendment to this ordinance provided the criteria above are clearly met, and provided notice and comment of the adjustment is placed on the agenda of both the Planning Commission and Governing Body for review and consent.
  5. Appeal of the Director's decision shall be made to the City Commission.
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DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

Table A1-1, TABLE OF PERMITTED USES																			
P = Permitted, S = Special Use Permit Required																			
Use Category		Residential								Non-Residential							Overlay		
Subcategory		R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
	Specific Use Type																		
RESIDENTIAL USES																			
Household Living																			
	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	S	S	S			P											
	Dwelling, Mobile Home							P											
Group Living																			
	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	P	P	P	P	P	P	P	P				P	P	P
	Shelter Home	S	S	S	S	P	P		P	S	S	P	P				S	P	S
	Student Housing	S	S	S	S	P	P		P			P	P						
PUBLIC AND INSTITUTIONAL USES																			
Community Services																			
	Adult Day Center	S	S	S	S					P	P	P	P				S	P	P
	Cemetery	S	S	S	S														



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APPENDIX A. USE TABLE

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Subcategory		R1-25	R1-9	R1-7.5	R1-6	R-MF	R4-16	MP	RMX	NBD	OBD	CBD	GBD	I-1	I-2	FP	NN	DT	NG
	Specific Use Type																		
	Mausoleum	S	S	S	S							P	P						
	Civic, Social, and Fraternal Organizations	S	S	S	S				S		P	P	P				P	S	P
	Community Centers											P	P				P		P
	Government Offices and Facilities	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
	Historic and Monument Sites	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
	Jails and Prisons													S	S				
	Library	S	S	S	S				S	P	P	P	P				P	P	P
	Post Office Branches								P	P	P	P	P				P	P	P
	Religious Assembly	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
	Safety Services	P	P	P	P				P	P	P	P	P				P	P	P
Day Care																			
	Day Care Center/Preschool	S	S	S	S	S	S	S	S	P	P	P	P				P	P	P
	Day Care, Home (6 or less children)	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P
	Day Care, Home (7 or more children)	S	S	S	S	S	S	S	S	P	P	P	P				S	P	P
Educational Facilities																			
	College or University	S	S	S	S						P	P	P				S	S	S
	School, Elementary and Middle (Public and Private)	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
	School, Senior High	S	S	S	S	S	S	S	S	S	S	S	S				S	S	S
	School, Vocational-Technical and Trade									S	P	P	P						S
Health Care Facilities																			
	Hospitals									S	S	P	P						S
	Medical and dental clinics and offices								P	P	P	P	P				P	P	P
Parks and Open Space																			
	Arboretum or botanical garden	S											P				P	P	P
	Campground	S																	

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APPENDIX A. USE TABLE

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	Specific Use Type																		
	Community playfields, playgrounds, and parks	P	P	P	P				P	P	P	P	P				P	P	P
	Golf course, public	S	S	S	S											S			S
	Golf course, private	S	S	S	S											S			S
	Zoo												P						
Transportation																			
	Airport												S	S	S				S
	Bus Garage and Equipment Maintenance												P	P	P				
	Bus Terminal									S	S	P	P	P	P	P			
	Heliport											S	S	S	S				
	Railroad Terminal												P						
	Taxi Dispatch									S	S	P	P						
	Truck Terminal, Freight, Air Courier Services													P	P				
Utility																			
	Private Wind Energy Systems	S	S	S	S	S	S	S	S	S	S		S	S	S		S	S	S
	Private Solar Collection Systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P
	Commercial Wind Energy Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
	Commercial Solar Collection Systems	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S
	Communication Tower	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Communication Tower – Alternative Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Communication Facility on Existing Structure	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
	Water Storage	P	S	S	S	S	S	S	S	S	S	P	P				S	S	S
COMMERCIAL USES																			
Animal Sales and Service																			
	Kennel												P	P	P				
	Pet Shops									P		P	P				P	P	
	Pet Grooming	S	S	S	S				S	P		P	P				S	S	S

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APPENDIX A. USE TABLE

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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																		
	Veterinary Clinic with Boarding									S	S	P	P	P	P		S	S	P
	Veterinary Clinic without Boarding									S	S	P	P	P			P	P	P
Assembly																			
	Assembly Hall								S	S	P	P	P						
	Auction Establishment									S	P	P	P	P					S
	Membership Clubs									S	P	P	P				S	S	S
	Event Venue									S	P	P	P					P	P
Financial Service																			
	Financial Institution, with Drive-thru								P	P	P	P	P				S	S	P
	Financial Institution, without Drive-thru								P	P	P	P	P				P	P	P
Food and Beverage Services																			
	Food and Beverage General								S	P	S	P	P				P	P	P
	Bars or Taverns								S	S	S	P	P				S	P	P
	Restaurant, with Drive-in or Drive-thru								S	P	S	P	P					S	P
	Restaurant, without Drive-in or Drive-thru								S	P	S	P	P				S	S	S
Office																			
	Administrative and Professional Offices								P	P	P	P	P				P	P	P
	Offices for Nonprofit, Community Health, and Welfare Service Organizations								P	P	P	P	P				P	P	P
Recreation and Entertainment, Outdoor																			
	Arena and Field House											S	P					S	S
	Country Club	S	S	S	S								P						
	Marina	S										S	S	S					
	Outdoor Commercial Recreation and Entertainment	S										S	P	S				S	P
	Racing Facilities	S											S	S	S	S			

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

Table A1-1, TABLE OF PERMITTED USES																			
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	Specific Use Type																		
	Riding Academies/Stables	S												S	S	S			
	Sports/Entertainment Arena or Stadium									S	S	S	P	S				P	
	Athletic Facilities	S	S	S	S				P	P	P	P	P	S					
	Non- Residential Swimming Pools Public or Private Membership	S	S	S	S							P	P				P	P	
Recreation and Entertainment, Indoor																			
	Art Gallery or Museum								P	P	P	P	P				P	P	P
	Auditorium/Exhibition Hall/Convention Center											S	P					S	P
	Indoor Commercial Recreation/ Entertainment											P	P	P			P	P	P
Commercial Services																			
	Sexually Oriented Business													S					
	Building Services										P	P	P				S	S	P
	Business Support								P	P	P	P	P				P	P	P
	Contracting Services, no storage or yard											P	P	P	P				P
	Funeral, Mortuary, Crematory	S	S	S	S						S	P	P				S	S	S
	General Personal Services								P	P	P	P	P				P	P	P
	Gun Sales and Service								S	P	P	P	P						
	Indoor Shooting Ranges											S	S	P	P				
	Maintenance and Repair									P	S	P	P					S	S
	Tattoo Parlor/Body Art								P	P		P	P						
	Radio, Television, and Recording Services										S	P	P					P	P
		Studio, Music/Movie/TV							P	P	P	P	P						
Retail (Sales)																			
	Building Supplies and Equipment											P	P	P				S	P
	Consumer Goods								P	P	P	P	P				P	P	P
	Sundries, Pharmaceuticals, Convenience Store								P	P	P	P	P				P	P	P

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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	Specific Use Type																		
	Food, Beverage, and Groceries								P	P	P	P	P	P	P	P	P	P	P
Vehicles and Equipment																			
	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
Visitor Accommodation																			
	Bed and Breakfast Inns	S	S	S	S	S	S	S	P	P	P	P	P				S	S	S
	Residential Home Stay	S	S	S	S	S	S	S	P	P	P	P	P				S	S	
	Boarding and Rooming Houses	S	S	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														
INDUSTRIAL USES																			
Industrial Service																			

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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	Specific Use Type																		
	Animal Research Facilities													S					
	Builders Supply Yards and Lumberyards (except when indoors as part of a hardware store)												P	P					
	Construction Industry Related Businesses (such as general contractors, electrical contractors, plumbing contractors) /Accessory and Incidental uses												P	P	P				
	Educational and Scientific Research, Development, and Testing Services										P	P	P	P	P			P	P
	Heavy Industrial														P	S			
	Light Industrial													P	P	S			
	Petroleum Pipeline and Pressure Control Stations	S	S	S	S	S	S	S	S	S	S	S	S	S	S				
Manufacturing and Production																			
	Manufacturing, Fabrication, and Assembly: Custom												S	P	P				
	Manufacturing, Fabrication, and Assembly: Light												P	P	P				
	Manufacturing, Fabrication, and Assembly: Heavy												S	S	P				
Wholesale, Storage, Warehouse, and Distribution																			
	Automobile Towing Service Storage Yard; Impound Lot											S	S	P	P				
	Mini-Storage											S	P	P					
	Moving and Storage Facilities												P	P					
	Warehousing											S	P	P	P				

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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

DEVELOPMENT REGULATIONS  
APPENDIX A. USE TABLE

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# EXHIBIT C

**ORDINANCE NO. 7911**

**AN ORDINANCE AMENDING THE 2011 DEVELOPMENT REGULATIONS, ARTICLE II. ADMINISTRATION. SECTION 2.12 APPEALS JURISDICTION; ARTICLE XV. BOARD OF ZONING APPEALS; AND TABLE XVI-1 TABLE OF PERMITTED USES OF THE CITY OF LEAVENWORTH, KANSAS BY AMENDING AND PROVIDING ADDITIONAL AND SUBSTITUTE PROVISIONS.**

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

Section 1. That the following articles/sections of the 2011 Development Regulations of the City of Leavenworth, Kansas be and are hereby amended by reference and incorporated as fully as if set forth at length herein and the provisions therein shall be controlling within the area of jurisdiction of the City of Leavenworth, Kansas:

**ARTICLE II. ADMINISTRATION. SECTION 2.12 APPEALS JURISDICTION; AND  
ARTICLE XV. BOARD OF ZONING APPEALS; AND  
TABLE XVI-1 TABLE OF PERMITTED USES**

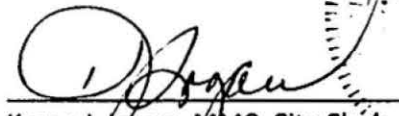
Section 2. All sections and portions thereof intended to be omitted clearly marked to show any such omission or showing sections, articles, chapters, parts or portions that are incorporated as the case may be, and to which shall be attached a copy of the incorporated ordinance filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours.

Section 3. That all ordinances found to be in conflict with the amendment to the "2011 Development Regulations" be and the same are hereby repealed.


Section 4. That this ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

Passed by the Leavenworth City Commission on this 13th day of November, 2012.

ATTEST:

  
Karen J. Logan, MMC, City Clerk



  
Mayor Larry Dedek

Summary Published in The Leavenworth Times  
Date of Publication: November 16, 2012

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>CORECIVIC, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>Case No. 2:25-cv-2457</b>
	)	
<b>CITY OF LEAVENWORTH, KANSAS,</b>	)	
<b>et al.,</b>	)	
<b>Defendants.</b>	)	

**PLAINTIFF CORECIVIC, INC.'S INDEX OF EXHIBITS**

Exhibit	Description
A	Resolution No. B-2394, dated March 25, 2025
B	Leavenworth, KS Development Regulations Excerpts
C	Ordinance No. 7911, dated November 13, 2012

Dated: August 8, 2025

Respectfully submitted,

HUSCH BLACKWELL LLP

/s/ Jacob N. Reinig

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*Attorneys for Plaintiff CoreCivic, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 8, 2025, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record and/or such other means as is appropriate under the Federal Rules of Civil Procedure and this Court's local rules.

/s/ Jacob N. Reinig

Attorney