

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

**REGULAR SESSION
Monday, November 6, 2017
7:00 p.m.**

CALL TO ORDER:

- 1. Roll Call/Establish Quorum**
- 2. Approval of Minutes: September 11, 2017**

OLD BUSINESS:

None

NEW BUSINESS:

1. 2017-22 TXT – TEXT AMENDMENTS

Conduct a public hearing for Case No. 2017-22 TXT – Text Amendments. On September 11, 2017 the Planning Commission reviewed proposed text amendments which are now presented for public hearing and vote.

OTHER BUSINESS:

ADJOURN:

CITY OF LEAVENWORTH PLANNING COMMISSION

COMMISSION CHAMBERS, CITY HALL
100 N 5th Street, Leavenworth, Kansas 66048

REGULAR SESSION
Monday, September 11, 2017
7:00 PM

CALL TO ORDER:

Commissioners Present

Jay Byrne
Mike Burke
Claude Wiedower
Linda Bohnsack
John Karrasch
Camalla Leonhard

Commissioners Absent

Sherry Hanson

City Staff Present

Julie Hurley
Michelle Baragary

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

Approval of Minutes: August 7, 2017

Chairman Byrne asked for comments or a motion on the minutes presented for approval: August 7, 2017. Mr. Wiedower moved to accept the minutes as presented, seconded by Ms. Bohnsack. The minutes were approved by a vote of 6-0.

OLD BUSINESS:

None

NEW BUSINESS:

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

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

Chairman Byrne called for the staff report.

City Planner Julie Hurley stated the subject property is owned by JMK Partners, LLC plat prepared by Napier Engineering. The applicant is requesting approval of a 49 lot preliminary plat for the West Glen residential development. The property is currently vacant and zoned to R1-6, High Density Single Family

Residential District. A preliminary plat for the subject property was approved by the Planning Commission on June 5, 2017, under the name Wolf Farms.

The subject property is 18.35 acres in size, and is currently undeveloped. The site lies along New Lawrence Road, directly east of 20th Street. The plat consists of 49 residential lots. Lots 1026 are intended to be standard single-family homes, with an average lot size of 10,285 sqft. Lots 27-49 are intended to be smaller maintenance provided single-family homes, with an average lot size of 7,914 sqft. Also included are associated utility easements and 11 tracts for various community amenities including landscaping, open space and signage.

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

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

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

Mr. Byrne asked if the zoning will remain R1-6. Ms. Hurley responded in the affirmative.

Mr. Karrasch asked if the road improvements along New Lawrence Road include sidewalks that connect to 20th Street.

The applicant, Mike Reilly, stated the design does include sidewalks.

Ms. Bohnsack asked if the purpose for the tracks are to be denoted on the plat. Ms. Hurley stated they are denoted on the plat under DEDICATION.

Mr. Byrne asked if the City Planner would review the plat process and the involvement of the Planning Commission during the process.

Ms. Hurley stated the Planning Commission must first approve the preliminary plat, which is the overall layout for the entire development. Once the preliminary plat is approved, the applicant can submit the final plat to the Planning Commission, which can be the entire subdivision or just the portion of the subdivision they are ready to develop at that time. This gives the final approval to the lots, utility easements, right-of-way, etc. If recommended for approval by the Planning Commission, the final plat goes before the City Commission. Since it is dedicating new right-of-way, the City Commission gives the final approval. The final plat is then sent to the County Register of Deeds office to be recorded. These lot then become lots of record and will be officially divided up.

With no other questions or comments, Chairman Byrne called for a motion. Ms. Leonhard moved to recommend approval to the City Commission the final plat request 2017-17 SUB – West Glen, 1st Plat – Final Plat based upon the findings of fact and staff report. The motion was seconded by Mr. Burke and passed by a vote 6-0.

Ms. Bohnsack stated the fourth paragraph down under NOTE on the plat (Exterior Plat Corner Monuments) needs to be corrected to read “Leavenworth City Regulations” not “Leavenworth County Regulations”.

2. DISCUSSION – PROPOSED TEXT AMENDMENTS

The Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating.

Chairman Byrne called for the staff report.

City Planner Julie Hurley stated this process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. A public hearing is required to adopt any changes. The intent is to publish for a public hearing for November’s Planning Commission meeting. The Planning Commission’s recommendation will be forwarded on to the City Commission for final approval. The following sections have been identified for update:

- **Section 2.02 Platting; subsection B.3&4**
Application and review processes for “Administrative Plats” and “Minor Subdivisions” are listed to be the same. Administrative Plats are intended to be small changes like lot line adjustments or lot splits that may be approved administratively by staff. Minor Subdivisions are intended to be a small subdivision requiring no new right-of-way or utility easement dedication and consisting of 5 or fewer lots, and should come to the Planning Commission for approval.
- **Section 2.04 Special use Permits**
Add language regarding process for Protest Petition. Kansas State Statute and prior legal rulings state that the same protest petition process applicable to Rezoning apply to Special Use Permit applications as well. Current language does not address Protest Petitions for Special Use Permits. Add language reflecting need for City Commission to consider application for Special Use Permit. Language should be the same as listed for Rezoning.
- **Section 4.04 Use Standards; Subsection B**
Specific language regarding Home Occupations and Home Day Cares was inadvertently omitted in the 2016 revision. There were no intended changes to the regulations regarding Home Occupations or Home Day Cares. Add language from 2011 Development Regulations.
- **Section 4.04 Use Standards; Subsection B.3.e – Yardicles**
Change “Yardicles” to “Miscellaneous Yard Décor”.
- **Section 5.02 Required Parking**
Add general parking requirement of “1 space for every 200 square feet of building space” for uses not specifically listed in parking requirement table. This language was inadvertently omitted in the 2016 update.
- **Section 5.02 Required Parking; Subsection B**

Consider allowance for reduced parking for historic structures.

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

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

- **Section 4.04 Use Standards; Subsection B.3.i – Recreational vehicles, campers, trailers, and boats**

Definition of “trailer” needs more clarity.

- **Section 4.04 Use Standards; Subsection B.4.a – Large vehicles or trailers**

Language is ambiguous. Definition of “trailer” needs more clarity.

- **Ordinances**

Staff will review ordinances passed prior to the 2016 revision of the Development Regulations to verify the ordinances are included in the current Development Regulations.

Ms. Bohnsack asked the City Planner to check into the industrial business at the corner of Lawrence and Spruce Street. There is a lot excavating going on for the parking of equipment. She feels the excavating could be undermining the adjacent residential property and feels an engineer should take a look at it.

Mr. Wiedower asked if “trailers” include travel trailers that people are allowed to park on the property during certain times of the year. Ms. Hurley stated it is intended to but the language is ambiguous so we need to define what it is addressing and what constitutes a “travel trailer” versus a commercial trailer.

Ms. Bohnsack asked if the “Miscellaneous Yard Décor” includes Christmas decorations. Ms. Hurley stated the sign regulations specifically address Christmas and holiday decorations and that they are exempt by any City regulations. The “Miscellaneous Yard Décor” is for trellises, arbors, bird baths, etc. which are not meant to be regulated.

With no further business the meeting was adjourned at 7:24 pm.

JH/mb

PLANNING COMMISSION AGENDA ITEM
Text Amendments
Development Regulations

NOVEMBER 6, 2017

SUBJECT:

Public hearing for proposed text amendments to the adopted Development Regulations

Prepared By:

Julie Hurley
City Planner

Reviewed By:

Paul Kramer
City Manager

DISCUSSION:

The Development Regulations were adopted by the City Commission in June, 2016 after a year-long comprehensive update process. Through the daily use of the Regulations by staff, several minor items have arisen that may necessitate possible updating. This process is not uncommon, and it is anticipated that an annual review of the Development Regulations will be performed in order to ensure that they remain up to date and comprehensive. On September 11, 2017 the Planning Commission reviewed proposed text amendments which are now presented for public hearing and vote.

- **Section 2.01 Text Amendments; subsection B**
Remove language requiring that text amendments be proposed on forms established by the Director of the Planning Department and filed with the City Clerk.
- **Section 2.02 Platting; subsection B.3&4**
Application and review processes for "Administrative Plats" and "Minor Subdivisions" are listed to be the same. Revise language to reflect that Administrative Plats shall involve lot line adjustments, lot splits or lot combinations of previously platted land and involve no new right-of-way or other public dedication, and may be approved administratively by staff. Minor Subdivisions shall involve no new right-of-way or utility easement dedication and consist of 5 or fewer lots, and shall require Planning Commission approval.
- **Section 2.04 Special Use Permits**
Add language regarding application process for Special Use Permits, to include Protest Petition period. Kansas State Statute and prior legal rulings state that the same protest petition process applicable to Rezonings apply to Special Use Permit applications.
- **Section 4.04 Use Standards; Subsection B.3.e – Yardicles**
Change "Yardicles" to "Miscellaneous Yard Décor".

- **Section 4.04 Use Standards; Subsection B.4**
Add language referring to definition of “commercial vehicles”. Change allowed Gross Vehicle Weight rating(GVW) from 12,000 to 10,000 per Kansas Department of Revenue definition.
- **Section 4.04 Use Standards; Subsection B.5**
Specific language regarding Home Occupations and Home Child Care Centers was inadvertently omitted in the 2016 revision. There were no intended changes to the regulations regarding Home Occupations or Home Child Care Centers, add language from 2011 Development Regulations.
- **Section 5.02 Required Parking; Subsection A**
Add required parking rate of 1 per 3 persons for “Assembly Hall”
- **Section 5.02 Required Parking; Subsection A**
Add general required parking rate of 1 space for every 200 square foot of building floor are accessible to the public for uses not specifically listed.
- **Section 5.02 Required Parking; Subsection B**
Add language to allow Development Review Committee to reduce required parking for historic properties.
- **Section 5.03 General; Subsection B.1**
Add allowance for gravel parking pad in rear yard. Previously approved by ordinance, language was inadvertently omitted.
- **Section 6.08 Fences; Subsection D – Commercial Areas**
Change “Commercial areas” to “Commercial and Industrial Areas”. Include height restriction for commercial areas.
- **Section 9.05 Administration; Subsections A & C**
Update incorrect references to sections 11.11 and 11.17
- **Section 9.16 Procedure for Demolition, Alteration or Expansion**
Remove language exempting proposed demolition of a landmark or historic district property from review by the LPC.
- **Section 9.22 Public Hearing Process**
Remove language exempting proposed alteration, expansion or demolition of a landmark or historic district property from public hearing process.
- **Article 12; Definitions**
Add definition for “Assembly Hall.
Add definition for “Commercial Vehicle”, per adopted definition of Kansas Department of Revenue.
- **Appendix A; Use Table**
Add “Assembly Hall” as permitted use in NBD, OBD, CBD, and GBD districts.

ACTION/OPTIONS:

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

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:** ~~Applications for text amendments 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. **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

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

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- f. Special setback requirements for arterial, collector and local streets.
3. *Administrative Plat.* Administrative plats shall be processed according to the following criteria and procedures.
- a. Criteria. An application may be classified as an administrative plat if the Director determines that all of the following are met. Any application not classified as an administrative plat shall be processed as a 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 lot line adjustments, lot splits or lot combinations, the application affects the boundaries of only four or less existing lots, or is finalizing the legal boundaries of previously approved lots which could only be based on a legal survey after construction of improvements.
 - (4) ~~For minor subdivisions of previously unplatted property, the application results in five or fewer new lots, including any remainder parcel.~~
 - (5) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (6) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
 - (7) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
- b. Filing Requirement. An administrative plat shall include all applicable information required for final plats.
- c. Review and Approval. Upon review by the Director, Development Review Committee, or any affected departments or agencies, and within 60 days of filing, the Director shall approve any administrative plats that meet all requirements of these regulations, or deny the application and recommend any further processing as a major subdivision.
- d. Effect of Decision. Approval of an administrative plat requires the applicant to record the plat with the Leavenworth Register of Deeds. Denial or recommendation of major subdivision shall be processed according to major subdivision review requirements.
4. *Minor Subdivision.* Minor subdivisions shall be processed according to the following criteria and procedures.
- a. Criteria. An application may be classified as minor subdivision if the Director determines that all of the following are met. Any application not classified as a minor subdivision shall be processed as a major subdivision.
- (1) No new street or alley right-of-way, or other public dedication is needed.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.02 Platting

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- (2) No significant increase in service requirements (utilities, schools, traffic control, streets, etc.), or the ability to maintain existing service levels will result.
 - (3) ~~For lot line adjustments, lot splits or lot combinations, the application affects the boundaries of only four or less existing lots, or is finalizing the legal boundaries of previously approved lots which could only be based on a legal survey after construction of improvements.~~
 - (4) The application results in five or fewer new lots, including any remainder parcel.
 - (5) All lots meet the legal standards of the subdivision regulations and applicable zoning districts.
 - (6) The lot patterns are consistent with the surrounding area. In determining consistency, the size and dimension of lots previously developed, the layout and design of existing subdivisions and rights of way, and the degree of deviation from previous development shall be considered.
 - (7) No other significant issues exist with potential development enabled by the plat that could impact planning policies, development regulations or adjacent property owners.
- b. Filing Requirement. A minor subdivision shall include all applicable information required for final plats.
 - c. Review and Approval. 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. Upon review by the Director, Development Review Committee, or any affected departments or agencies, a minor subdivision may be processed in the same manner as a major subdivision, except that the process may be combined into a single review meeting the requirements and criteria for both a preliminary and final plat.
5. *Major Subdivision*
- a. Preliminary Plat. A preliminary plat shall be processed according to the following criteria and procedures.
 - (1) Development Review Committee. At least seven days prior to the Planning Commission review, the Development Review committee shall review the preliminary plat and submit their recommendation to the Planning Commission.
 - (2) Planning Commission Review. Within 60 days after the submission of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the plat. Action by the Planning Commission shall be conveyed to the applicant in writing within ten days after the official Planning Commission meeting at which the plat was considered. In case the plat is disapproved, the applicant shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.
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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 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 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 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.

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.04 Special Use Permits

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.

Form:

27. Final Approval. The City Commission may recommend issuance of a Special Use Permit whenever it finds that:

Form:
11 pt

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

4.04. Use Standards

- A. **Permitted and Special Uses.** Permitted and special uses for each zoning district are identified in Appendix A Use Table.
- B. **Accessory Uses.**
1. **Principal Use Required.** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.
 2. **Accessory Uses.** Accessory Uses are a structure or use which:
 - a. Is subordinate to and serves a principal building and principal use;
 - b. Is subordinate in area, extent, or purpose of the principal use or building or building served;
 - c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
 - d. Is located on the same lot as the principal building or principal use served; and
 - e. The total square footage of all detached structures functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area.
 3. **Permitted Accessory Uses.** Any structure or use that complies with the terms of these Development Regulations may be allowed as an accessory use or structure (accessory structures and uses include, but are not limited to, the following list of examples); provided that in each case such structure must fit the general definition:
 - a. Private garages or carports: Not to exceed the following capacity:
 - (1) For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.
 - (2) For multi-family residence: two cars per dwelling unit. Not to exceed 600 square feet per unit.
 - (3) Garages in excess of 900 square feet on parcels less than one acre and in excess of 1,200 square feet on parcels one acre or larger, may be approved through the special use permit process.
 - b. Storage Buildings: A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building shall exceed 250 square feet in gross floor area.
 - c. Play Structures: A child's playhouse, including tree houses.
 - d. Pools & Courts: A private swimming pool, bathhouse, or tennis court.
 - e. ~~Yardicles~~**Miscellaneous Yard Decor:** Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges, and solar collectors.
 - f. Shelters: Fallout and tornado shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 - g. Signs: Signs, when permitted by Article 8 – Sign Regulations.
 - h. Parking: Off-street parking and loading spaces as required by these regulations.
 - i. Recreational Vehicles, Campers, Trailers, and Boats: Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- buses or trucks, house trailers, provided such storage area is in accordance with all other requirements of these Development Regulations.
- j. Commercial Accessories: Restaurants, drug stores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
 - k. Supplemental Employee Services: Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
 - l. Office Space: Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
 - m. Retail Sales: Retail sales in conjunction with permitted industrial uses when located on the same site as the industrial use.
 - n. Indoor Retail Storage: The storage of retail merchandise when located within the same building as the principal retail business.
 - o. Auto Sales: The retail sale of automobile parts and used automobiles on a tract of land not to exceed one acre in area when located on the same site as and in conjunction with an automobile race track.
 - p. Radio Towers: Amateur radio towers no taller than 50 feet in residential districts and no closer than 50 feet to a property line is permitted as an allowed accessory use. A tower and antennae must maintain a setback of one foot per one foot of height from all property lines and must be located in a side or rear yard of the principal structure and the owner of the tower and property maintains and shows proof of a current federal license as an amateur radio operator. The construction of the tower must follow the manufacturer's installation specifications.
 - q. Agriculture Buildings: In residential districts an agricultural accessory building not to exceed 1,500 square feet may be permitted on parcels two acres or larger.
4. *Prohibited Accessory Uses.* None of the following shall be permitted as an accessory use:
- a. Large Vehicles or Trailers. Outdoor storage or overnight parking in a residential district of commercial trucks or trailers **as defined herein**, or other on, or off, road items exceeding **1210,000** GVW (Gross Vehicle Weight).
 - b. Dismantled Objects. Outdoor storage, of dismantled, inoperative and/or unlicensed motor vehicles; parking and/or storage of construction machinery and equipment, tracked or wheeled; farm machinery and/or equipment except as specifically permitted in district regulations in conjunction with a permitted use.
5. *Accessory Uses Permitted by Special Use Permit.* the following accessory uses shall only be permitted upon approval of a special use application by the City Commission:
- a. Commercial Communication Towers and Antennae. Including television and radio towers, transmitting and receiving towers, dishes, and appurtenances, subject to the provision included in Article 10, Supplemental Standards.
 - b. Renewable Energy Facilities, including wind or solar energy facilities, subject to the provisions included in Article 10, Supplemental Standards.
 - c. A home occupation may be established provided:
 - (1) That no separate outside entrance is provided for the home occupation;
 - (2) That no one, other than members of the immediate family residing on the premises, be employed;
 - (3) That no use will occupy more than 25% of the gross floor area on one floor nor more than 400 square feet of gross floor area;
 - (4) That a carport, garage, or any accessory structure may not be used for home occupations;
 - (5) That there shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use;

DEVELOPMENT REGULATIONS
ARTICLE 4. ZONING DISTRICTS & STANDARDS

4.04 Use Standards

- (6) Home occupations are allowed to display a single non-illuminated sign affixed to the main structure no larger than ½ square foot on a vertical wall below the roof soffit.
- (7) That no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced;
- (8) That the home occupation shall be conducted entirely within the principal residential building;
- (9) That no machinery or equipment shall be installed which interferes with radio or television reception, and which is not customarily incidental to the practice of such occupation or profession, but in no case shall any machine exceed one rated horsepower;
- (10) That only one type of profession or occupation shall be permitted within the occupied dwelling or building;
- (11) That two off-street parking spaces are provided; and
- (12) That there is no keeping of stock in trade for on-site retail or wholesale trade or sales.

Permitted home occupations shall not in any event be deemed to include:

- (1) Automobile and vehicular repair on any other than the property owner's personally owned and currently registered vehicle(s)
- (2) Antique sales.
- (3) Equipment rental business.
- (4) Stables, kennels, veterinarian services, pet shops, and animal hospitals.
- (5) Eating or drinking places.
- (6) Mortuaries and embalming establishments.
- (7) Private clubs, including fraternity and sorority houses.
- (8) Retail sales (over the counter).
- (9) Repair of home appliance and electronic equipment.

d. Child Care Centers for 7 or more children:

- (1) Shall not be located along an arterial street as designated on the Major Street Plan Map unless indirect vehicular access to that street, such as with a frontage road is available. The City Planner, with the advice of the DRC, shall determine if the drop off and pick up arrangements of a childcare center or business appear safe. Appeal of any negative decision shall be to the City Commission.
- (2) Shall provide at least 100 square feet of open space per child. This open space shall be 100% enclosed by a minimum 4' high fence or wall.
- (3) Shall provide a loading zone capable of accommodating at least 2 automobiles for the easy picking up and discharging of passengers.
- (4) Shall conform to all requirements of the State of Kansas and shall acquire a State of Kansas Child Care Center License.
- (5) All childcare centers operated in residential zoning districts shall be the only legal residence of the operator.
- (6) Childcare centers in residential districts may have one non-illuminated monument sign with no more than 3 square feet per side and a maximum of 2 sides, or 1 non-illuminated sign affixed to the structure of 3 square feet.

C. **Temporary Uses Permitted.**

1. **Sidewalk Sales.** The retail sale of merchandise not within an enclosed structure shall be permitted for a period not to exceed three days and need not comply with the yard and setback requirements. Yard sales are permitted in the residential district after obtaining necessary permits from City Clerk. Sidewalk sales are permitted in the commercial and industrial districts after obtaining necessary permits from the City Clerk. No merchandise

ARTICLE 5. ACCESS & PARKING

5.01 Applicability

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

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

5.02. Required Parking

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

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

**DEVELOPMENT REGULATIONS
ARTICLE 5. ACCESS & PARKING**

5.02 Required Parking

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

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

* For uses not specifically listed above, parking spaces will be provided on the basis of 1 space for every 200 square foot of building floor area to which the public has access.

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

1. **Mixed-use Districts.** All sites in any mixed use district may reduce the parking requirement by 15 percent to reflect reduced automobile use associated with mixed use developments. The total number of required parking may be further reduced by the Director if the applicant prepares a parking evaluation that demonstrates expended parking needs will be less due to the context, design or operation of the project.

DEVELOPMENT REGULATIONS
ARTICLE 5. ACCESS & PARKING

5.02 Required Parking

2. *Historic Properties.* The Development Review Committee may approve requests for a reduction in the required parking for registered historic properties or properties within a historic district in order to preserve the historic integrity of the subject property. The request must be justified with information on the size and type of development, composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic.

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23. *Multi-family Development.* Multifamily development may seek to reduce required off-street parking from between 1.5 to 3.0 spaces per unit to 1.0 space per unit by application to the Director for a minor modification.

34. *On-Street Parking.* Any site on a block containing on-street parking may reduce the required parking by up to 50% for each space within 500 feet. The total number of required parking may be further reduced by the Director if the applicant prepares a parking evaluation that demonstrates expanded parking needs will be less due to the context, design or operation of the project.

45. *Shared Parking.* The Director may approve applications for shared parking subject to the following requirements:

- a. All spaces shall be within 500 feet of any public entrance for all uses served by the space, measured along practical walking routes which may include legal crosswalks less than 80 feet.
- b. All uses sharing a space must be connected to the parking by safe pedestrian access including sidewalks, crosswalks or pedestrian bridge.
- c. The shared parking area shall be located on a site with the same or more intensive zoned district than required for the primary uses served.
- d. A shared parking request must be justified with information on the size and type of development, composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads of all uses sharing the spaces.
- e. The maximum reduction of parking spaces for all uses shall be 50 percent, except sharing with religious institutions or schools can allow a reduction of up to 80 per cent.
- f. A shared parking plan shall be enforced through a written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded at the Register of Deeds, prior to issuance of any building permits.
- g. A shared parking agreement may be revoked by the affected property owners only if all required off-street parking spaces for both parties are provisioned before the agreement is revoked.

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

DEVELOPMENT REGULATIONS
ARTICLE 5. ACCESS & PARKING

5.02 Required Parking

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

5.03. General

- A. **Use.** Required parking used only for parking operable motor vehicles using the site or use. Any other use of parking areas for outside storage, display or commercial activity shall be permitted by different provisions of these regulations
- B. **Surfaces and Markings.** All off-street parking areas and driveways shall be surfaced and provided with a minimum of:
 1. *Residential Parking:* (All dwelling units) Four inches of Portland Cement concrete, reinforced, or four inches of stone and two inches of asphaltic concrete.
 - a. A gravel parking pad in the rear yard may be installed with a border to contain the gravel. Such gravel parking pad must be accessed directly off the alley.
 2. *Commercial and Industrial Loading and Parking:* Six inches of Portland Cement concrete, reinforced, or six inches of stone and two inches of asphaltic concrete.
 3. *Parking Lot Marking:* Parking spaces in lots of more than six spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
 4. *Bumper Guards:* Wheel or bumper guards when used shall be located so that no part of any vehicle shall extend beyond the boundary lines of the parking area, intrude on pedestrian ways, or come in contact with walls, fences, or plantings.
- C. **Drainage:**
 1. Off-street parking facilities shall be drained to eliminate ponding water and prevent damage to abutting property and/or public streets and alleys.

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DEVELOPMENT REGULATIONS
ARTICLE 6. LANDSCAPE & SITE DESIGN

6.08 Fences

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

2. *Residential Front Yard.*
 - (a) Open fences and hedges may be installed in all front yards on the property lines but may not exceed 48 inches above the natural contour of the ground.
 - (b) No solid fences shall be constructed or reconstructed closer to the street line than the front wall of the residential structure. The front wall of the residential structure shall be determined by excluding porches, roof overhangs, dormers, or other extensions.
 - (c) Where a residential property abuts a commercial or industrial property or use and where screening has not been installed or is not required, the residential property owner may install a solid or open screening fence on the property line not to exceed 72 inches in height above the natural contour of the ground along the property line that abuts the commercial or industrial property or use.

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

D. ***Commercial and industrial areas—Types permitted.***

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

DEVELOPMENT REGULATIONS
ARTICLE 6. LANDSCAPE & SITE DESIGN

6.08 Fences

- (b) Decorative fences shall be made of aluminum, steel, wrought iron, masonry, wood, or combinations thereof.
- (c) Decorative fences shall be limited to black, white, and metallic colors.
- 2. Fences in commercial zoned areas of the city shall be either of open or solid type construction.
- 3. *Height restrictions.*
 - (a) Fences for commercial uses may be up to eight feet above the natural contour of the ground. Fences may be installed on the property line, except that no fence adjacent to the right-of-way may exceed 6 feet in height and no fence may be installed in the vision clearance triangle.
 - (b) Fences for industrial uses shall be no less than six feet or more than eight feet above the natural contour of the ground and may be installed on the property line except in the vision clearance triangle.
- 4. *Use of barbed wire.*
 - (a) Fencing of the chain-link type for commercial and industrial properties or uses may be topped with barbed wire on slanted arms. When these slanted arms are used, they shall be slanted outward and upward at an angle of not less than 45 degrees. No barbed wire will be permitted on nonconforming business properties in residential zoning districts.
 - (b) When the commercial or industrial property or use abuts a residential property or use, a chain-link fence with the barbed wire topping may be installed along the abutting residential property line provided the lowest point of the barbed wire is at least six feet above the ground.
 - (c) Chain-link fencing with barbed wire topping shall not be installed any closer than five feet to any street, sidewalk, or pedestrian way.
- E. **Agricultural Fence.** The term "agricultural fence" shall apply only to areas conforming to the requirements of the R1-25 District and those activities permitted as a farm use, or as a condition to a special use permit for those uses listed as a special use connected with farming or activities in the R1-25 single-family residential district, Development Regulations of the City of Leavenworth, Kansas.
 - 1. *Permitted types.* Agricultural fences shall be of the open type construction only.
 - 2. *Height restriction.* Agricultural fences shall not exceed four feet in height above the natural contour of the ground.
 - 3. *Use of barbed wire by special permit; prohibited when abutting residential property.* The use of barbed wire in the construction, reconstruction or maintenance of agricultural fences shall be by a special permit issued by the city inspector. The permit shall not be given or renewed if the fence forms a boundary with a residential development.
 - 4. *Hedges and evergreens along public ways—Height restricted.* The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall not permit any such hedge or evergreen fence to grow to exceed four feet in height.
- F. **General restrictions – all fences.**
 - 1. *Sight Distance.* No fence shall be constructed nor shall a hedge or evergreen fence be planted or allowed to grow in such a manner as to obstruct the vision triangle at intersections.
 - 2. *Exposure of solid fences.* When tight-board fences are constructed, the smooth finished surface shall face the exterior of the property.
- G. **Notice to trim.** The owner of any hedge or evergreen fence along the side of any street, avenue, or alley shall on 30 days' notice in writing given by the city inspector be required to trim such

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DEVELOPMENT REGULATIONS
ARTICLE 9. HISTORIC PRESERVATION

9.04 Leavenworth Preservation Commission

13. *Compensation and Expenses:* Commission members shall serve without compensation except for necessary expenses sustained in mandatory attendance at state historic preservation meetings and/or training as described above. The City Commission shall establish budget authority to provide for historic preservation administration and promotion activities.

9.05. Administration

- A. **Department:** The Planning and Zoning Department shall be responsible for the administration of this Code and performing the staff function for the commission. The department is authorized to enforce the provisions of, and to develop such application forms and procedures consistent with, this Code. The department shall process all applications for Landmark designations in accordance with Section ~~11.149.10~~ as described herein.
- B. **Department Director:** The Planning and Zoning Department Director shall review all building permit applications to determine if a Landmarks property may be affected by a proposed development. If so, the Director shall follow the procedure to either issue a certificate of appropriateness or begin a review process in accordance with the provisions further described herein. The Director shall forward the commission's recommendations to the City Commission, record and file all landmark designations, and maintain the Map of Landmarks and keep all agendas, minutes, reports, findings, determinations, and correspondence for the commission.
- C. **Landmark Impact Determination:** No historic property may be occupied or used in a different manner unless/until the Director has made a Landmark Impact Determination, which shall be attached to a certificate of appropriateness (see Sections ~~11.149.10~~ through ~~11.179.16~~). Such determination shall include: Name and address of owner, address of historic property, nature of repair/alteration/demolition, historic or architectural significance, physical condition of the property, county appraised value of the property, detrimental effect of the permit, if any, and the Director's recommendation to approve or deny a certificate of appropriateness.

9.06. Enforcement

- A. **Building Permit Required:** It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, convert, demolish or change the use of any property listed on the National Register of Historic Places, or located within a registered Historic District, without first obtaining a building or other permit as lawfully required for such purpose by the City of Leavenworth, Kansas.
- B. **Maintenance:** Normal property maintenance which does not require a permit from the City shall be exempt from the provisions of this Code, unless and/or until a permit for work to be done is required by other City development regulations.
- C. **Sufficient Documentation Required:** No building permit shall be issued until the property owner has submitted accurate building elevations, site plan and construction drawings and material lists in sufficient detail to enable the City to conclude that the project meets the

9.16. Procedure for Demolition, Alteration or Expansion

Upon receipt of an application for any demolition, alteration or expansion of a landmark, a property within an historic district, the commission and department shall initiate a process to determine if such permitted action is appropriate. All applications, ~~except for proposed demolition of a landmark or historic district property,~~ shall be reviewed, issued, or denied in accordance with the process outlined herein.

- A. **Determination of Appropriateness:** Department staff shall prepare a certificate of appropriateness before any alteration or demolition permit may be issued for any landmark or historic district property. Certificates shall be classified as either a minor certificate of appropriateness or a major certificate of appropriateness. All certificates shall include the Director's landmark impact determination.
- B. **Minor Certificates of Appropriateness:** Minor certificates shall be issued for any demolition or alteration work involving the following types of permits which can be demonstrated by the owner to have no adverse effect on a landmark or historic district: demolition of non-contributing structures, most interior improvements except those noted as pertinent to a landmark designation, changes to signs, fences, public walkways, public streets, public alleys, public retaining walls and public utilities that do not contribute to the historic character of a landmark or historic district property.
- C. **Monthly Reports:** Such certificates shall be authorized by the Director and reported monthly to the commission. Such certificates may use a standardized checklist of pre-stated reasons and will be issued within twenty-four (24) hours of receipt except on Fridays, Saturdays, Sundays and holidays observed by the City.
- D. **Major Certificate of Appropriateness:** Major certificates shall be subject to review and approval by the commission and may be authorized for the following types of permits: interior space rehabilitation when such space was an important component in approval of the landmark nomination; any exterior alteration or expansion of a landmark or historic district property; any proposed new construction on a landmark property or within a historic district; and demolition of part or all of a landmark or building or structure in a historic district.
- E. **Criteria to Determine Appropriateness:** The commission shall adopt principles and guidelines establishing criteria for new construction, alterations, additions, moving, and demolition of landmarks or properties in an historic district, including but not limited to, the following:
 - 1. Non-binding conceptual reviews are encouraged and the Leavenworth Preservation Commission shall wherever possible provide written and graphical examples of similar suitable projects.
 - 2. Specific design criteria for exterior alterations of landmarks or historic district properties shall be based on the US Secretary of the Interior's Standards for Rehabilitation as published in Section 36, Code of Federal Regulations, Part 67 as revised from time to time, and by further reference to such specific design criteria as the commission may require;

behalf of these agencies, providing assistance with tax credit and other financial incentives directed toward historic property preservation, and providing basic research materials to interested parties will be conducted by the department as directed by the commission and as authorized by the City Commission through the various agreements. The commission is expected to provide accurate information to news media when appropriate to further the objectives of historic property preservation.

9.22. Public Hearing Process

Except where otherwise specifically excepted, the following process shall be used whenever historic landmarks or districts are proposed ~~or whenever permit applications are received to alter, expand, or demolish part or all of a landmark or historic district property.~~

- A. Landmark nomination as additionally described above shall be processed as follows:
1. The commission or department generates or receives a nomination and determines the appropriateness of the nomination based on age and character of the property being nominated.
 2. The department advertises the date, time, place and purpose of a public hearing at least 20 days prior to the date set and sends notice to all property owners within 200 feet of such proposed nomination [allow 30-45 days for this process].
 3. The commission conducts the hearing and after a 14-day protest period elapses, recommends approval or denial of the nomination to the City Commission [allow 20-30 days for this process].
 4. The City Commission accepts or reverses the recommendation and approves or denies the nomination.
 5. If approved, proper notifications are made and the property or district is declared a landmark or historic district [allow 10-14 days for designation notification].
 6. If denied, reasons therefore are presented to the owner, in writing, with remedies which the owner may address and resubmit in a future nomination of the same property [requires one-year delay before a future nomination may be submitted].

9.23. Alteration, Expansion or Demolition - Major

Alteration, expansion, or demolition applications requiring a Major Certificate of Appropriateness shall be processed as follows:

- A. The department receives application for a permit which triggers the determination warranting a major certificate of appropriateness and notifies the applicant within 24 hours that a formal review is required before a certificate of appropriateness can be issued [allow one-two days for this process].
- B. Applicant submits request for review in writing within seven days [allow one-seven days for this process].

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

DEVELOPMENT REGULATIONS
ARTICLE 12. DEFINITIONS

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:

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

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

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

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

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.

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