

AUGUST 1, 2006
Updated November 18, 2024

ZONING AND
SUBDIVISION REGULATIONS
FOR
LEAVENWORTH COUNTY, KANSAS

LEAVENWORTH COUNTY PLANNING DEPARTMENT
COURTHOUSE, 4TH STREET AND WALNUT
LEAVENWORTH, KANSAS 66048
(913) – 684 – 0465

Revisions

- 1) BOCC Resolution 2016-15; June 2, 2016
 - a. Article 22- Special Use Permits and Temporary Use Permits
Section 4
 - b. Article 31- Amendments
Section 4
- 2) BOCC Resolution 2016-9; April 28, 2016
 - a. Article 3- Definitions
- 3) BOCC Resolution 2015-35; September 24, 2015
 - a. Article 3- Definitions
 - b. Article 19- Table of Uses
 - c. Article 22- Special Use Permits and Temporary Use Permits
- 4) BOCC Resolution 2015-15; June 25, 2015
 - a. Article 3- Definitions
 - b. Article 19- Table of Uses
- 5) BOCC Resolution 2015-2; January 29, 2015
 - a. Article 3- Definitions, Section 2 Definitions, Subdivision
 - b. Article 19- Table of Uses
- 6) BOCC Resolution 2014-11; April 24, 2014
 - a. Article 3- Definitions, Section 2 Definitions, Subdivision
 - b. Article 29- Building Permits, Plans, Specifications and Vesting of Development
Rights
- 7) BOCC Resolution 2013-13; May 16, 2013
 - a. Article 19- Table of Uses
- 8) BOCC Resolution 2011-45; December 1, 2011
 - a. Article 3- Definitions
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 - b. Article 19- Table of Uses
 - c. Article 22- Special Use Permits and Temporary Use Permits
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- 9) BOCC Resolution 2011-36; August 25, 2011
 - a. Article 3- Definitions
Section 2- Definitions
 - b. Article 4- Growth Management Communities, Zoning Districts Boundaries
Section 6.7 General Provisions
 - c. Article 5- "R" Rural District Regulations
Section 4.4 Intensity of Use
 - d. Article 25- Sign Regulations
Section 11 Definitions
 - e. Article 28- Board of Zoning Appeals
 - f. Article 85- Lot and Tract Splits
Section 20 Applications Procedure
Section 30 Requirements for Lot and Tract Splits
To add the following Sections
Section 31 Requirements for Tract Splits
Section 32 Platting in Lieu of a Lot or Tract Split
- 10) BOCC Resolution 2011-7; February 24, 2011
 - a. Article 3- Definitions
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 - b. Article 4- Growth Management Communities, Zoning District Boundaries
Section 3 Establishment of District
 - c. Article 5- "R" Rural District Regulations

- Section 2.1 use Regulations
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- Section 1 Construction Permits, Plans, Specifications
- 11) BOCC Resolution 2010-21; July 29, 2010
 - a. Article 22 – Special Use Permits and Temporary Use Permits
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- 12) BOCC Resolution 2015-35; September 24, 2015
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- 13) BOCC Resolution 2016-30; October 27, 2016
 - a. Article 19 – Table of Uses – Towers, radio antennas, commercial satellite earth stations and similar appurtenances.
- 14) BOCC Resolution 2017-13; March 23, 2017
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- 15) BOCC Resolution 2017-57; September 28, 2017
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- 16) BOCC Resolution 2017-58; September 28, 2017
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 - a. Article 42.10 – Family Homestead Exemption
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- 20) BOCC Resolution 2018-13; May 29, 2018
 - a. Article 41 – Access Management
- 21) BOCC Resolution 2018-24; December 4, 2018
 - a. Article 50.6 – Lagoons
- 22) BOCC Resolution 2019-06; March 6, 2019
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 - a. Article 3 – Definition, “Group Home”
- 25) BOCC Resolution 2020-09; March 4, 2020

- a. Article 3 – Definition, “Home Occupation”
- 26) BOCC Resolution 2020-12; April 1, 2020
 - a. Article 3 – Definition, “TUGA” & “SUGA”
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- 29) BOCC Resolution 2021-11; March 31, 2021
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 - c. Article 27 (A) – Site Development Standards
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- 30) BOCC Resolution 2021-18; June 16, 2021
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- 31) BOCC Resolution 2021-39; September 1, 2021
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- 32) BOCC Resolution 2021-41; September 1, 2021
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 - c. Article 57 – Renewable Energy Conversion Systems (*Introduction*)
- 33) BOCC Resolution 2021-46; September 29, 2021
 - a. Article 32 – Recreational Vehicles (*Introduction*)
- 34) BOCC Resolution 2022-08; March 30, 2022
 - a. Article 22 – Special Use Permits and Temporary Use Permits
- 35) BOCC Resolution 2022-26; November 2, 2022
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- 36) BOCC Resolution 2022-16; August 3, 2022
 - a. Article 3 – Definitions
 - b. Article 19 – Table of Uses
 - c. Article 57 – Renewable Energy Conversion Systems
- 37) BOCC Resolution 2023-08; May 3, 2023
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 - e. Article 56 – Exceptions

- f. Article 60 – Miscellaneous Provisions
 - g. Article 70 – Supplementary Documents to Accompany the Final Plat
 - h. Article 80 – Submission of Recorded Plats
 - i. Article 85 – Lot and Tract Splits
- 39) BOCC Resolution 2024-15; September 18, 2024
- a. Article 3 – Definitions
 - b. Article 22 – Special Use Permits and Temporary Use Permits
 - c. Article 33 – Accessory Dwelling Units (*Introduction*)
 - d. Article 35 – Preliminary Plat Procedure and Content
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 - f. Article 43 – Cross Access Easements
 - g. Miscellaneous Provisions

A RESOLUTION WITHIN THE PROVISIONS OF KSA 12-741 ET.SEQ. AS AMENDED, TO REGULATE AND RESTRICT IN THE UNINCORPORATED AREA OF LEAVENWORTH COUNTY, KANSAS, THE USE OF LAND AND THE LOCATION OF NON-AGRICULTURAL IMPROVEMENTS THEREON; THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES; THE DENSITY OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER PURPOSES, INCLUDING AREAS FOR AGRICULTURE AND RECREATION; AND, TO DIVIDE INTO DISTRICTS THE UNINCORPORATED AREA OF LEAVENWORTH COUNTY TO CARRY OUT THE AFORESAID PURPOSES, SAID DISTRICTS BEING A PART OF THE PLAN AND INCORPORATED INTO SAID PLAN BY REFERENCE TO MAPS, AND TO REGULATE AND RESTRICT WITHIN SUCH DISTRICT, THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR OR USE OF PRINCIPAL BUILDINGS OR LAND; AND TO PROVIDE FOR A BOARD OF ZONING APPEALS AND DEFINING ITS POWERS AND DUTIES TO PROVIDE FOR AMENDMENTS TO THIS RESOLUTION, METHOD OF INTERPRETATION, AND CONSTRUCTION, ENFORCEMENT AND PERMITS, AND STATING PENALTIES; TO REPEAL ALL PORTIONS OF ANY RESOLUTIONS OR LAWS OF LEAVENWORTH COUNTY IN CONFLICT HEREWITH.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS as follows:

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ARTICLE 1 – PURPOSE

Section 1. ZONING REGULATIONS

The zoning regulations and districts as herein established have been made in accordance with a land use plan, to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Leavenworth County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for the convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities by regulating the location and use of buildings, structures and land for trade, industry and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the areas of yards and other open spaces, and the density of use. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Leavenworth County, Kansas.

Section 2. SUBDIVISION REGULATIONS

The purpose of these regulations is to recognize the subdivision of land as the initial step in urbanization and is intended to provide for the harmonious development of Leavenworth County by setting forth rules and regulations for the division of real property into subdivisions containing coordinated street patterns with other existing or planned streets; for adequate open spaces for traffic, recreation, light, and air; for a distribution of population and traffic; and for the installation of physical improvements which will tend to create conditions favorable to the health, safety, comfort, convenience, and general welfare of Leavenworth County.

ARTICLE 2 – TITLE AND APPLICABILITY

Section 1. TITLE

These regulations shall be known as the “August 1, 2006 Zoning and Subdivision Regulations of Leavenworth County, Kansas (Regulations) and have been adopted by the Board of County Commissioners of Leavenworth County, Kansas.

Section 2. APPLICABILITY

This resolution shall apply to the unincorporated territory of Leavenworth County, Kansas.

Section 3. AUTHORITY

The following regulations for the zoning, subdividing and development of land within the limits of jurisdiction of the Leavenworth County Planning Commission, are adopted under the authority granted by Kansas Statutes Annotated 12-741 et. seq. and all amendments thereto.

Section 4. JURISDICTION

It shall be unlawful for the owner, agent or other persons having control of any land within the unincorporated limits of Leavenworth County, to subdivide any land as defined in Section 2 of Article 3 of these regulations or in any manner lay out such land into lots, blocks, streets, avenues, alleys, public ways or grounds unless by the plat in accordance with the laws of the State of Kansas and the provisions of these regulations. Any owner of land within the area of jurisdiction of the Planning Commission wishing to subdivide land shall submit to the Planning Commission a plat of the subdivision according to the procedures outlined in Articles 35 and 40 and such plat shall conform to the Minimum Subdivision Design Standards and General Requirements set forth in Article 50. Plats of proposed subdivisions in such areas shall be submitted to and approved by the Planning Commission and the Board of County Commissioners prior to filing in the Leavenworth County Register of Deeds Office. In no case shall any plat be accepted by the Register of deeds until all signatures showing approval are on said plat as outlined in Article 40, Section 20.15(a) through 20.15(g).

ARTICLE 3 – DEFINITIONS

Section 1. GENERAL RULES OF CONSTRUCTION

For the purpose of this Resolution, the following words and terms used herein are defined to mean the following:

1. Words used in the present tense include the future;
2. Words in the singular number include the plural;
3. Words used in the plural number include the singular;
4. The word “building” includes the word “structure”;
5. The word “shall” and the word “must” are mandatory and not discretionary; and
6. The term “used for” includes the meaning “designed for” or “intended for”.

Section 2. DEFINITIONS

Accessory Building: A subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this resolution) located on the same lot as the main building or principal use of land.

Accessory Dwelling Unit: A dwelling unit that is accessory and secondary to the principal dwelling unit and under the same ownership in all respects. (BOCC Resolution 2024-15; dated September 18, 2024)

Accessory Use: A use which is clearly incidental to or customarily found in connection with; and (except as otherwise provided in this resolution) on the same lot as the principal use of the premises. When “accessory” is used in the text it shall have the same meaning as accessory use.

Administrative Officer or Official: The Director of Planning and Zoning for Leavenworth County shall be the Administrative Officer and shall enforce the provisions of this resolution.

Adult Care Facility or Group Home: A residence, group home or facility that provides permanent or temporary rehabilitative or long-term care for one (1) or more physically, mentally or socially disabled or handicapped individual(s) over the age of 18 years that are unrelated to the care provider. An adult care facility may be, but is not limited to, a nursing home, a group home for the mentally or physically handicapped, a halfway house, a mental rehabilitative facility, a detention facility, etc.

Agricultural Purposes: The use of a tract of land, forty (40) acres or greater, where the principal activity is to produce income from the growing of crops, horticulture, nurseries, truck farms, or the raising of fish, poultry and cattle or other livestock, including commercial feed lots. Such definition includes the structures necessary for carrying on farming operations. The retail sale of items produced as part of the farming operation is permitted including the operation of commercial greenhouses and hydroponic farming. The feeding or disposal of community or collected garbage shall not be deemed an agricultural use. (BOCC Resolution 2011-7; February 24, 2011)

Alley: A minor way, normally twenty (20) feet or less in width, dedicated to public use, which affords a secondary means of access to abutting property.

Apartment: A room or suite of rooms in a multiple-dwelling structure intended or designed for use as a residence by a single family.

Apartment Hotel: A building arranged for or containing apartments and individual guest rooms with or without housekeeping facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk and laundry service, and may include a dining room with internal entrance and primarily for use of tenants of the building. The building shall not include public banquet halls, ballrooms or meeting rooms.

Apartment House: See Dwelling, Multiple.

Approved Public Sanitary Sewer System: A sewage disposal plant, main sanitary sewer lines and other collection lines approved by Leavenworth County and by the Kansas Department of Health and Environment.

Approved Public Water System: Water treatment plant distribution lines approved by the Board of County Commissioners and by the Kansas Department of Health and Environment.

Arterial Street: A street or road of great continuity, which serves as a major thoroughfare and is so designated in the Comprehensive Guide Plan for Leavenworth County, Kansas.
(Also termed major street or thoroughfare)

Basement: A story having part, but not more than one-half (1/2), of its height below grade. A basement is counted as a story for height regulation if subdivided and used for business or dwelling purposes other than by a janitor employed on the premises.

Benchmark: See Minimum Elevation for Buildings

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

Board: Board of Zoning Appeals of Leavenworth County.

Boarding House or Lodging House: A building other than a hotel where, for compensation, meals or lodging and meals are provided for three (3) but not more than twenty (20) persons.

Buildable Width: The width of that part of a lot not included within the open spaces herein required.

Buildings: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

Building Setback Line: A line on a plat, generally parallel to the street right-of-way, indicating the limit beyond which no buildings or structures may be erected.

Campground: A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.
(BOCC Resolution 2009-1; January 29, 2009)

Camping Unit: Any tent, trailer, cabin, lean-to, recreational vehicles, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.
(BOCC Resolution 2009-1; January 29, 2009)

Car Restoration: The act of restoring a car/vehicle back to a prior condition, by the means of molding, welding, hammering, replacing parts, sanding, sandblasting, fabricating and painting.
(BOCC Resolution 2009-9; March 26, 2009)

Centerline of the Road: The centerline of the original street right-of-way midway between the sides. If the street has been narrowed or widened on one side or unequally, said determination shall be made by the County Engineer.

Child Care Facilities:

- a. Registered Family Day Care: Day care services offered in a person's own home for six (6) or fewer children as defined by the Kansas Department of Health and Environment.
- b. Licensed Day Care Home: A home where care is provided for seven (7) to ten (10) children as defined by the Kansas Department of Health and Environment.
- c. Child Care Center and/or Preschool: A facility providing care and/or educational activities for seven (7) or more children for less than 24 hours per day as defined by the Kansas Department of Health and Environment.
- d. Group Boarding Home: A facility caring for not less than five (5) nor more than ten (10) children unrelated to the staff as per the Kansas Department of Health and Environment.
- e. Residential Centers for Children and Youth: Provides 24-hour care for more than ten (10) residents as per the Kansas Department of Health and Environment.

Clinic: An office building or group of offices for one or more physicians, surgeons, or dentists engaged in treating the sick or injured but not where patients are lodged overnight.

Club or Lodge - Private: Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

Collector Street: A street that is designed to serve traffic needs between arterial and local streets and not to provide access to abutting properties.

Commercial Vehicle: Any motor vehicle, other than a passenger vehicle, and any trailer, semitrailer or pole trailer drawn by such motor vehicle, which vehicle is designed, used and maintained for hire, compensation, profit, or in the furtherance of commercial enterprise. Commercial vehicle shall not include any motor vehicle or motorized equipment used for agricultural purposes. Commercial vehicle shall not include any motor vehicle used exclusively for the purpose of transporting students to school or any school sanctioned event.
(BOCC Resolution 2015-2; January 29, 2015)

Commercial Wind Energy Conversion System: An electrical generating facility comprised of one or more wind turbines and accessory facilities that operate by converting the kinetic energy of wind into electrical energy, for the primary purpose of wholesale sales of generated electricity via connection to a larger electrical network exclusive of individual use.
(BOCC Resolution 2022-16; August 3, 2022)

Comprehensive Plan: The duly adopted comprehensive plan or guide plan for the development of the County which includes maps, charts, illustrations and texts for, but not necessarily limited to the following:

1. Land use studies;
2. Goals and objectives;
3. Population study and forecasts;
4. Economic data base;
5. Major thoroughfare and streets plan;
6. Community facilities and public utilities plan; and
7. General development plan.

Contractor's Yard: Any unenclosed part of a parcel of land where any of the following is stored, parked, or placed: construction equipment, machinery, vehicles, trailers, maintenance equipment, building products and materials, and other materials including but not limited to materials and equipment typically associated with construction, fabrication and maintenance. A contractor's yard may be fenced, screened or open to view from adjacent properties. Equipment used for agricultural purposes **only** shall not be considered a contractor's yard. (BOCC Resolution 2011-45; December 1, 2011)

Convalescent Home: A building where regular nursing care is provided for more than one person not a member of the family that resides on the premises.

County Board: This is the Board of County Commissioners of Leavenworth County, Kansas. (See also Governing Body)

Court: An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Cul-de-sac: A minor street with only one outlet and culminated by a vehicle turnaround.

Design Standards or Requirements: The requirements and regulations that relate to the design and layout of subdivisions.

Detention Facility: A facility for the temporary or permanent housing and detention of any individual subject to the custody of any local, state or federal authority due to any pending or past criminal charges or convictions.

Drive-In: A term used to describe an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

Dwelling: A building or portion thereof, with dwelling unit(s) designed exclusively for human habitation, including one-family, two-family and multiple-family dwelling structures or complexes, manufactured home, boarding and lodging houses, apartment houses and townhouses but not hotels.

Dwelling, One-Family or Single-Family: A building designed for or occupied by one (1) family.

Dwelling, Multiple-Family: A building or portion thereof designed for or occupied by more than two (2) families.

Dwelling, Two-Family or Duplex: A building designed for or occupied by two (2) families.

Dwelling Unit: A room or group of rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the unit for the exclusive use of one family maintaining a household.

Easement: A grant by the property owner to the public, a corporation or a certain person or persons, for the use of a strip of land for specific purposes.

Engineer: A professional engineer licensed by the State of Kansas or licensed to practice in the State of Kansas.

Family: A group of one or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel as herein defined.

Farm: An area encompassing a minimum of forty (40) contiguous acres which is used for the growing of the usual farm products such as vegetables, fruits, trees, and grain, and their storage on the area, as well for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operation of such an area for one or more of the above uses, including dairy farms, with the necessary operation of any such accessory uses shall be secondary to that of the normal farming activities. (BOCC Resolution 2011-7; February 24, 2011)

Filling Station: Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuel, oils, or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting.

Final Plat: A map of a subdivision of land prepared in accordance with all state plat statutes and local subdivision regulations. A final plat will show all data required for a complete description for the lands it delineates and, once approved and filed, constitutes the legal description for the land.

Flood Plain or Flood Plain District: That area designated by the governing body as susceptible to flooding including but not limited to the regulatory flood plain designated by the Federal Emergency Management Agency (FEMA).

Floor Area:

- a. Commercial, business and industrial buildings or buildings containing mixed uses. The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls or from the centerline of walls separating two buildings, but not including:
 - 1) attic space providing headroom of less than seven feet;
 - 2) basement space not used for retailing;
 - 3) uncovered steps or fire escapes;
 - 4) accessory water towers or cooling towers;
 - 5) accessory off-street parking spaces; and
 - 6) accessory off-street loading berths.
- b. Residential buildings: the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements and open porches, measured from the exterior faces of the exterior walls.

Front Property Line: The line of a lot, parcel, or tract common to the roadway easement or right-of-way. In the case of a lot, parcel, or tract (used for residential or agricultural purposes) that has more than one common line with the roadway easement or right-of-way, the front line shall be the line that is common with the roadway easement or right-of-way that provides the vehicular access onto the property. The Director of the Planning and Zoning Department shall make the determination of the front line in the event that the parcel has more than one line common with the roadway easement or right-of-way. A lot, parcel, or tract that has access from a private street shall comply with the requirements of approval of the development establishing the private street.
(BOCC Resolution 2011-36; August 25, 2011)

Front Yard: An open space unoccupied by buildings or structures (except hereinafter provided) across the full width of the lot extending from the front line of the building to the front street line of the lot.

Front Yard Depth: The minimum horizontal distance from the front line of a building to the front street line of the lot.

Garage, Private: An accessory building not exceeding 900 square feet in area designed or used for the storage of not more than four motor driven vehicles owned and used by the occupants of the building to which it is an accessory. Not more than one of the vehicles may be a commercial vehicle and that one of not more than two-ton capacity.

Garage, Public: Any building or premises used for equipping, repairing, hiring, selling or storing motor driven vehicles.

Garage, Auto Repair: Any building or premises used for the storage, care or repair of motor vehicles, which is operated for commercial purposes.

Governing Body: The Board of County Commissioners of Leavenworth County, Kansas.
(See also County Board)

Government Lot: (From United States Public Land Survey) A subdivision of a section that does not conform to an aliquot part, normally described by a lot number, as represented and identified by the approved township plat. Not a legal lot under the Leavenworth County subdivision regulations. (Aliquot: the part of a distance that divides the distance without a remainder.)

Group Home (Type One): Any dwelling occupied by not more than ten individuals including

- a) eight (8) or fewer individuals with a disability who need not be related by blood or marriage and
- b) not to exceed two staff residents who need not be related by blood or marriage to each other or to the eight or fewer other said individuals, who are occupying and living together in a single-family dwelling licensed by a regulatory agency of the State of Kansas as a group home. For purposes of this definition, the term "disability" means, with respect to an individual:
 - a. A physical or mental impairment which substantially limits one or more of such individual's major life activities;
 - b. A record of having such an impairment; or
 - c. Being regarded as having such an impairment.

Such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

Group Home (Type Two): Any dwelling occupied by not more than ten individuals including

- a) eight (8) or fewer individuals who need not be related by blood or marriage and who are:
 - a. assigned to a community corrections program or a diversion program, or
 - b. on parole from a correctional institution or on probation for a felony offense, or
 - c. in a state mental institution following a finding of not guilty by reason of insanity pursuant to K. S. A. 22-3428, and amendments thereto, or
 - d. mentally ill individuals who have either not been evaluated by a licensed provider or who have been evaluated by a licensed provider and such provider has determined that the mentally ill individual is dangerous to others or such provider has determined that the mentally ill individual is unsuitable for placement in a Group Home Type One;

and b) not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home.
(BOCC Resolution 2020-04; January 8, 2020)

Growth Management Zones: Zones or areas designated in the Comprehensive Plan for Leavenworth County. Such zones are not to be confused with zoning districts, which control land use, but rather designate areas of the County undergoing urbanizing pressures. These zones provide for variations on development patterns and type of required improvements.

Guest House: Living quarters within a detached, accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having only two (2) bedrooms and no kitchen facilities, no garage and not rented or otherwise used as a separate dwelling.

Half-Street: A street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the required street right-of-way width.

Height of Building: The vertical distance from the average ground level abutting a building or structure to the highest point of a building or highest point of any permanent part of a structure other than a building.

Home Occupation: An incidental use for a primary dwelling unit of a commercial or business nature with minimal impacts on the surrounding neighborhood. (BOCC Resolution 2024-15; dated September 18, 2024)

Hospital: A building or group of buildings, having room facilities for one or more abiding patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices; provided, however, that such facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

Hotel: A building in which lodging or boarding and lodging are provided for more than 20 persons primarily transient and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment that are herein separately defined. A hotel may include restaurants, taverns or clubrooms, public banquet halls, ballrooms, and meeting rooms.

Improvements: Street improvements with curbs, pedestrian ways, water mains, sanitary and storm sewers, permanent street monuments, trees and other appropriate items.

Initial Urban Growth Area: An area comprised of the surrounding 660 feet of incorporated city limits.

(BOCC Resolution 2020-012; April 1, 2020)

Junk Yard/Salvage Yard: An area of land with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as, but not limited to, wastepaper, rags or scrap material, used building materials, house furnishings, machinery, motor vehicles or parts thereof, with or without the dismantling, processing, salvage, sale, other use or disposition of the same. A deposit or storage on a plot of two (2) or more wrecked vehicles or parts thereof, for one (1) week in an agricultural/residential district, or for three (3) weeks or more in any other district, shall be deemed a junk yard/salvage yard.

Kennel: Any place, area, building, or structure on any tract smaller than 20 acres where more than an aggregate total of four (4) adult dogs, more than one (1) year old are kept, boarded, bred or trained whether or not for commercial gain or as pets; or, any place, area building or structure on any tract 20 acres or more where more than an aggregate total of seven (7) adult dogs, more than one (1) year old, are kept, boarded, bred, or trained, whether or not for commercial gain or as pets.(BOCC Resolution 2018-19; April 3, 2018)

Loading Space: A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

Lot: A portion of a platted subdivision of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development. It shall be occupied, or intended to be occupied by one main building together with its accessory structures, including open spaces and parking spaces required by these regulations, and having its principal frontage upon a street or upon an officially approved place. In any case, such street or place must be approved and accepted by the County Planning Commission and County Engineer as regard compliance with all requirements governing such streets and places.

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection and shall be deemed to front on that street on which the lot has its least dimension unless otherwise designated by the Board of Zoning Appeals.

Lot, Depth: The mean horizontal distance between the front lot line and the rear lot line. (See Drawing No. 1 in Appendix for block diagram showing lot types and setbacks.)

Lot, Double Frontage: Any lot having a frontage on two (2) nonintersecting streets.

Lot, Interior: A lot other than a corner lot with only one street frontage.

Lot Line: The boundary line of a lot.

Lot of Record: A lot which is part of a subdivision, the map or plat of which has been recorded in the office of the Register of Deeds of Leavenworth County.

Lot Split: A subdivision of land of a platted parcel. (BOCC Resolution 2011-36; August 25, 2011)

Lot, Through: An interior lot having frontages on two streets.

Lot Width: The distance between the side lot lines measured at the front property line, except on cul-de-sac lots, where it is the distance between side lot lines measured at a designated distance from the right-of-way line, not exceeding 150 feet from the front property line.

Major Thoroughfare: See Arterial Street.

Manufactured Homes: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site. See Article 26 for classification and standards. (BOCC Resolution 2009-1; January 29, 2009)

Marginal Access Street or Frontage Road: A minor street that is parallel and adjacent to a major street highway or railroad right-of-way and provides access to abutting properties.

Micro Distillery: Allows the distilling, mixing, bottling, wholesale, and storage of not more than 50,000 gallons of spirits per year. Retail sales and sampling allowed only in B-1, B-2, B-3, I-1, I-2, & I-3 Zoning Districts. All applicable State and Federal permits/licenses are required. (BOCC Resolution 2015-15; June 25, 2015)

Minor (Local) Street: A street or road of limited continuity, which serves or is intended to serve the local direct access needs of a neighborhood.

Minimum Elevation for Building: The finished floor elevation of the lowest floor, tied to a published datum, e.g. USGS, NGS, FEMA, LevCo, etc.

Mobile Home: A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5403

Mobile Home Park or Subdivision: Any park, mobile home park, mobile home court, camp site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any mobile home or mobile homes and upon which any mobile home or mobile homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the mobile home court and its facilities or not. "Mobile Home Park" shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Motel, Motor Court, Motor Hotel or Inn: Same as "Hotel", except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or office.

Natural Feature: Characteristics of the subject property that can create physical barriers which may include features such as ponds, lakes, rivers, creeks, terraces, septic systems/lagoons, floodplain, significant changes in elevations or other natural systems. (BOCC Resolution 2023-20; August 2, 2023)

Noncommercial Wind Energy Conversion System: An electrical generating facility that operates by converting the kinetic energy of wind into electrical energy for the primary purpose of on-site use and not for resale. (BOCC Resolution 2022-16; August 3, 2022)

Non-Conforming Use: Any building or land lawfully occupied by a use at the time of passage of this resolution or amendments thereto, which does not conform after the passage of this resolution or amendments thereto with the use regulations of the district in which it is situated.

Nursing Home: Same as “Convalescent Home”.

Parcel: One or more adjoining lots and/or tracts held in a single ownership and designated by a number assigned by the Appraiser’s office for taxation purposes.

Parking Lot: An area of a tract or lot devoted to unenclosed parking spaces for motor vehicles.

Parking Space: An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles.

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

Performance Bond or Guaranty: Any form of guaranty acceptable by the County but, most frequently a surety bond, cash deposit or letter of credit, made out to the County of Leavenworth in an amount equal to the full cost of the improvements, which are required by these regulations, said bond, letter of credit or cash deposit being estimated by the County Engineer, and said surety bond, letter of credit or cash deposit being legally sufficient to secure to the County of Leavenworth that said improvements will be constructed in accordance with these regulations.

Permanent Foundation: The foundation of formed and poured-in-place concrete, placed masonry units, or pressure treated material having concrete footings or piers extending below the frost line, laid up with such reinforcing materials as may be required for residential or commercial construction, whichever is applicable.

Place: An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereof.

Plat: A diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey. A plat will show all data required for a complete and accurate description of the land that it delineates, including the bearings and lengths of the boundaries of each subdivision. A plat may constitute a legal description of the land and be used in lieu of a written description. A plat must meet all state plat statutes, local subdivision regulations and those set forth by Kansas Minimum Standards for Boundary Surveys No. 1.

Plat of Survey or Certificate of Survey: A diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a lot, tract, or parcel(s) of land, as determined by a boundary survey. The survey must be performed according to Kansas Minimum Standards for Boundary Surveys No. 1.
(BOCC Resolution 2011-36; August 25, 2011)

Planning Commission: The advisory board appointed by the Board of County Commissioners under K.S.A. 12-741 et. seq.

Planning Department: The Leavenworth County Planning Department.

Post Release Facility: Any building or parcel of land used by any public or private organization to transition convicted felons into the community. A building or parcel of land meets the definition of a Post Release Facility if it does not meet the definition of a Detention Facility, as defined elsewhere in these regulations, and one or more persons convicted of any felony are ordered confined to the building or parcel of land for any length of time by the U.S. Department of Corrections, Kansas Secretary of Corrections, any other state department of corrections, any local law enforcement agency, or the Kansas Secretary of Social and Rehabilitative Services (SRS) for any period of time for the expressed purpose of the eventual release of said person(s) into the community.

Preliminary Plat: A map made for the purpose of showing the proposed subdivision and the existing conditions in and around it. The exterior boundary must be established according to Kansas Minimum Standards for Boundary Surveys No. 1. This map need not be based on accurate or detailed final survey of the lots in the subdivision.
(See also Plat.)

Principle Dwelling Unit: A dwelling unit that is the primary residence for any lot or tract of land.
(BOCC Resolution 2024-15; dated September 18, 2024)

Private Airstrip: A location that is registered with the Kansas Department of Transportation and Federal Aviation Administration, appears on aeronautical charts, and has a landing surface(s) which is maintained and capable of providing a safe landing for aircraft, all in effect at the time of application.
(BOCC Resolution 2022-16; August 3, 2022)

Private Event: An event occurring at a private residence/property that is not open to the general public, tickets are not required, and no fee is associated with the event. Event has not been published or advertised in a public manner. Examples of a private event include but are not limited to: graduation party, wedding reception, birthday party, family reunion, picnics, and barbecues. (BOCC Resolution 2015-35; September 24, 2015)

Private Road: A non-dedicated way, other than driveway, that forms the principal vehicular access to two or more properties. Private roads shall be subject to the Cross Access Easement requirements. (BOCC Resolution 2021-11; March 31, 2021)

Professional Office: An office with one or more employees other than members of the immediate family. An office for the conduct of a profession by a person engaged in a recognized professional occupation, vocation or calling, especially one of the three vocations of theology, law and medicine and not solely commercial, mechanical or agricultural in nature, and in which knowledge or skill in some science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of a profession.

Public Event: Any event which is publicly advertised, open to the general public, and requires a fee or ticket for entrance. Examples of a public event include but are not limited to: Concerts, movie screenings, fundraisers, organized bicycle rides, foot races, car shows, and music festivities. (BOCC Resolution 2015-35; September 24, 2015)

Rear Line: A lot line that is opposite and most distant from the front lot line, and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.
(BOCC Resolution 2023-20; August 2, 2023)

Rear Yard: A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches or entranceways.

Rear Yard Depth: The minimum horizontal distance from the rear line of a building to the rear line of the lot.

Recreation Vehicle: A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreation and camping purposes.
(BOCC Resolution 2009-1; January 29, 2009)

Recreational Vehicle Park: A lot or parcel of land occupied or intended for occupancy by recreation vehicles for travel, recreational, or vacation purposes not to exceed 12 months of occupancy by any single recreational vehicle. Recreational Vehicles Parks can also include communal buildings and group camping sites. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included. (BOCC Resolution 2024-15; September 18, 2024)

Regulatory Flood: The flood determined by the Federal Emergency Management Agency (FEMA) as having a one percent chance of being equaled or exceeded in any given year.
(See also 100-year Flood)

Regulatory Flood Elevation: The elevation at which the regulatory flood is determined to occur.

Regulatory Flood Plain: Land included within the regulatory floodway and floodway fringe areas as determined by the Federal Emergency Management Agency (FEMA).

Renewable Energy Conversion System: A Solar Energy Conversion System or any other commercial system determined by the Director of Planning and Zoning to convert existing natural processes, systems, or power into electricity for commercial or wholesale sales. Also referred to as Renewable Energy Facility. (BOCC Resolution 2021-41; September 1, 2021)

Replat: A map made as a revision to a previously recorded final plat. Such map must meet all state plat statutes, local subdivision regulations and those set forth by Kansas Minimum Standards for Boundary Surveys No. 1.

Residential-Design Manufactured Home: A manufactured home on a permanent foundation which has (a) minimum dimension of 22 feet in body width, (b) a pitched roof, (c) siding and roofing materials which are customarily used on site-built homes.

Restaurant: A building wherein food is prepared and served in ready-to-eat form to the public for human consumption. "Restaurant" includes café, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.

Re-subdivision (Re-plat): The further subdivision of a tract of land that has previously been lawfully subdivided and for which a plat of such prior subdivision has been duly recorded.

Road or Roadway: This is the portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

Rural Growth Area: The unincorporated area of Leavenworth County lying outside the incorporated cities thereof, the Initial Urban Growth Area and the Secondary Growth Area.

Secretary: This is the Secretary of the Planning Commission.

Side Line: Any lot line that is not considered a front or rear lot line. A side lot line shall include any linked line segments or arcs that intersect with either the front or rear lot line. (BOCC Resolution 2023-20; August 2, 2023)

Side Yard: A yard extending between the rear line of the front yard to the rear yard line, and being the minimum horizontal distance between the side lot line and the side of the main building or any projections thereof.

Sign: A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building, fence or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention directing device. A sign shall not include a similar structure or device located within a building except illuminated signs within show windows. A sign includes any billboard, but does not include the flag or pennant, or insignia of any nation or association of nations, or of any state, city or other political entity, or of any charitable, educational, philanthropic, civic, political, or religious organization.

Sign Area: That area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it is columns, a pylon or a building or part thereof, shall not be included in the sign area.

Sign, Identification: A sign of no more than 6 square feet made of durable material, denoting and limited to the name of the occupant and the name of the business conducted on the premises.

Sign, Illuminated: Any sign designed to give forth artificial light, or designed to reflect light from one or more sources of artificial light erected to provide light for the sign.

Small Limited Business: A secondary use permitting the keeping of stock-in-trade, the sale of economic goods, and/or an office in connection with a commercial or industrial enterprise, provided the person engaged in the business is the resident/owner of the dwelling unit, that only one (1) person other than members of the immediate family residing in the dwelling unit may assist in the operation of the business, and that in no way shall the appearance of the structure be altered or the occupation within the dwelling unit be conducted in a manner that would cause the premises to differ from its residential character. (BOCC Resolution 2016-9; April 28, 2016)

Socially Disabled: A person that suffers from or is recovering from the effects of substance abuse, is in need of rehabilitative care, and/or any type of professional mental care or support.

Solar Energy Conversion System (SECS): A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity via connection to a

larger electrical network exclusive of individual use and includes all associated support facilities including, but not limited to, roads, substations, operation and maintenance buildings, as specified in the application. (BOCC Resolution 2021-41; September 1, 2021)

Spirits: Any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. (BOCC Resolution 2015-15; June 25, 2015)

Stable, Private: A stable for horses, ponies or mules which are owned by the occupants of the premises and which are not kept for remuneration, hire or sale.

Stable, Riding: A stable, in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded or kept for remuneration, hire or sale.

Story: That portion of a building, other than the basement, included between the surface of any floor and the surface of the next floor above it, then the space between such floor and the ceiling next above it.

Street: A public thoroughfare, which affords the principal means of access to property abutting thereon.

Street Line: A dividing line between a lot, tract, or parcel of land and a contiguous street.

Street, Marginal Access: A minor street which is generally parallel to and adjacent to a major street, trafficway, highway or railroad right-of-way and which provides access to abutting properties from through traffic.

Street, Width: The distance measured perpendicular to the centerline of the paved portion of the right-of-way; either to the back of the curb, where a curb exists, or to the edge of pavement where no curb exists.

Structural Alterations: Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

Subdivider: The term subdivider means any person, individual, firm, partnership, association, corporation, estate, trust or any other group or combination acting as a unit, dividing or proposing to divide land, so as to constitute a subdivision as defined herein, and includes any agent of the subdivider.

Subdivision:

1. The division of a tract of land into two or more parts, lots or parcels.
2. The pending transfer of ownership through "contract" sale or similar agreement is a subdivision of the original tract.
3. Any division of a tract of land, where a new street, additional right-of-way or an existing street is involved.

The term “subdivision” includes re-subdivision, and the term "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 varies from the latest approved subdivision of the same.

The following shall be exempt from the requirements of platting, replatting, a lot split, or a tract split per these regulations:

- a. Any dividing or separating of a tract of land to be used strictly for agricultural use or single-family residential purposes only and not requiring streets, easements, utilities (other than for agricultural function) or similar improvements, and encompassing in excess of forty (40) acres of land, shall not be interpreted as a subdivision under these regulations.
- b. Any division of ownership of a single parcel as the result of the culmination of a legally recognized will shall not be defined as a subdivision for any use other than agriculture.
- c. Any parcel vacated by the Board of County Commissioners.
- d. Any parcel divided, either by a natural barrier, such as a river or stream or a man-made barrier, such as a railroad track or state, county, or township road, which creates a physical division of land, because of its characteristics.
- e. Land that is to be used for cemetery purposes.
- f. A Boundary Line Adjustment.
- g. Land used for a public purpose, including the dedication of land for a public use or instruments relating to the vacation of land for a public use.
- h. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state, or federal regulations, where no new street or easement of access is involved.

(BOCC Resolution 2014-11; April 24, 2014)

Surveyor: A surveyor licensed by the state of Kansas or licensed to practice in the State of Kansas.

Temporary Dwelling Unit: A dwelling unit that is used as a non-permanent residence while the principal dwelling unit is under permitted construction. (BOCC Resolution 2024-15; September 18, 2024)

Temporary Use: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.
(BOCC Resolution 2009-1; January 29, 2009)

Total Hub Height: The height of a wind energy conversion system as measured from the elevation of the ground surface at the base to the highest point of the turbine hub.
(BOCC Resolution 2022-16; August 3, 2022)

Total Tower Height: The height of a wind energy conversion system as measured from the elevation of the ground surface at the base to the highest point of the blade system during rotation.
(BOCC Resolution 2022-16; August 3, 2022)

Tract: A single piece of land established by a legal description on a recorded deed, but not part of an approved and recorded Final Plat.

Tract of Record: Any tract of land, not located in a recorded Final Plat, the deed of which was recorded prior to August 20, 1987.

Tract Split: A subdivision of land of an un-platted parcel.

(BOCC Resolution 2011-36; August 25, 2011)

Trailer: A vehicle other than a mobile home or manufactured home, equipped with wheels and normally towed over the road behind a motor vehicle.

Truck Hauling Business: Commercial business pertaining to the parking, storage, and maintenance of commercial vehicles, trailers, and containers. Excludes the storage or redistribution of cargo or freight. (BOCC Resolution 2015-2; January 29, 2015)

Truck Terminal: An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation. Includes service of fuel, fuel oil, and repair of vehicles. (BOCC Resolution 2015-2; January 29, 2015)

Unincorporated Area: That portion of Leavenworth County lying outside an incorporated municipality.

Variance: A variation from a specific requirement in the Zoning Regulations applicable to a specific piece of property.

100-Year (Frequency) Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland waters, that has a one percent (1%) chance of occurrence during any given year.

ARTICLE 4 – GROWTH MANAGEMENT COMMUNITIES, ZONING DISTRICTS AND BOUNDARIES

Section 1. GENERAL

Growth Management Areas have been designated by the Leavenworth County Comprehensive Plan and are adopted as part of the Zoning Regulations and are shown on the official Zoning Maps of Leavenworth County adopted as part of this Zoning Resolution.

These Growth Management Areas identify the areas of the unincorporated area of the County which are most suitable for different levels of development and to which areas of Leavenworth County development is to be guided.

Whenever a tract of land is moved from one Growth Management Area to another, by formal amendment of the Zoning Map, the Zoning District for the tract within the new Growth Management Area shall remain the same unless changed in accordance with the requirements of this resolution

Section 2. ESTABLISHED

The following Growth Management Areas are established:

Initial Urban Growth Area (IUGA) – that portion of the unincorporated area of the County designated and intended for development at urban density. Development within the IUGA requires the provision of sanitary sewers and municipal type water supply. The IUGA generally is that area into which city services (especially sanitary sewer and water) can be extended into logically and with a minimum of expense. The IUGA is generally defined as an area comprised of the surrounding 660 feet of incorporated city limits.
(BOCC Resolution 2020-012; April 1, 2020)

Rural Growth Area (RGA) – that portion of the unincorporated area of the County intended and designated for development at rural intensity. Includes all portions of the unincorporated area not included within the IUGA. Development within the RGA is intended for very low density, with the preservation of agriculture a primary function.

Section 3. ESTABLISHMENT OF DISTRICTS

The Zoning Districts established in these Zoning Regulations are designed to promote and protect the public health, safety, comfort, convenience, prosperity and other aspects of moral and general welfare, thus encouraging the highest and best use of land and resources in accordance with the Comprehensive Plan as provided by the laws of the State of Kansas.

The unincorporated area of the County is hereby divided into the following zoning districts:

- R Rural - Agricultural and Residential
 - RR – 2.5 (2.5-acre minimum lots)
 - RR – 5 (5-acre minimum lots)
 - RR – 40 (40-acre minimum lots)
- R-1 Single-Family Residential
 - R-1(10) (10,000 sq. ft. minimum lots)
 - R-1(15) (15,000 sq. ft. minimum lots)
 - R-1(43) (43,560 sq. ft. minimum lots)
- R-2 Single-Family Residential
- R-3 Two-Family Residential

- R-4 Apartment Residential
- B-1 Neighborhood Business
- B-2 Limited Business
- B-3 General Business
- I-1 Limited Industrial
- I-2 Light Industrial
- I-3 Heavy Industrial
- PUD Planned Unit Development

(BOCC Resolution 2011-7; February 24, 2011)

Section 4. ZONING DISTRICT MAP ESTABLISHED

Boundaries of the zoning districts, as enumerated in Section 3 of this Article, are hereby established as shown on the maps hereby designated “official copy of Zoning District Map adopted by Resolution No. 2013-21 and said map(s) and all references and information contained thereon are hereby as much a part of this Resolution as if the same were set forth herein and shall be filed as part of this Resolution by the Clerk of Leavenworth County. Said map shall be available for public inspection in the office of the County Clerk, and any later amendments of this map as provided for in this Resolution shall be filed with the County Clerk and promptly noted on the official map. Duplicate copies of the official map shall also be kept in the Planning Office.

Section 5. INTERPRETATION OF DISTRICT BOUNDARIES

When definite distances in feet are not shown on the Zoning District Maps, the district boundaries are intended to be along centerlines of the existing street, alley or plotted lot lines or extensions of the same, and if the exact location of such line is not clear, it shall be determined by the Director of Planning and Zoning, due consideration being given as indicated by the scale of the Zoning District Maps.

When the streets or alleys on the ground differ from the streets or alleys as shown on the Zoning District Maps, the Director of Planning and Zoning may apply the district designations on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of this Resolution.

Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall automatically be extended to the centerline of such street or alley.

Any territory hereafter de-annexed or which may become a part of the unincorporated area of Leavenworth County shall automatically be classified as lying and being in the R Rural, Agricultural and Residential District, until such time as it may be changed as provided for in this Resolution.

Section 6. GENERAL PROVISIONS Except as hereinafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any land or building be used except in conformity with the regulations for the Zoning District in which the land or building is located.
2. No building shall be erected and no building existing at the time of passage of this Resolution shall be enlarged or structurally altered to the extent of increasing its floor area by 50 percent or more, except in conformity with the regulations.

3. Every building hereafter erected, enlarged, or structurally altered shall be located upon a lot or tract as defined in this Resolution and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
4. Nothing contained in this Resolution shall prevent the use of land for farming or agricultural purposes.
5. No person shall construct a basement or portion of a residence and occupy, or let to another for occupancy, for dwelling purposes until said residence is completed.
6. The minimum yards, parking space, open spaces, including lot area per dwelling unit, required by this Resolution for each and every building existing at the time of the passage of this Resolution, or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of this Resolution.
7. No accessory building or structure shall be constructed upon a lot until a building permit has been obtained for the construction of the principal building or structure. An accessory building may be used, for up to one year for the storage of construction materials to build the principal building or structure. Structures that may commonly be accessory structures under usual circumstances may be considered the principal structure when used for agricultural, recreational or other similar use (not to include commercial or industrial uses) that would not require a residence as a principal structure on the property. A single, nominal accessory structure of no more than six hundred (600) square feet will be allowed in the R-Rural District when used for property maintenance purposes. The following uses would be considered acceptable as an accessory use without a main structure.
 - a. Properties that are forty (40) acres or greater in size may be permitted an accessory building permit for a structure exceeding 600 square feet without the existence of a primary structure on the property. An application for a building permit for such a structure shall be accompanied by an Agricultural Exemption Affidavit for an accessory building. The accessory building shall be used exclusively for agricultural purposes on property used for agricultural activity. Approval of an accessory structure exceeding 600 square feet shall be at the discretion of the Director of the Planning and Zoning Department.
(BOCC Resolution 2011-36; August 25, 2011)
 - b. Barn or outbuilding for the shelter of animals—cows, sheep, etc. that are kept on the site. This should include the storage of items used in connection with these animals—tack, feed, maintenance equipment, etc.
 - c. Storage of maintenance equipment—mowers, hand tools, etc.—on a vacant parcel when used for upkeep of the site. One structure, maximum size limited to 600 square feet.
 - d. Buildings used for on-site recreational purposes such as the keeping of horses, a bathhouse near a pond, a shelter house for picnics on a site, etc. One structure, maximum size limited to 600 square feet.
 - e. Buildings for storage of vehicles used on a site for recreational purposes such as bicycles, motorcycles, all-terrain vehicles, boats, etc. One structure, maximum size limited to 600 square feet.

8. Those areas not served by both a public water system and a public sewerage system shall adhere to the requirements of the Leavenworth County Sanitary Code for disposal of sewage.

ARTICLE 5 – “R” RURAL DISTRICT REGULATIONS

Section 1. “R” - RURAL DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution are the district regulations in the “R” Rural District.

Section 2. USE REGULATIONS:

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a Special Use Permit for such an operation has been issued by the Board of County Commissioners under the provisions of ARTICLE 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a Special Use Permit in accordance with ARTICLE 22 of this resolution, be located on land within this district.
(BOCC Resolution 2011-7; February 24, 2011)
2. More uses can be found in Article 19 table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least forty (40) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be forty (40) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of fifteen (15) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of forty feet (40'), except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.

4. Intensity of Use.

The following zoning district classifications, minimum lot areas and minimum lot widths shall be allowed in the "R" Rural District

Zoning Classification: RR-2.5
Minimum Lot Area: 2.5 Acres
Minimum Road Frontage: 200 feet

Zoning Classification: RR-5
Minimum Lot Area: 5 Acres
Minimum Road Frontage: 300 feet

Zoning Classification: RR-40
Minimum Lot Area: 40 Acres
Minimum Road Frontage: 630 feet
(BOCC Resolution 2011-36; August 25, 2011)

5. Parking and Loading Requirements.

a. As required by Article 24 of this Resolution.

6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

ARTICLE 7 – “R-1” ONE-FAMILY DWELLING DISTRICT REGULATIONS

Section 1. “R-1” ONE-FAMILY DWELLING DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “R-1” One-Family Dwelling District.

Section 2. USE REGULATIONS.

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agribusiness) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty feet (30’), except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.

4. Intensity of Use.
 - a. For tracts that do not have both public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:

For District R-1 (10)
 - 1) Minimum lot size – 10,000 square feet
 - 2) Minimum road frontage – 72 feet
For District R-1 (15)
 - 1) Minimum lot size – 15,000 square feet
 - 2) Minimum road frontage – 100 feet
For District R-1 (43)
 - 1) Minimum lot size – 43,560 square feet
 - 2) Minimum road frontage – 150 feet
5. Parking and Loading Requirements.
 - a. As required by Article 24 of this Resolution.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

ARTICLE 8 – “R-2” ONE-FAMILY DWELLING DISTRICT REGULATIONS

Section 1. “R-2” ONE-FAMILY DWELLING DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “R-2” One-Family Dwelling District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.

- a. For tracts that do not have public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 6,000 square feet
 - 2) Minimum road frontage – 48 feet
5. Parking and Loading Requirements.
- a. As required by Article 24 of this Resolution.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

ARTICLE 9 – “R-3” TWO-FAMILY DWELLING DISTRICT REGULATIONS

Section 1. “R-3” TWO-FAMILY DWELLING DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “R-3” Two-Family Dwelling District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.

- a. For tracts which do not have both public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 6,000 square feet
 - 2) Minimum road frontage – 48 feet
5. Parking and Loading Requirements.
- a. As required by Article 24 of this Resolution.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

ARTICLE 10 – “R-4” APARTMENT DISTRICT REGULATIONS

Section 1. “R-4” APARTMENT DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “R-4” Apartment District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed three (3) stories or forty-five (45) feet in height, except that an apartment building or portion thereof may be increased in height, provided the building is set back from each required yard line one foot for each foot of additional building height above forty-five (45) feet, and further as provided for in Article 20 (Additional Height and Area Regulations).

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.

4. Intensity of Use.
 - a. For tracts which do not have public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000 square feet for one, two, three or four-family dwelling units, plus an additional 1500 square feet for each dwelling unit over four.
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.
 - a. As required by Article 24 of this Resolution.

ARTICLE 11 – “B-1” NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

Section 1. “B-1” NEIGHBORHOOD BUSINESS DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “B-1” Neighborhood Business District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “R-4” Apartment District.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.
 - a. For tracts that do not have both public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000 square feet for commercial, single-family or two-family dwellings plus 1,500 square feet in additional area for each dwelling unit over two.
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.

- a. As required by Article 24 of this Resolution.

ARTICLE 12 – “B-2” LIMITED BUSINESS DISTRICT REGULATIONS

Section 1. “B-2” LIMITED BUSINESS DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “B-2” Limited Business District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “B-1” Neighborhood Business District.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed four stories or fifty (50) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever a B-2 District abuts a residential district. When a B-2 District abuts a non-residential district, no side yard is required.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever a B-2 District abuts a residential district. When a B-2 District abuts a non-residential district, no rear yard is required.
4. Intensity of Use.
 - a. For tracts which do not have both public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:

- 1) Minimum lot size - 6,000 square feet for commercial, single-family or two-family dwellings plus 1,500 square feet in additional area for each dwelling unit over two.
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.
- a. As required by Article 24 of this Resolution.

ARTICLE 13 – “B-3” GENERAL BUSINESS DISTRICT REGULATIONS

Section 1. “B-3” GENERAL BUSINESS DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “B-3” General Business District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “B-2” Limited Business District.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed six stories or seventy-five (75) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least thirty (30) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be thirty (30) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever a B-3 District abuts a residential district. When a B-3 District abuts a non-residential district, no side yard is required.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever a B-3 District abuts a residential district. When a B-3 District abuts a non-residential district, no rear yard is required.
4. Intensity of Use.

- a. For tracts that do not have public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000 square feet for commercial, single-family or two-family dwellings plus 1,500 square feet in additional area for each dwelling unit over two.
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.
- a. As required by Article 24 of this Resolution.

ARTICLE 14 – “I-1” LIMITED INDUSTRIAL DISTRICT REGULATIONS

Section 1. “I-1” LIMITED INDUSTRIAL DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “I-1” Limited Industrial District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “B-3” General Business District, except that no residential use, other than a residence for security or a caretaker employed on the premises, shall be permitted.
2. More uses can be found in Article 19 Table of Uses.

Section 3. SPECIAL CONDITIONS

The permitted uses enumerated above shall be subject to the following special conditions:

1. All uses shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished materials and supplies or waste materials. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from adjoining streets or roads by landscaping, fences or walls.
2. All main buildings shall be of concrete, structural steel, or masonry construction.
3. No parking or storage of materials or products shall be permitted within the required front yard.
4. Loading operations shall be conducted at the side or rear of the buildings.
5. Accessory signs in excess of 60 square feet in area shall be attached flat against a building.

Section 4. HEIGHT REGULATIONS

No building shall exceed three (3) stories or forty-five (45) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 5. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least forty (40) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be forty (40) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.

2. Side Yard.
 - a. There shall be a minimum side yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-1 District abuts a residential district. When an I-1 District abuts a non-residential district, a ten (10) foot side yard is required.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-1 District abuts a residential district. When an I-1 District abuts a non-residential district, a ten (10) foot rear yard is required.
4. Intensity of Use.
 - a. For tracts that do not have public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.
 - a. As required by Article 24 of this Resolution.

ARTICLE 15 – “I-2” LIGHT INDUSTRIAL DISTRICT REGULATIONS

Section 1. “I-2” LIGHT INDUSTRIAL DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “I-2” Light Industrial District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “I-1” Limited Industrial District, except that no residential use, other than a residence for security or a caretaker employed on the premises, shall be permitted.
2. More uses can be found in Article 19 Table of Uses.

Section 3. SPECIAL CONDITIONS

The permitted uses enumerated above shall be subject to the following special conditions:

1. All uses shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished materials and supplies or waste materials. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from adjoining streets or roads by landscaping, fences or walls.
2. All main buildings shall be of concrete, structural steel, or masonry construction.
3. No parking or storage of materials or products shall be permitted within the required front yard.
4. Loading operations shall be conducted at the side or rear of the buildings.
5. Accessory signs in excess of 60 square feet in area shall be attached flat against a building.

Section 4. HEIGHT REGULATIONS

No building shall exceed five (5) stories or seventy (70) feet in height, except as provided for in Article 20 Additional Height and Area Regulations, of which Article 20, Section 4 shall govern applicable Unclassified Uses.

Section 5. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least forty (40) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be forty (40) feet from the front property line.

- b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-2 District abuts a residential district. When an I-2 District abuts a non-residential district, a ten (10) foot side yard is required.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-2 District abuts a residential district. When an I-2 District abuts a non-residential district, a ten (10) foot rear yard is required.
4. Intensity of Use.
 - a. For tracts that do not have public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.
 - b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000
 - 2) Minimum road frontage - 48 feet
5. Parking and Loading Requirements.
 - a. As required by Article 24 of this Resolution.

ARTICLE 16 – “I-3” HEAVY INDUSTRIAL DISTRICT REGULATIONS

Section 1. “I-3” HEAVY INDUSTRIAL DISTRICT

The regulations set forth in this article or set forth elsewhere in this resolution, are the district regulations in the “I-3” Heavy Industrial District.

Section 2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the “I-2” Light Industrial District, except that no residential use, other than a residence for security or a caretaker employed on the premises, shall be permitted.
2. More uses can be found in Article 19 Table of Uses.

Section 3. HEIGHT REGULATIONS

No building shall exceed five (5) stories or seventy-five (75) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads, and at least forty (40) feet from the front property line. Provided, that the 105-foot setback from the centerline of the road shall not apply to internal road systems within platted subdivisions, where the minimum front yard setback shall be forty (40) feet from the front property line.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-3 District abuts a residential district. When an I-3 District abuts a non-residential district, a ten (10) foot side yard is required.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations whenever an I-3 District abuts a residential district. When an I-3 District abuts a non-residential district, a ten (10) foot rear yard is required.
4. Intensity of Use.
 - a. For tracts which do not have both public water and public sewer available, the minimum tract size shall be as required by the Leavenworth County Sanitary Code.

- b. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size - 6,000
 - 2) Minimum road frontage - 48 feet
- 5. Parking and Loading Requirements.
 - a. As required by Article 24 of this Resolution.

ARTICLE 17 – PLANNED UNIT DEVELOPMENT

Section 1. GENERAL

The zoning of land to a Planned Unit Development (PUD) District classification shall be for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found in projects developed under conventional zoning, but permitting deviations from the normal and established development techniques. The use of planned developments is intended to encourage efficient development compatible with surrounding land uses, innovative and imaginative site planning, and conservation of natural resources and minimum waste of land. The following are specific objectives of the planned development zoning district:

1. Conventional zoning districts should generally not be applied to the improvement of land by other than lot-by-lot development. Consequently, with the exception of standard single-family and two-family residential subdivisions, development proposals that are intended to be subdivided into multiple lots should generally be rezoned to the planned development district to ensure compatibility, coordination, timing, and sequencing of development.
2. Planned developments are groupings of buildings or building sites that are planned as an integrated unit or cluster on property under unified control or ownership at the time the zoning was approved by the County. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with the conditions that were committed to at the time of the rezoning. The submittal by the developer and the approval by the County of development plans represent a firm commitment by the developer that development will indeed follow the approved plans.
3. Planned residential developments should be designed in a manner that will produce more useable open space, better recreational opportunities, and safer and more attractive neighborhoods than under conventional zoning and development techniques.
4. Planned commercial developments should be designed so as to result in attractive, safe and viable commercial centers and to insure minimum adverse effects on surrounding property, the street system and other services of the community.
5. The developer will be given latitude in using innovative techniques in the development of land not feasible under application of conventional zoning requirements.

Section 2. PLANNED DEVELOPMENT DISTRICT; STANDARDS OF IMPROVEMENT

1. The uses permitted in any planned development district shall be those set forth in the resolution approving the planned development and may include all or a portion of the uses permitted in any other zoning district or districts.
2. As part of the approval of the planned development, the applicant may propose, or the County may require, that a phasing plan be submitted setting forth the timing and sequencing of development.
3. Standards for the design, bulk, and location of buildings and structures shall be as set forth in the development plan approved by the County.

4. Unless specifically modified by the approving resolution or contained on the approved development plan, the provisions of Article 20 Additional Height and Area Regulations remain applicable.

Section 3. PROCEDURE

The procedure for approval of a rezoning to the Planned Unit Development District shall conform to the procedure for rezoning as specified in Article 31 Amendments of these regulations with the following additions:

1. The proposed Planned Unit Development rezoning shall be accompanied by a development plan meeting the requirement for site plans as specified by Article 27 Site Plan Approval of these regulations.
2. Approval of the rezoning shall include approval of the development plan, with any changes or conditions as specified in the resolution approving the rezoning.
3. As necessary, the Board of County Commissioners may attach conditions to the approval of a rezoning of the Planned Unit Development District.
4. Failure of the applicant to comply with provisions of the approval resolution, approved development plan, or any conditions of approval are cause for the County to rescind the subject rezoning following the same public hearing procedure used to approve the rezoning.
5. The applicant may, concurrent with the rezoning to the PUD District, submit preliminary and/or final plats for consideration.
6. The applicant may, following the procedures of Article 31 Amendments, submit amendments to an approved PUD District and approved development plan.

ARTICLE 18 – PLANNED ZONING DISTRICTS

(BOCC Resolution 2021-11; March 31, 2021)

Section 1.1. PLANNED LOW DENSITY RESIDENTIAL

Single-family residential development with a minimum lot area of 6,000 square feet (up to 7.26 units/acre) up to 10,000 square feet (4 units/acre).

Section 1.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use permitted in the Planned Residential District
3. More uses can be found in Article 19 Table of Uses.
4. Development within the Planned Low Density Residential District shall abide by the regulations set forth in:

Article 27A – Site Development Plan Approval

Article 27B – Performance Standards

Article 27C – Subdivision Standards

Section 1.3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 1.4. AREA REGULATIONS

1. Front Yard.
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 30 feet on all street rights-of-way.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of ten (10) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
3. Rear Yard.

- a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.
 - a. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 6,000 square feet
 - 2) Minimum road frontage – 65 feet at the setback line
5. Parking and Loading Requirements.
 - a. As required by Article 27-B Parking Standards.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

Section 2.1. PLANNED MEDIUM DENSITY RESIDENTIAL

Two-family residential development with a maximum lot area of 3,000 square feet per dwelling unit or 7,500 square feet per lot (up to 11.61 units per acre).

Section 2.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use allowed in the Planned Residential District
3. More uses can be found in Article 19 Table of Uses.
4. Development within the Planned Medium Density Residential District shall abide by the regulations set forth in:

Article 27A – Site Development Plan Approval

Article 27B – Performance Standards

Article 27C – Subdivision Standards

Section 2.3. HEIGHT REGULATIONS

No building shall exceed two and one-half stories or thirty-five (35) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 2.4. AREA REGULATIONS

1. Front Yard.
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 30 feet on all street rights-of-way.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of seven (7) feet, or 0 feet for interior side yards of attached residential units.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.
 - a. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – not more than 3,000 square feet per dwelling unit or 7,500 square feet per lot.
 - 2) Minimum road frontage – 75 feet measured at the setback line or a minimum of 37.5 feet per unit for two-family dwelling units.
5. Parking and Loading Requirements.
 - a. As required by Article 27 B – Parking Standards.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

Section 3.1. PLANNED HIGH DENSITY RESIDENTIAL

Multi-family residential development with a minimum lot area of 1,500 square feet per dwelling unit or 10,000 square feet per lot (up to 29.03 units/acre).

Section 3.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use allowed in the Planned Residential District
3. More uses can be found in Article 19 Table of Uses.

4. Development within the Planned High Density Residential District shall abide by the regulations set forth in:

Article 27A – Site Development Plan Approval

Article 27B – Performance Standards

Article 27C – Subdivision Standards

Section 3.3. HEIGHT REGULATIONS

No building shall exceed three (3) stories or forty-five (45) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 3.4. AREA REGULATIONS

1. Front Yard
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 30 feet on all street rights-of-way.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. There shall be a minimum side yard of 10 feet, or 0 feet for interior side yards of attached residential units.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.
 - a. For tracts which have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 10,000 square feet per lot of 1,500 square feet per dwelling unit, whichever is larger.
 - 2) Minimum road frontage – 100 feet measured at the setback line or a minimum of 35 feet per unit for two- three- and four- unit family dwelling units.
5. Parking and Loading Requirements.
 - a. As required by Article 27-B Parking Standards.
6. Accessory buildings on a lot or tract less than 2.51 acres in area shall not occupy more than 2.5% of the square footage of the lot or tract.

Section 4.1. PLANNED COMMERCIAL DISTRICT

Land developed for retail shopping, office, and/or hotel purposes

Section 4.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use permitted in the Planned Commercial District
3. More uses can be found in Article 19 Table of Uses.
4. Development within the Planned Commercial District shall abide by the regulations set forth in:

Article 27A – Site Development Plan Approval

Article 27B – Performance Standards

Article 27C – Subdivision Standards

Section 4.3. HEIGHT REGULATIONS

No building shall exceed three stories or fifty (50) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 4.4. AREA REGULATIONS

1. Front Yard.
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 50 feet on all street rights-of-way for buildings up to 26' in height, then one (1) additional foot of setback is required for each additional foot of building height and 10 feet for all parking lots.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. 25 feet
 - b. Along any property line abutting or adjoining a residential district, there shall be a setback of at least forty (40) feet.
 - c. Parking and Loading Regulations – Whenever a structure is erected, moved, converted, or structurally altered, the regulations shall apply. See Article 27-B Parking Standards.
3. Rear Yard.
 - a. There shall be a minimum rear yard of twenty-five (25) feet.
4. Intensity of Use.
 - a. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 10,000 square feet
 - 2) Minimum road frontage – 75 feet

5. Parking and Loading Requirements.
 - a. As required by Article 27-B Parking Standards.

Section 5.1. PLANNED INDUSTRIAL DISTRICT

Land developed for manufacturing or high-tech purposes, and/or providing services to other industries, such as health and finance.

Section 5.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use permitted in the Planned Industrial District
3. More uses can be found in Article 19 Table of Uses.
4. Development within the Planned Industrial District shall abide by the regulations set forth in:
Article 27A – Site Development Plan Approval
Article 27B – Performance Standards
Article 27C – Subdivision Standards

Section 5.3. HEIGHT REGULATIONS

No building shall exceed three stories or fifty (50) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 5.4. AREA REGULATIONS

1. Front Yard.
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 50 feet on all street rights-of-way and 10 feet for all parking lots.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. Along any other property line within or adjoining the district, there shall be a setback from any building or structure of at least ten (10) feet.

- b. Along any property line abutting or adjoining a residential district, there shall be a setback of at least twenty (20) feet.
 - c. Parking and Loading Regulations – Whenever a structure is erected, moved, converted, or structurally altered, the regulations shall apply. See Article 27-B Parking Standards.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
 4. Intensity of Use.
 - a. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 54,450 square feet (one and ¼ acres).
 - 2) Minimum road frontage – 100 feet.
 5. Parking and Loading Requirements.
 - a. As required by Article 27-B Parking Standards.

Section 6.1. PLANNED MIXED-USE DISTRICT

Land developed for a combination of commercial and light industrial uses. Medium and/or high-density residential uses may also be included.

Section 6.2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Farming, including the usual farm buildings and structures, on a minimum tract size of forty (40) acres or larger; provided however, that no farm shall be operated either publicly or privately for the feeding or disposal of garbage, rubbish or offal, unless a special use permit for such an operation has been issued by the Board of County Commissioners under the provisions of Article 22, which permit shall be for a stipulated period not exceeding three (3) years and under such measures of control as may be deemed necessary, provided that land to be used for agriculturally related business (agri-business) may, if approved by a special use permit in accordance with Article 22 of these regulations, be located on land within this district.
2. Any use permitted in the Planned Mixed-Use District
3. More uses can be found in Article 19 Table of Uses.
4. Development within the Planned Mixed-Use District shall abide by the regulations set forth in:
 - Article 27A – Site Development Plan Approval
 - Article 27B – Performance Standards
 - Article 27C – Subdivision Standards

Section 6.3. HEIGHT REGULATIONS

No building shall exceed three stories or fifty (50) feet in height, except as provided for in Article 20 Additional Height and Area Regulations.

Section 6.4. AREA REGULATIONS

1. Front Yard.
 - a. The minimum setback requirement for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 50 feet on all street rights-of-way and 10 feet for all parking lots.
 - b. Where lots have a double frontage, or are located at the intersection of two or more roads or streets, the minimum front yard setback shall be maintained on all road frontages.
2. Side Yard.
 - a. Along any other property line within or adjoining the district, there shall be a setback from any building or structure of at least ten (10) feet.
 - b. Along any property line abutting or adjoining a residential district, there shall be a setback of at least twenty (20) feet.
 - c. Parking and Loading Regulations – Whenever a structure is erected, moved, converted, or structurally altered, the regulations shall apply. See Article 27-B Parking Standards.
3. Rear Yard.
 - a. There shall be a minimum rear yard of thirty (30) feet, except for accessory structures as provided for in Article 20 Additional Height and Area Regulations.
4. Intensity of Use.
 - a. For tracts that have both public water and public sewer available, the minimum tract size shall be as follows:
 - 1) Minimum lot size – 54,450 square feet (one and ¼ acres).
 - 2) Minimum road frontage – 100 feet.
5. Parking and Loading Requirements.
 - a. As required by Article 27-B Parking Standards.

ARTICLE 19 – TABLE OF USES

(BOCC Resolution 2020-13; April 1, 2020, Updated BOCC Resolution 2023-08; May 3, 2023)

Land Uses and Development: The following Table of Uses establishes the principal uses that are permitted subject to the provisions of the Zoning and Subdivision Regulations, permitted as allowed use under this Article, or permitted as a special use under the Zoning and Subdivision regulations for each zoning district. Notwithstanding the designation on the Table of Uses, any use required to be permitted as a right in a residential district by applicable federal or state law shall be so permitted.

RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1
Rural Residential	1 & 2 Family Apt.	Neighborhood Business	Limited Business	General Business	Limited Industry
I-2	I-3	PR-1/2/3	MXD	PC	PI
Light Industry	Heavy Industry	Planned Residential Dist.	Mixed Land Use	Planned Commercial	Planned Industrial

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
RESIDENTIAL												
Apartment		A (R-4 only)	A	A	A				A (PR-3 only)	A	A	
Group Home Type 1	A	A	A	A	A				A	A	A	
Group Home Type 2	S	S	S	S	S				S			
Single Family attached (1-2 dwelling units)		A (R-3/R-4 only)	A	A	A				A (PR-2/PR-3 only)	A	A	
Single Family Residential (detached)	A	A	A	A	A				A	A	A	
NON-RESIDENTIAL												
Airport or landing field	S				S	S	S	S				S
Accessory buildings and uses	A	A	A	A	A	A	A	A	A	A	A	A
Adult Entertainment/Book store								S				
Agriculturally related business (agri-business)	S	S	A	A	A	A	A	A	S	A	A	A
Amusement park, commercial athletic fields, racetracks, circuses, carnivals and fairgrounds	S	S	A	A	A	A	A	A		A	A	A
Event Center/Meeting Space or any enclosed building used for receptions, gatherings, meetings, or other social or business functions; including dining and lodging facilities, employee housing, recreation facilities, offices, meeting rooms and classrooms.	S	S	S	A	A	A	A			A	A	A

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S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Animal Hospital, Animal Care Facility, Veterinarian Office or Clinic, enclosed and soundproofed kennels only (outdoor stables and pens for horses and livestock are permitted)	S	S	A	A	A	A	A			A	A	A
Art Studio/Gallery	S	S	A	A	A	A	A			A	A	A
Auction or swap meet	S				A	A	A	A			A	A
Auto service station & repair	S	S	S	A	A	A	A	A		A	A	A
Bank or Financial Services	S	S	A	A	A	A	A			A	A	A
Bed and Breakfast	S	S	S	A	A					A		
Boat and RV sales, storage & Repair	S			A	A	A	A	A		A	A	A
Campgrounds	S	S										
Caretaker/Security Dwelling						A	A	A			A	A
Cemetery, mausoleum or crematory	S	S	S	S	S	S	S	S	S	S	S	S
Chemical, Petroleum, Coal & Allied Products												
-compounding of cosmetics, toiletries, drugs, and pharmaceutical products						A	A	A				A
-cosmetics and toiletries; ice manufacture, incl. dry ice; ink manufacture (mixing only); insecticides, fungicides, disinfectants, related industrial/household chemical compounds (blending only); laboratories; perfumes and perfumed soap (compounding only); Pharmaceutical products; soap, washing or cleaning products, powder or soda (compounding only)								A	A			A

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
-acids and derivatives; acetylene; ammonia; carbide; caustic soda; cellulose; chlorine; coke oven products; distillation, manufacture or refining of coal, tar, asphalt; explosives; fertilizer (organic); fish oil and meals; glue (organic); hydrogen and oxygen; lamp black and carbon black; nitrating of cotton and other materials; petroleum, gasoline, and lubricating oil refining and wholesale storage; plastic materials and synthetic resins; potash; pyroxylin; rendering and storage of dead animals, offal, garbage or waste products; turpentine and resins								A				
Childcare facility – independent childcare center or preschool when not conducted by or in a private or public school	S	S	A	A	A	A				A	A	A
Churches, synagogues, other places of worship	A	A	A	A	A	A	A	A	A	A	A	A
Clay, Stone, & Glass Products												
-clay stone and other glass products (electric or gas fired); concrete products, except central mixing and proportioning plant; pottery and porcelain products							A	A				A
-brick, firebrick, refractory and clay products (coal fired); cement, lime, gypsum, or plaster of Paris;								A				
Club, Private	S	S	A	A	A					A	A	
Coal, fuel or ice storage, saw mills, and treatment of building materials	S						A	A				A
College or University, educational facilities either public or private	A	A	A	A	A	A	A	A	A	A	A	A
Communication Tower**	A	A	A	A	A	A	A	A	A	A	A	A
Community buildings, recreational and athletic fields	A	A	A	A	A	A			A	A	A	

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S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Conservation or flood control project	A	A	A	A	A	A	A	A	A	A	A	A
Contractor's yard (as defined in Article 3)	S				A	A	A	A				A
Custom Cabinetry – Structure 7,500 Square Feet or Less (BOCC Resolution 2017-58)	S		S	A	A	A	A	A		A	A	A
Custom Cabinetry – Structure 7,501 Square Feet or Greater (BOCC Resolution 2017-58)	S			A	A	A	A	A			A	A
Dairy farms that process, package and distribute their product	A											
Delivery Service (Not to include freight transfer, i.e. semi-tractor trailers)			A	A	A	A	A	A		A	A	A
Detention facility	S	S	S	S	S							
Disposal or storage of waste materials; landfill, incinerator, transfer station, etc. and recycle centers	S	S	S	S	S	S	S	S				
Distillation of alcohol from grain including mixing, bottling if conducting retail sales on premises	S		S	A	A	A	A	A		A	A	A
Extraction of raw materials such as rock, gravel, sand and clay; minerals and earths, quarrying, extracting, grinding, crushing and processing.	S						S	S				
Farm implement sale/repair	S				A	A	A			A	A	A
Farm store/Feed Store	S				A	A	A			A	A	A
Farming, including buildings & structures	A	A	A	A	A	A	A	A	A	A	A	A
Farming, publicly/privately, for the feeding/disposal of garbage, rubbish, or offal for a stipulated period not exceeding three (3) years and under such measures of control as necessary	S	S	S	S	S	S	S	S	S	S	S	S
Food Storage Lockers				A	A	A	A	A		A	A	A
Funeral Home or Mortuary						A	A					A
Gas filling station/sales	S		A	A	A	A	A	A		A	A	A
Golf course including miniature golf or commercial practice driving tees	A	A	A	A	A	A	A	A	A	A	A	A

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Gun Clubs, Skeet Shoot, Target Ranges (Indoors)	S			A	A	A	A				A	A
Gun Clubs, Skeet Shoot, Target Ranges (Outdoors)	S		S	S	S	S	S			S	S	S
Health Club			A	A	A	A	A			A	A	A
Home occupations; owner/applicant residing on the property (see Article 3 - Definitions)	A	A										
Hospital, Clinic and/or Institution	S	S	A	A	A	A				A	A	
Hotel, Motel, Lodging House					A	A	A	A		A	A	A
Horse boarding 10 or fewer horses	A											
Horse boarding 11 or more horses	S			A	A							
Ice Manufacturing and Storage	S					A	A	A				A
Kennel – dog	S		S	S	S	S	S					
Laboratory – research, experimental, or testing					A	A	A	A		A	A	A
Landscaping, lawn care, lawn maintenance, snow removal and related business	S				A	A	A	A				A
Manufacture or assembly of medical or dental equipment, drafting, optical, and musical instruments, watches, clocks, toys, games, and electrical or electronic equipment						A	A	A				A
Manufacturing of Case goods – Boxes, Crates, Furniture, Baskets, veneer & other similar wood products						A	A	A				A
Manufacturing of Food and Beverage												

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S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
-manufacture of food products, including beverage blending, or bottling, bakery products, candy manufacture, dairy products, ice cream, fruit and vegetable processing and canning, packaging and processing of meat and poultry products, but not to include the following: distilling beverages, slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animal or poultry						A	A	A				A
-bakery products, wholesale; beverages, blending and bottling; candy, chewing gum, chocolate, cocoa and cocoa products; coffee, tea, and spices, processing and packaging; condensed and evaporated milk processing and canning; creamery and dairy operations; flour, feed and grain (packaging, blending and storage); fruit and vegetable processing; gelatin products; glucose and dextrin; grain blending and packaging but not milling; wholesale ice cream; malt products, manufacturing except breweries; meat products, packaging and processing but no slaughtering; poultry packing and slaughtering; yeast							A	A				A
-fat rendering; fish curing, packing and storage; slaughtering of animals; starch manufacture								A				
Manufacturing of Textiles – Rugs, Quilts, mattresses, pillows, millinery, Hosiery, Clothing, Fabrics, Printing & finishing of textiles						A	A	A				A

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Material storage yard w/retail sales					A	A	A	A				A
Medical Outpatient Care Facility and/or Medical/Dental Lab and/or Services			A	A	A	A	A	A		A	A	A
Metal & Metal Products												
-manufacture or assembly of boats, bolts, nuts screws rivets, ornamental products, firearms, tools and dies, machinery, hardware products, sheet metal products, and vitreous enameled products						A	A	A			A	A
-agricultural or farm implements; aircraft and parts; aluminum extrusion, rolling, fabrication, and forming; automobile, truck, trailer, mobile home, motorcycles and bicycle assembly; blacksmith or welding shop; boat manufacture (vessels less than 5 tons); bolts, nuts, screws, washers, rivets, containers; culverts; foundry products manufacture (electrical only); heating, ventilation, cooking and refrigeration supplies and appliances; iron (ornamental) fabrication; machinery, manufacture; nails, brads, tacks, spikes, and staples; plating, electrolytic process; plumbing supplies; scale and vault; sheet metal products; silverware and plated ware; stove and range manufacture; structural iron and steel fabrication; tool, die, gauge, and machine shops; tools and hardware products; vitreous enameled products							A	A				A

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S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
-aluminum powder and paint manufacturing; blast furnaces and cupolas; blooming mill; metal and metal ores, reduction, refining, smelting, and alloying; scrap metal reduction; steel works and rolling mill; vehicle, junk, debris salvage yard								A				
Milk Distribution - including bottling				S	S	A	A	A			A	A
Mobile Home and Tourist Courts	S	S										
Micro Distillery (as defined in Article 3)	S		A	A	A	A	A	A		A	A	A
Motion Picture Production	S			A	A	A	A	A		A	A	A
Natural Gas Pumping Stations	S					S	A	A				A
Office/office buildings with more than 2 employees			A	A	A	A	A	A		A	A	A
Office, Professional (no employees other than family members)	A	A	A	A	A	A	A	A	A	A	A	A
Off-Street Parking Lots			A	A	A	A	A	A		A	A	A
Outdoor advertising structure			A	A	A	A	A	A		A	A	A
Parking Structures					A	A	A	A		A	A	A
Personal Service uses – Barbershop, Bank, Beauty parlor, Photographic/Artist studio, Messenger/Taxi service, Newspaper			A	A	A	A	A	A		A	A	A
Photographic processing, services			A	A	A	A	A	A		A	A	A
Picnic Groves and Fishing Lakes	S	S	S	S	S	A	A	A				
Printing – Publishing – Engraving				A	A	A	A	A		A	A	A
Processing & Canning of fruits, vegetables, meats, poultry						A	A	A				A
Propane Storage – Bulk					S	A	A	A				A
Public Utilities: drinking water towers and standpipes, drinking water treatment facilities, drinking water treatment monofills, drinking water well houses, wastewater lift stations, wastewater treatment facilities	A						A	A				A

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Public/Private utility substation including, but not limited to: cable, electric, fiber optics, natural gas, oil or petroleum products, telephone, and private water towers	S	S	S	S	S	S	A	A	S	S	S	A
Public Uses/Government Uses	A	A	A	A	A	A	A	A	A	A	A	A
Radio/Television Station Studio & Offices				A	A	A	A			A	A	A
Railroad ROW & Facilities, Inc. Tracks & operations Excluding all other Railroad uses	A	A	A	A	A	A	A	A	A	A	A	A
Recreation and Entertainment Indoor and Outdoor			A	A	A	A				A	A	
Recreational Vehicle Park	S	S	S	S	A	A	A	A			A	A
Renewable Energy Conversion System	S					S	S	S				S
Commercial Wind Energy Conversion System	S (RR-5 only)											
Noncommercial Wind Energy Conversion System	A	A	A	A	A	A	A	A	A	A	A	A
Solar Energy Conversion System	S											
Retail Sales and Service	S		A	A	A	A	A			A	A	A
-Big Box Retail				A	A	A	A	A		A	A	A
-Boat Sales/Service				A	A	A	A	A		A	A	A
-Home Remodeling and Light construction Supply/Sales (BOCC Resolution 2018-7)	S		A	A	A	A	A	A		A	A	A
Riding stables and tracks	S											
Roadside Seasonal Produce Stand	A	A	A	A	A	A	A	A	A	A	A	A
Rock crushers, asphalt and concrete plant	S						A	A				A
Salvage yard	S			S	S	S	A	A				
Self-storage warehouse, Mini-warehouse					A	A	A	A			A	A
Signs in accordance with Article 25	A	A	A	A	A	A	A	A	A	A	A	A
Sign Shop (BOCC Resolution 2019-06; March 6, 2019)	S				A	A	A	A				
Signs-Temporary in accordance with Article 25	A	A	A	A	A	A	A	A	A	A	A	A
Small Limited Businesses (See Article 3-Definitions)	S	S	A	A	A	A	A	A	S	A	A	A

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A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
Storage, packaging and distribution of smokeless Class 1.3c and Black Class 1.1d powder							S	S				
Storage of liquid/solid fertilizer					A	A	A	A			A	A
Swimming pool or natatorium	S	S	A	A	A	A	A		A	A	A	A
Television and amateur radio antennae exceeding district height limitations	S	S	S	S	S	S	S	S	S	S	S	S
Temporary construction site buildings or sale of lots during development being conducted on the same/adjoining tract or subdivision, or upon the expiration of a two-year period from the time of erection of such building, whichever is sooner	A	A	A	A	A	A	A	A	A	A	A	A
Theater (enclosed)			A	A	A	A	A	A		A	A	A
Theater, outside or drive-in	S			A	A	A	A	A		A	A	A
Truck Hauling Business	S		S	S	A	A	A	A			A	A
Truck Terminal					A	A	A	A				A
Unclassified Uses												
-building materials (cement, lime in bags or containers, sand, gravel, shell, lumber, and the like), storage and sales; bus garage and repair shop; button manufacture; carbon paper and inked ribbon manufacturing; cleaning and dyeing of garments, hats, rugs; coal and coke storage and sales; exposition building; fur finishing; gas fired electricity generating stations (subject to Article 20, section 4, height requirements); industrial vocation training schools; leather goods manufacturing; livery stable and riding academy; railroad switching yards; sign painting and fabrication; tire retreading plant; accessory uses and buildings								A	A			A

S = Special Use Permit	RR-2.5/5	R-1/2/3/4	B-1	B-2	B-3	I-1	I-2	I-3	PR-1/2/3	MXD	PC	PI
A = Allowed Use	Rural	1/2 Fam Apt	Neigh Bus	Lim Bus	Gen Bus	Lim Ind	Lite Ind	Hvy Ind	Plnd Res Dis	Mixed	Plnd Comm	Plnd Ind
-hair, hides, and raw fur curing, tanning, dressing, dyeing and storage; accessory buildings and uses								A				
Warehouse						A	A	A				A
Wastewater treatment plant	S						A	A				
Wholesale merchandise/establishment					A	A	A	A			A	A
Wood & Paper Products												
-baskets and hampers; boxes and crates; cooperage works; furniture; lumber yard; pencils; planing and millwork; pulp goods; shipping containers (corrugated board, fiber or wire bound); trailer, carriage, and wagon; veneer; wood products							A	A				A
-match manufacture; wood pulp and fiber, reduction and processing								A				

** Towers, radio antennas, commercial satellite earth stations and similar appurtenances, subject to the following conditions: Failure to abide by the conditions of approval by the applicant shall be cause for an action to rescind approval of the Special Use Permit.

- a. Applicant must provide documentation acceptable to the Planning Commission that existing structures within an approximate one (1) mile radius of the proposed location are not available for collocation.
- b. All proposed towers 150 feet or less, not including lightning rod, shall be designed to accommodate at least one (1) additional PCS/Cellular platform. All proposed towers in excess of 150 feet shall be designed to accommodate at least two (2) additional PCS/Cellular platforms.
- c. Any application for a tower in excess of 150 feet in height shall include supported testimony of an RF engineer, or other licensed Professional Engineer, substantiating the need for the requested height.
- d. The minimum setback from adjoining property lines shall be the height of the tower plus twenty (20) feet. And that setbacks may, on a case by case basis, be considered for a variance and the applicant shall provide such documents for such.
- e. The tower and accessory equipment must meet all requirements of the Federal Communication Commission and the Federal Aviation Administration.
- f. Any tower that is not operated for a continuous period of two (2) years shall be considered abandoned, and the owner of such tower shall remove same within ninety

(90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such tower is not removed within said ninety (90) days, the governing authority may remove such tower at the owner's expense.

- g. Pad sites and guy wire locations must be surrounded by a minimum of a six-foot tall fence that may use screening inserts or other material that block direct view of the site.
- h. Vegetation must be removed from around the pad site and controlled on the rest of the property if the property is not used for agricultural purposes.
- i. Prior to the issuance of a building permit, the applicant must file and receive approval of a site plan. Such application may be submitted concurrently with the application of a Special Use Permit.

ARTICLE 20 – ADDITIONAL HEIGHT AND AREA REGULATIONS

Section 1. The district regulations hereinafter set forth in this Article modify or supplement, as the case may be, the district regulations appearing elsewhere in this resolution.

Section 2. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet, and churches and temples may be erected to a height not exceeding ninety (90) feet, if the building, or the portion thereof exceeding the height limit, is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built; provided, however, that such exceptions shall not be permitted within three thousand (3,000) feet of any airport or landing field.

Section 3. Except as provided in Section 5 of this Article, single-family dwellings and two-family dwellings in a residential district may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height; provided, however, that such additional heights shall not be permitted within two thousand (2,000) feet of any airport or landing field.

Section 4. Except as hereinafter provided, especially in Section 5 of this Article, chimneys, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers, church steeples, spires, communications towers, silos, farm buildings, or necessary mechanical appurtenances, may be erected to any lawful and safe height.

Section 5. No building or structure or any portion thereof shall be erected within the approach zone of any existing runway or landing strip in excess of a height above the elevation at the end of said runway, equal to one-fortieth ($1/40$) of the horizontal distance from the end of said runway, measured along the centerline of said runway extended. The approach zone is considered to be a trapezoidal area extending from the end of, and in the same direction as, said runway for a distance of two (2) miles. Such area is, in the case of an instrument runway, one thousand (1,000) feet wide at the end of the runway and four thousand (4,000) feet wide two (2) miles from the end of the runway, and in the case of a non-instrument runway, five hundred (500) feet wide at the end of the runway and twenty-five hundred (2,500) feet wide two (2) miles from the end of the runway.

Further, no building or structure or any portion thereof shall be erected in the transition zones on either side of an approach zone of any existing runway or landing strip in excess of a height above the elevation at the end of said runway, computed as follows: one-fortieth ($1/40$) of the horizontal distance from the end of said runway measured along the centerline of said runway extended, plus one-seventh ($1/7$) of the horizontal distance to the near edge of the approach zone, measured perpendicular to the centerline of said runway extended.

For the purpose of computing glide angles for the zoning of approaches to any airport in the County of Leavenworth, Kansas, in all cases where an airport is bounded by a public road, the effective length of runways directed over such public road shall be computed (using a slope of forty (40) feet horizontal to one (1) foot vertical) to produce a height of fourteen (14) feet at the right-of-way of such road nearest to the airport.

Section 6. Accessory buildings that are not part of or attached to the main building may be built in a rear yard not closer than 15 feet to the rear lot line.

Section 7. Every part of the required yard shall be open to the sky, unobstructed, except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features, projecting not to exceed twelve (12) inches. This requirement shall not prevent the construction of fences not exceeding eight (8) feet in height, except for fences that would obstruct vision on that part of the lots within thirty (30) feet of the intersection of two or more streets.

Section 8. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into rear yards not more than five (5) feet, and the ordinary projection of chimneys and flues are permitted.

Section 9. For the purpose of side yard requirements, a two-family dwelling shall be considered as one building occupying a single lot.

Section 10. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having direct street access; provided, however, (a) that said court between buildings that are parallel or within forty-five (45) degrees of being parallel, shall have a minimum width of thirty (30) feet for one-story buildings, forty (40) feet for two-story buildings, and fifty (50) feet for three-story buildings, and in no case may such buildings be closer to each other than fifteen (15) feet; (b) where a court having direct street access is more than fifty (50) percent surrounded by a building, a minimum width of the court shall be at least thirty (30) feet for one-story buildings, forty (40) feet for two-story buildings, and fifty (50) feet for three-story buildings.

Section 11. Accessory, open and uncovered, swimming pool and home barbecue grills may occupy a required rear yard, provided they are not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line.

Section 12. An open, unenclosed porch or paved terrace may project into a front or rear yard for a distance not to exceed ten (10) feet.

Section 13. The minimum setback requirements for all buildings or structures of any nature built, erected, constructed, rebuilt, re-erected or reconstructed shall be at least 105 feet from the centerline of all State or County roads. Provided, that this section shall not apply to the internal road systems within subdivisions.

Section 14. All new dwellings constructed and all dwellings moved from one location to another shall:

1. provide a minimum floor area of six hundred (600) square feet for each family;
2. provide for each family a sink and water closet installed in a room or compartment separated from other portions of the dwelling by partitions extending from floor to ceiling with entrance provided by a solid door. All water closets and sinks shall be connected with a water supply and sewage disposal system as specified by the Leavenworth County Sanitary Code;
3. provide exterior wall surfacing of brick, stone, concrete, concrete block, wood siding, or other similar durable and satisfactory materials but not of tar paper, canvas, cardboard, corrugated metal, unfinished metal, unfinished slab siding, or other temporary, unsubstantial or unsightly materials.

Section 15. In all zoning districts, area, height and setback requirements for utility substations shall be determined as a part of the Special Use Permit Process required under Article 22.

Section 16. The lot width shall be measured as road frontage on all lots except curved street and cul-de-sac lots. On cul-de-sac lots, the lot width shall be measured at the setback line.

Section 17. Additional setbacks to protect access management capabilities along K-7. The setback for all new structures situated along Kansas State Highway K-7 from the Lansing city limits to Parallel Road shall be 300 feet from the centerline of the highway to allow for the addition of frontage roads in the future. At the intersections of K-7 with Fairmount Road, Hollingsworth Road, Donahoo Road, Leavenworth Road, and Parallel Road all structures must be setback outside the triangles with legs measuring 600 feet west of the centerline of the highway and 1900 feet north and south of the center of each intersection to allow for future freeway interchanges.

Section 18. Additional setbacks to protect access management capabilities along U.S. 24/40. The setback for all new structures situated along U.S. 24/40 (State Avenue) from the Basehor city limits to the Tonganoxie city limits shall be 200 feet from the right-of-way line of the highway to allow for the addition of frontage roads in the future.

ARTICLE 21 – NONCONFORMING USES

Section 1. The lawful use of a building or tract of land existing at the time of the effective date of this resolution may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

Section 2. Whenever the use of a building becomes nonconforming through a change in the zoning resolution or district boundaries, such use may be continued and, if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restricted classification.

Section 3. In the event that a nonconforming use of any building, premises or tract of land is discontinued for a period of two (2) years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

Section 4. No existing building or premises devoted to a use not permitted by this resolution in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.

Section 5. The casual, intermittent, temporary, or illegal use of land or a building shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on a part of a lot or tract, or within a portion of a building or structure, shall not be construed to establish a nonconforming use on the entire lot or tract, or within the entire building or structure.

Section 6. Whether a nonconforming use exists shall be a question of fact and shall be determined by the Board of Zoning Appeals after public notice and hearing in accordance with the rules of the Board.

Section 7. When the extent of a nonconforming use is on land zoned for, and used solely as a single-family residential use, and the sole extent of the nonconforming use is non-compliance by structures within a required road or yard setback, and the County Engineer and the Director of Planning & Zoning, or their representatives, concur that allowing the nonconforming use to expand in a direction parallel or away from the setback line is not adverse to the public interest, then an exception to Article 21 may be granted for the expansion of buildings or structures on a case by case basis. This exception shall not apply to buildings built without permits. The landowner shall file, at their expense, a letter from the County Engineer and the Director of Planning and Zoning listing the details of the site's exemption from Article 21 at the Register of Deed's Office before a building permit may be granted.
(BOCC Resolution 2007-50; October 2, 2007)

ARTICLE 22 – SPECIAL USE PERMITS AND TEMPORARY USE PERMITS

Section 1. GENERAL

Certain uses, specified in this Article or other Articles, are of a type or nature which may be desirable or necessary to be located in the County, but, due to their nature, may be incompatible with the surrounding area without a thorough review and possibly the placing of conditions on the use to protect the health, safety and welfare. As specified in these regulations, these specific uses may be permitted only after approval by the Board of County Commissioners, or by the Administrative Officer when directed by these regulations. A maximum of two special use permits shall be allowed per parcel. All valid Special Use Permits which remain in compliance with the approved conditions of the permit or have no substantiated complaints shall be approved without expiration upon approval of this amendment.

(BOCC Resolution 2009-41- August 27, 2009; Resolution 2022-08 - March 30, 2022; BOCC Resolution 2024-15; September 18, 2024)

Section 2. SPECIAL USE PERMITS – APPLICATIONS

Applications for a Special Use Permit may be made by any person(s) who own(s) the land for which a Special Use Permit is sought, or an agent of the land owner(s) as defined below. In the case where approval of the permit is a contingency on the sale of the property, the Permit may be approved for the specific purchaser. If such application is made by the owner's agent, the agent must attach a letter signed (and notarized) by the owner(s) or some other appropriate legal documentation authorizing the person as the owner's agent. A Special Use Permit, when approved, is granted to the specific property on which approval is sought, and is nontransferable to another property.

(BOCC Resolution 2024-15; September 18, 2024)

All applications for Special Use Permits shall be made to the Administrative Officer on such forms as are provided. All applications for a Special Use Permit shall include a Site Plan. Site Plans shall meet the requirements of *Article 27 – Site Plan Approval; Section 4. Site Plan Contents*. The exceptions to this requirement are as follows:

- a. Site Plans may not require the seal of a licensed professional unless specifically requested by the Director of the Planning and Zoning Department,
- b. any other listed requirement in *Article 27; Section 4* may be waived based on the determination of the Director of the Planning and Zoning Department.

Immediately upon receipt of a complete application, with the fee required by the Leavenworth County Fee Schedule as adopted by the Board of County Commissioners, the Administrative Officer shall note the date and make a permanent record thereof. All such hearings shall be set for hearing before the Planning Commission within sixty (60) days of submission of a complete application. Notice of hearing shall be published in the official county newspaper not less than twenty (20) days prior to the date of the hearing. In addition, notices shall be sent by mail to the owners of all property located within the unincorporated area of the county within one-thousand (1,000) feet of the area proposed for a Special Use Permit (the notice area shall extend two hundred (200) feet in those areas where the notification area extends within the corporate limits of a city) at least twenty (20) days prior to the date of the hearing.

An application for a Special Use Permit, a site plan, and any other supporting documents must be filed with the Planning Office at least forty-five (45) days prior to the Planning Commission meeting at which a public hearing on the proposed Special Use Permit is to be held.

If a person(s) have been found to be in violation of operating a business or use without a Special Use Permit, the application fee shall be doubled at the time of submittal.

(BOCC Resolution 2011-45, December 1, 2011; Resolution 2022-08 - March 30, 2022)

Section 3. PROCEDURE

Following the public hearing, the Planning Commission shall make a recommendation for approval or disapproval of the application to the Board of County Commissioners. A majority vote of the membership of the Planning Commission is required in order to make a recommendation.

When the Planning Commission submits a recommendation of approval or disapproval of a Special Use Permit, the Board of County Commissioners may adopt the same, amend the recommendation, or disregard the recommendation by resolution. Upon receipt of a recommendation of the Planning Commission with which the Board of County Commissioners disagrees, the Board of County Commissioners may return the recommendation to the Planning Commission with a written statement specifying the basis of disagreement. The Planning Commission may choose to reconsider the issue. After reconsideration of the same, the Planning Commission may resubmit their written recommendation, giving the reasons thereof, or submit a new recommendation. The Board of County Commissioners may only return a recommendation to the Planning Commission only one time.

(BOCC Resolution 2007-50; October 2, 2007)

Regardless of the recommendation of the Planning Commission, if a valid protest petition against a proposed amendment or Special Use Permit is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the hearing, duly signed and acknowledged by the owners of twenty (20) percent of the total area, excepting public streets and ways, which is located within one-thousand (1,000) feet of the boundaries of the property for which a Special Use Permit is sought, such permit shall not be approved except by at least a $\frac{3}{4}$ vote of the Board of County Commissioners.

(BOCC Resolution 2019-23; September 4, 2019)

Section 4. LIMITATIONS ON SUCCESSIVE APPLICATIONS

In the event of a denial by the Board of County Commission of an application for any rezoning or special use permit affecting a tract of real property, no subsequent application for any rezoning or special use permit for that tract of real property shall be accepted by the County until 12 months has elapsed from the date of the denial, provided that upon a finding by the Board of County Commission that there has been a material change of circumstances affecting the tract, such an application may be accepted by the County prior to the expiration of the 12 month period.

(BOCC Resolution 2016-15; June 2, 2016)

Section 5. CONDITIONS OF APPROVAL

Every Special Use Permit issued by Leavenworth County to a non-governmental person, business or corporation shall be valid without expiration. When necessary, the Board of County Commissioners may attach conditions to the approval of a Special Use Permit. Failure

to abide by the conditions of the approval by the applicant shall be cause for an action to rescind approval of the Special Use Permit.

Section 6. FACTORS TO BE CONSIDERED

The following matters are to be considered by the Planning Commission and the Board of County Commissioners when approving or disapproving a Special Use Permit or Temporary Use Permit request:

1. Character of the neighborhood.
2. Zoning and uses of nearby property.
3. Suitability of the property for the uses to which it has been restricted.
4. Extent to which removal of the restrictions will detrimentally affect nearby property.
5. Length of time the property has been vacant as zoned.
6. Relative gain to economic development, public health, safety and welfare.
7. Conformance to the Comprehensive Plan.
8. Staff recommendation.

The Planning Commission and the Board of County Commissioners when approving or disapproving a Special Use Permit or Temporary Use Permit request may also consider the following matters, when appropriate:

Traffic / Parking	Location /Access
Archaeological / Historic significance	Topography / Drainage
Wildlife Presence	Ecological analysis
Design compatibility with surrounding area	Tax base implications
Vegetation analysis	Flood hazards
Soil survey	Sewage disposal
Market / Economic analysis	Water supply
Police / Fire / EMS protection	Air / Noise pollution
Demographic study	

Section 7. PUBLICATION AND REVIEW

The Administrative Official shall create a list of all active Special Use Permits annually. Upon receipt of a substantiated complaint or evidence that a Special Use Permit has been modified or expanded, the Planning Department may request submittal of documentation or an inspection to be held to verify that conditions of a Special Use Permit have not been violated. If a Special Use Permit has been found to not be in compliance with the conditions of approval, the Planning Department shall proceed with code enforcement until the time that all violations have been remedied or the person(s) responsible for the Special Use Permit has applied and been approved for a modification to their application.

(Resolution 2022-08 - March 30, 2022)

Section 8. TERMINATION OF APPROVAL

Cessation of the activity covered by an approved Special Use Permit for a continuous period of twelve (12) months shall be considered abandonment of the Special Use Permit.

Reestablishment of the activity shall require a new application and new approval of a Special Use Permit.

Following approval of a Special Use Permit, if it is necessary for the Permit to be reevaluated because of the creation of nuisances, or hazards to the public health, safety and/or welfare, the Board of County Commissioners may initiate the process to rescind approval of the Special Use Permit, such procedure to be the same procedure that was followed in approving the original Special Use Permit.

Section 9. SPECIAL USES

For a complete list of the Special Uses allowed in each district, refer to Article 19, Table of Uses.

Special Uses shall be classified into one of four categories. Special Use categories shall be determined by the intensity of the use, impacts on surrounding properties, impacts on public roadways and services, and the scale of the development. The categories shall be defined as:

Type 1: Uses on large tracts of land that are recreational or public/quasi-public in nature, but occasionally can include accessory uses or limited characteristics that can be detrimental to adjoining property if not controlled or constrained.

Type 2: Uses related to communications or utilities, which tend to be out of character to the land uses in the immediate vicinity.

Type 3: Uses with unique characteristics and potential to produce nuisance impacts such as light glare, noise, traffic, litter and more.

Type 4: Uses that are largely industrial operations that frequently generate hazardous or intense nuisance factors.

Use categories shall determine whether additional requirements or conditions will be placed on the Special Use Permit as well as the term limit of the permit, unless otherwise directed by the Board of County Commissioners.

(BOCC Resolution 2024-15; September 18, 2024)

Section 10. TEMPORARY USES

(BOCC Resolution 2019-23; September 4, 2019)

The purpose of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. The following types of temporary uses are permitted in any district upon review and finding of the Department of Planning & Zoning that the proposed use is in the public interest. The use shall be approved for a specific short-term duration. The following is a list of typical Temporary Uses which may be reviewed and permitted by the Director of Planning and Zoning. In the event that the Director of Planning and Zoning denies the request, the applicant shall receive written notice from the Director within 10 days of application submittal.

Type 1: Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures used in conjunction with the event. Examples of these types of events include, but are not limited to: fun runs, bicycle races, foot races, ATV rides, auctions and other related activities. The following items shall be required:

- a. Organizations with appropriate documentation of 501(c)(3) status shall be exempt from application fees for a Temporary Special Use Permit.
- b. Organizations with appropriate documentation of 501(c)(3) status shall be required to submit an application for a Temporary Special Use Permit. Applications and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.
- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. The application shall require review and approval by the Department of Emergency Management.
- e. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.

Type 2: Fund-raising or non-commercial events for for-profit organizations: including any on-site signs and structures used in conjunction with the event. Examples of these types of events include, but are not limited to: fun runs, bicycle races, foot races, ATV rides auctions, and other related activities. The following items shall be required:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2010-10 and as amended.
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.
- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. The application shall require review and approval by the department of Emergency Management.
- e. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.

Type 3: Fireworks stands either non-profit or for-profit: including any on-site signs and structures used in conjunction with the event. The following items shall be required:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2020-46. (Staff is recommending a fee based upon costs associated with inspections and staff review process)
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the opening of the fireworks stand.
- c. Fireworks stands shall not be permitted on public roads or within public rights-of-way.
- d. Applications shall require review and approval by The Department of Emergency Management.

- e. Fireworks stands shall be located on private property and applicants shall submit with application an “Owner’s Authorization” with property owners’ signature and the Authorization shall be notarized.
- f. Applicants shall submit proof of required insurance and applicable bonds.
- g. Adequate off-street parking shall be required.

Section 11. TEMPORARY USES REQUIRING BOARD OF COUNTY COMMISSION REVIEW
(BOCC Resolution 2019-23; September 4, 2019)

The following temporary uses are permitted in any district upon review and finding of the Board of County Commissioners that the proposed use is in the public interest. The use shall be approved for a specific short-term duration and shall be subject to conditions.

Type 4: Public or private events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades, or as temporary “one-time” activities of a generally short durations, particularly such activities as “locational” work by film companies

Type 5: The temporary placement of a laydown yard, portable asphalt or concrete plant and attendant materials and equipment during construction work on any public road or public infrastructure. All other temporary uses that are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses.

Type 6: Any use which would normally require a Special Use Permit but in situations which the Board of County Commissioners determine should only be approved for a finite period of time.

Notification Requirements

Events requiring a Temporary Special Use Permit which requires review and approval by the Board of County Commissioners shall require public notification and a public hearing.

- 1. Events associated with a singular parcel shall require written notification to neighboring property owners within 1000 feet of the property seven (7) days prior to the public hearing.
- 2. Events occurring throughout the County, such as: Filming shall require public notice...via publication in the local Newspaper seven (7) days prior to the public hearing. (BOCC Resolution 2015-35; September 24, 2015)

Application Requirements

The following items shall be required for a Temporary Special Use Permit:

- a. Payment of application fee as set by the Board of County Commissioners per Resolution 2010-10 and as amended.
- b. Applications, and all required supporting documents, shall be submitted to the Planning and Zoning Department a minimum of 30 days prior to the anticipated event.

- c. The application shall require review and approval by the Road and Bridge Superintendent if the event is to be held on public roads or public rights-of-way.
- d. In the event that Sheriff/Deputy presence is needed to control traffic, the applicant shall coordinate payment and scheduling directly with the Sheriff's department. This documentation shall be included with the application submittal.
- e. Not more than three (3) Temporary Special Use Permits per parcel shall be granted each year. (BOCC Resolution 2015-35; September 24, 2015).

Section 12. PRIVATE EVENTS

(BOCC Resolution 2019-23; September 4, 2019)

Events meeting the definition of "Private Event" as defined by Article 3- Definitions- of these Regulations shall not require a Temporary Special Use Permit.

Section 13. HOME OCCUPATION LICENSES

Home Occupation Licenses shall be a permitted accessory use to single family residences. (BOCC Resolution 2024-15; September 18, 2024)

Section 14. RESTRICTIONS AND LIMITATIONS

The following restrictions and limitations shall apply to all Home Occupation Licenses.

- A. The home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as such person's private residence. The Home Occupation shall be limited to 75 percent of the floor area of any structure on the premises.
- B. No display or storage of equipment or material outside of a building or structure shall be permitted.
- C. No alteration of the exterior of the principal residential building shall be made that removes the character of that building as a residence. There shall not be visible evidence of the business from the street or surrounding properties. The appearance of the building as a dwelling or residence shall not be altered to the extent it would appear to be a commercial or business operation. Alterations of building material, size, or color; light fixtures or intensity; parking area; or any other exterior change shall not cause the structure to lose its residential character nor shall it detract from the rural or residential character of the area.
- D. Only one (1) non-illuminated ground or wall sign, not more than 16 square feet in sign area, may be used to identify the home occupation on parcels 2.5 acres or larger. Signage for Home Occupations on parcels less than 2.5 acres are prohibited.
- E. No equipment or machinery may be used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.

- F. Parking generated by the conduct of a home occupation shall be provided off-street in an area other than the required front yard except that existing driveways may be used. Parking areas shall be paved with gravel, asphalt or concrete. Parking areas on grass are prohibited.
 - G. Vehicular or parking demand shall not exceed 20 two-way vehicular trips. Off-premises employee parking shall be included in this count.
 - H. The commercial exchange of tangible goods or items constituting a sale between the proprietor of a home occupation and members of the general public shall not be permitted on the premises of a home occupation on properties less than 2.5 acres except on an incidental, occasional and infrequent basis. Members of the general public shall not include persons in the home by prior individualized invitation.
 - I. A home occupation may attract patrons, students, or any business-related individuals only between the hours of 6 A.M. and 7 P.M. A home occupation shall not generate more than 20 business related visitations per day which shall constitute 20 arrivals and 20 departures by vehicle. These standards shall not be construed so as to prohibit occasional group gatherings, recitals, or demonstrations. However, such gatherings shall not occur more frequently than once per month and must be held within the visitation hours specified above in this paragraph.
 - J. The keeping of stock and trade on premises shall be permitted so long as the majority of commerce is done via mail service.
 - K. Home occupation shall comply with all local, state, and federal rules and regulations that may be applicable.
- (BOCC Resolution 2024-15; September 18, 2024)

Section 15. PERMITTED HOME OCCUPATIONS

Permitted home occupations may include, but are not limited to, the following list of occupations, provided, however, that each home occupation is subject to the home occupation restrictions and limitations within these regulations:

- A. Teaching or instruction provided not more than three (3) students are taught at any one time and not more than 12 students per day.
- B. Preschools or day-care centers for not more than 12 children or adults per day, when properly approved by the Kansas Department of Health and the Environment or other such agencies as may be required by law.
- C. Professional office for accountants, architects, bookkeepers, engineers, lawyers, and similar professions.
- D. Offices for Realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
- E. Home crafts and hobbies such as model making, rug weaving, and the like articles produced or constructed as a hobby activity.

- F. Tailoring, alterations, and seamstresses.
- G. Personal Service shops (i.e Barbershop, Beauty shop, Massage Therapy).
- H. Medical offices such as physicians, dentists, chiropractors' offices.
- I. Repair of items such as small appliances; electronic devices provided that the use fully conforms with the performance requirements for home occupations.
- J. Or other uses that meet the performance standards of a home occupation license.
(BOCC Resolution 2024-15; September 18, 2024)

Section 16. PROHIBITED HOME OCCUPATIONS

Prohibited uses from obtaining a Home Occupation License are as follows:

- A. Retail sales (if under 2.5 acres) such as antiques, second-hand merchandise, groceries, and the like. However, this prohibition shall not apply to garage sales, tag sales, or similar occasional, temporary sales which may otherwise be permitted by County regulations and Temporary Special Use Permit regulations
- B. Equipment rental.
- C. Automobile and other motor vehicle repair services.
- D. Tourist homes including bed and breakfast facilities.
(BOCC Resolution 2024-15; September 18, 2024)

Section 17. HOME OCCUPATION LICENSE – APPLICATION & PROCEDURE

Home Occupations shall require a permit from the Leavenworth County Planning and Zoning Department. Permit fees shall be subject to the fee schedule as determined by the Board of County Commissioners. Permits shall remain valid unless the conditions of the home occupation permit as set forth in these regulations have not been met. Site plan, floor plan, other required documents

(BOCC Resolution 2020-09; March 4, 2020; BOCC Resolution 2024-15; September 18, 2024)

ARTICLE 23 – ADULT ENTERTAINMENT

Section 1. PURPOSE

The purpose of this Chapter is to provide special design guidelines/standards and development regulations which regulate the time, place and manner of the operation of adult use facilities in order to minimize the negative secondary effects associated with such facilities. The specific purposes of this Chapter are to:

1. Establish a procedure which places strict limits on processing time and eliminates any possibility for the exercise of unfettered discretion in reviewing applications for establishing adult uses.
2. Ensure orderly and thorough review of applications for adult uses.
3. Establish reasonable and uniform regulations that will reduce possible adverse secondary effects that adult uses may have upon the residents of the county and preserve the integrity of existing residential areas which are in close proximity to such use.
4. To protect the rights conferred by the United States Constitution to adult uses in a manner that ensures the continued and orderly development of property within the county and diminishes those undesirable negative secondary effects that recognized studies have shown to be associated with the development and operation of adult uses.
5. To allow a process whereby the unusual site development features or operating characteristics of such uses may be conditioned through an individual review, in order to be compatible with the surrounding uses of property.

Section 2. DEFINITIONS

In addition to the definitions contained in Article 3 of the subdivision regulations, the following words and phrases shall, for the purposes of this Chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the subdivision regulations, these definitions shall prevail:

1. Director: Director of Planning and Zoning.
2. Adult Arcade: Any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are considered ‘adult material’ as defined herein.

3. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, adult material, or an establishment with a segment or section devoted to the sale or display of such material.
 - a. An establishment shall be deemed to have a substantial or significant portion of its stock in trade if not less than twenty percent (20%) of the stock of the business or twenty percent (20%) of the floor area which houses the adult business is adult material provided, however, that if the adult business is housed in a building or structure which includes more than one business, then the 'floor area' shall mean and refer to only that portion of the building which is leased or otherwise demised to the adult business.
 - b. An establishment shall also be deemed to have a substantial or significant portion of its stock in trade if not less than twenty percent (20%) of the gross receipts of the business or use derived from the sale of 'adult material' (as defined below).
4. Adult Business or Adult Use:
 - a. Any business establishment or concern which is a regular and substantial course of conduct operates as an adult bookstore, adult theater, adult arcade, adult cabaret or adult nightclub, figure modeling studio, adult dance studio, adult entertainment studio, erotic dance studio, or adult hotel; or
 - b. Any business establishment or concern which as a regular and substantial course of conduct offers, sells, or distributes adult oriented merchandise or sexually oriented merchandise, or which offers to its patrons adult materials or other products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical parts.
5. Adult Cabaret or Adult Nightclub: A business establishment or concern which features live performances by dancers or similar entertainers in the nude.
6. Adult Dance Studio: Any business establishment or concern which provides for members of the public a partner for dance where the partner appears nude, or where the dance is distinguished or characterized by the emphasis on matter depicting, or describing or relating to specified sexual activities or specified anatomical areas.
7. Adult Entertainment Studio: Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, wherein an entertainer provides entertainment to a member of the public, a patron or a member, when such entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult entertainment studio includes, without being limited to, any premises that is physically arranged and used as such, whether advertised or represented as an entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import. Adult entertainment studio shall not include theaters, concert halls, or similar establishments where entertainment is performed for groups of four or more.
8. Adult Hotel: A hotel which is used for presenting on a regular and substantial basis material which is distinguished or characterized by the emphasis on matter depicting or

describing or relating to specified sexual activities or specified anatomical areas through closed circuit or cable television or through video tape recorder where video tapes are provided by the hotel/motel. For purposes of this subsection, a “Hotel” means any building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a motel, cabin camp, tourist cabin, or other type of lodging unit. Evidence that a sleeping room in a hotel has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult hotel as that term is defined herein.

9. Adult Oriented Merchandise: Sexually oriented implements, paraphernalia, or novelty items, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
10. Adult Material: Materials which are distinguished or characterized by their emphasis on matter which is distinguished or characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
11. Adult Theater: A theater or other commercial establishment with or without a stage or proscenium which is used for presenting, on a regular or substantial basis, material which is distinguished or characterized by an emphasis on matter depicting, or describing, or relating to specified sexual activities or specified anatomical areas.
12. Arcade Booth: Any enclosed or partially enclosed portion of an establishment in which an adult arcade is located, or where a live performance is presented, on a regular or substantial basis, where the material presented is distinguished or characterized by an emphasis on matter depicting, or describing, or relating or specified sexual activities or specified anatomical areas.
13. Dancer: A Performer who dances or otherwise performs for an erotic dance studio and who seeks to arouse or excite the patron’s sexual desires.
14. Employee: Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult entertainment studio.
15. Entertainer: Any person who provides entertainment within an adult entertainment studio as defined in this Chapter, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.
16. Entertainment: Any exhibition, performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered for amusement.
17. Erotic Dance Studio: A fixed place of business which emphasizes and seeks, through one or more dancers or performers, to arouse or excite the patron’s sexual desires.

18. Figure Modeling Studio: Any establishment or business which provides for members of the public, the services of a live human model for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing, or other pictorial form.
19. Massage: Any method of pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.
20. Massage Establishment: An establishment having a fixed place of business where massages are administered in accordance with the provisions of the County, State and Federal requirements, regarding Massage.
21. Massage Therapy: The application of Massage by a Massage Therapist as provided for by the provisions of the County, State and Federal requirements, regarding Massage.
22. Material: Relative to adult businesses, material shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.
23. Nude: Any state of undress in which the whole or part of any human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.
24. Obscene: Any material or performance is obscene if the average person applying contemporary community standards would find that such material or performance, taken as a whole, appeals to the prurient interest; that the material or performance has patently offensive representations or descriptions of ultimate sexual acts, normal or perverted; and that the material or performance, taken as a whole, lacks serious literary, educational, artistic, political or scientific value.
25. Operator: Any person, partnership, or corporation operating, conducting or maintaining an adult use or adult business.
26. Patron: Any person who is a guest, member or customer on or in an adult business.
27. Performer: Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business and who seeks to arouse or excite the patron's sexual desires.
28. Person: Any natural person, or any association, partnership, or corporation.
29. Religious Institution: A facility used primarily for religious assembly or worship and related religious activities.
30. Residential Zone: Any property within the County which is zoned R (Rural), R-1 (One-Family Dwelling District), R-2 (One-Family Dwelling District), R-3 (Two-

Family Dwelling District), R-4 (Apartment District on the County's official zoning map, as may be amended from time to time.

31. School: Any institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the Kansas Board of Regents or which is maintained pursuant to standards set by the Kansas Board of Regents and also includes a nursery school, kindergarten, elementary school, junior high school, senior high school, but not including dancing schools, riding academies, or trade or vocational school.
32. Specified Anatomical Areas shall mean:
 - a. When less than completely and opaquely covered;
 1. human genitals, pubic region;
 2. buttock, or
 3. female breast below a point immediately above the top of the areola; or
 - b. Any device or covering, when exposed to view, which simulates the female breast below a point immediately above the top of the areola, human genitals, pubic region or buttock; or
 - c. Human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.
33. Specified Sexual Activities shall mean:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or arousal;
 - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
 - d. Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain;
 - e. Human excretion, urination, menstruation, vaginal or anal irrigation;
 - f. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
34. Tavern: Any premises on which alcoholic or cereal malt beverages are sold or served for consumption on the premises pursuant to a license or permit issued by the State of Kansas, or any other political subdivision or agency of the State of Kansas.

Section 3. APPLICABILITY

1. No Adult Business or Adult Use shall be constructed, established, or operated unless and until a Special Use Permit has been approved by the Governing Body.
2. Nothing in this Chapter, shall be construed to apply to any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, School, institution of higher education, or other similar establishment as a form of expression or opinion or

communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

3. The establishment of any Adult Business shall include any of the following activities:
 - a. The opening of such business as a new business.
 - b. The relocation of an Adult Business.
 - c. The conversion of an existing business to an Adult Business.
 - d. An increase of the square footage of an existing Adult Business.
 - e. The conversion of an existing Adult Business to a different type of Adult Business.

Section 4. LOCATIONAL LIMITATIONS

1. Subject to the limitations of the subdivision regulations, no Adult Businesses may be located in any zoning district within the County except in I-3, Heavy Industrial district allowed with a Special Use Permit.
2. In the zoning districts where Adult Businesses regulated by this Article would otherwise be permitted uses, it shall be unlawful to establish any such Adult Business if the location is:
 - a. Within a one-thousand (1,000) foot radius of a Residential Zone. The distance between a proposed use and a Residential Zone shall be measured from the nearest exterior wall of the facility housing the Adult Use or proposed Adult Use to the nearest property line included within the Residential Zone, measured along a straight line extended between the two points.
 - b. Within a one-thousand (1,000) foot radius of any School or Park. The distance between the proposed use and a School or Park shall be measured from the nearest exterior wall of the facility housing the Adult Use or proposed Adult Use to the nearest property line of the School or Park site, along a straight line extended between the two points.
 - c. Within a one-thousand (1,000) foot radius of a Religious Institution. The distance between the Adult Use or proposed Adult Use and a Religious Institution shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the Religious Institution.
 - d. Within a one-thousand (1,000) foot radius of any other Adult Business. The distance between the Adult Use or proposed Adult Use and another Adult Business shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the other Adult Business.
 - e. Within a one-thousand (1,000) foot radius of any Tavern. The distance between the Adult Use or proposed Adult Use and a Tavern shall be measured from the nearest exterior wall housing the Adult Use or proposed Adult Use along a straight line extended to the nearest exterior wall of the facility housing the Tavern.

Section 5. DEVELOPMENT AND PERFORMANCE STANDARDS

1. *Hours of Operation:*
 - a. No Adult Use or Adult Business shall be open earlier than eleven o'clock (11:00) a.m. or later than eleven o'clock (11:00) p.m. No Adult Use or adult business shall be open on any Sunday. It shall be unlawful for any Operator or Employee of an Adult Business to allow such Adult Business to remain open for business, or to permit any Employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 11:00 p.m. and 11:00 a.m. of any day or on any Sunday.
 - b. All Adult Uses or Adult Businesses shall be open to inspection at all reasonable times by any law enforcement officer, the Director, or such other persons as the Director may designate in the normal course of his duties.
2. *Lighting Requirements:* All exterior areas of the Adult Business shall be illuminated at a minimum of 2.0 foot-candles throughout the premises, minimally maintained and evenly distributed at ground level.
3. *Signs:* All Adult Uses or Adult Business shall comply with the following sign requirements in addition to the other requirements of this Ordinance:
 - a. No merchandise or pictures of the products or Entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the specified anatomical areas may be visible outside of the Adult Use or Adult Business.
 - b. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.
4. *Access Provision:* The Operator shall not permit any doors on the premises to be locked during business hours and, in addition, the Operator shall ensure that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement officer.
5. *Access to minors:*
 - a. No Employee, owner, Operator, responsible managing Employee, manager or permittee of an Adult Business shall allow any Person below the age of eighteen (18) years upon the premises or within the confines of any Adult Business.
 - b. X-rated movies: X-rated movies or video tapes shall be restricted to Persons at least eighteen (18) years of age. If an establishment that is not otherwise prohibited from providing access to Persons under 18 years of age sells, rents, or displays videos that have been rated X or rated NC-17 by the motion picture rating industry (MPAA), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas, said videos shall be located in a specific section of the establishment where Persons under the age of eighteen (18)

shall be prohibited and shall not be visible from outside the premises or from areas within the premises where Persons under the age of eighteen (18) are allowed.

- c. **Other Adult Materials:** Access to Adult Materials shall be restricted to Persons at least eighteen (18) years of age.
6. **Closed Booths:** No one shall maintain any Arcade Booth or individual viewing area unless the entire interior of such premises wherein the picture or Entertainment that is viewed is visible upon entering into such premises; and further, that the entire body of any viewing Person is also visible immediately upon entrance to the premises without the assistance of mirrors or other viewing aids. No partially or fully enclosed booths/individual viewing area or partially or fully concealed booths/individual viewing area shall be maintained. No Arcade Booth shall be occupied by more than one Patron at a time. No holes shall be permitted between Arcade Booths or individual viewing areas.
7. A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

**THIS ADULT BUSINESS IS REGULATED BY THE LEAVENWORTH COUNTY
SUBDIVISION REGULATIONS. ENTERTAINERS ARE:**

 - a. Not permitted to engage in any type of sexual conduct;
 - b. Not permitted to expose their sex organs;
 - c. Not permitted to demand or collect all or any portion of a fee for Entertainment before its completion.
8. **Regulation of Viewing Areas:** Every Adult Use or Adult Business shall be physically arranged in such manner that the entire interior portion of the booths, cubicles, rooms or stalls wherein Entertainment is provided is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever. All viewing areas within the Adult Business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and shall not be obscured in any manner by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the viewing area from the main aisle. A manager shall be stationed in the main aisle, or a video monitor shall be established at a location from which the inside of all of the viewing areas are visible at all times, in order to enforce all rules and regulations. All viewing areas shall be designed or operated to permit occupancy of either one (1) Person only, or more than ten (10) Persons. The Operator shall be responsible for and shall provide that any room or area used for the purpose of Adult Entertainment shall be readily accessible at all times and shall be opened to view in its entirety for inspection by the County code enforcement or a law enforcement officer at all reasonable times. Viewing area shall mean any area in which a Person views performances, pictures, movies, videos, or other presentations.
9. **Private Performances:** Any area in which a private performance occurs shall:
 - a. Have a permanently open entranceway not less than two (2) feet wide and not less than six (6) feet high, which entranceway is not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any Person situated in the area; and

- b. Have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the Employee from the Person viewing the display.
10. *On-Site Manager; Security Measures:* No Person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of an Adult Business unless each and all of the following requirements are met:
 - a. All Adult Businesses shall have a Person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The Adult Business shall register any and all individual(s) designated as the on-site manager with the Director by the owner to receive all complaints and be responsible for all violations taking place on the premises.
 - b. The Adult Business shall provide a security system that visually records and monitors all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two (2) by three (3) feet and shall at a minimum be one (1) foot by one and a half feet.
11. *Clothing:* All Employees of Adult Businesses, other than Performers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their Specified Anatomical Areas.
12. *Dancing and Performing:* In order to reduce the opportunity for prostitution and narcotics transactions, to prevent Patrons and Dancers/Performers from engaging in sexual fondling and caressing, and to reduce the likelihood of drug and sex transactions, the following additional regulations shall apply to the operation of any Adult Cabaret, Adult Dance Studio, Erotic Dance Studio, or Figure Modeling Studio:
 - a. *Separation Distances between Entertainers and Patrons:* No Person shall perform live Entertainment for Patrons of an Adult Business except upon a permanently fixed stage or platform which is at least two (2) feet above the level of the floor, separated by a distance of at least ten (10) feet from the nearest area occupied by Patrons and surrounded with a three (3) foot high barrier. No Patron shall be permitted within six (6) feet of the stage while the stage is occupied by a Performer.
 - b. *Contact between Entertainers and Patrons Prohibited.* When Patrons are present at the establishment, no Dancer or Performer shall fondle or caress any Patron and no Patron shall fondle or caress any Dancer or Performer. This prohibition does not extend to incidental touching. Patrons shall be advised of the separation and no touching requirements by signs placed on the barrier and, in the event that a Patron disregards this requirement, by Employees of the establishment.
 - c. *Tippling:* No Patron shall directly pay or give any gratuity to any Dancer or Performer. No Dancer or Performer shall solicit any pay or gratuity from any Patron.
 - d. *Unlawful Sexual Acts:* No Operator, Entertainer, or Employee shall permit to be performed, offer to perform, or perform sexual intercourse or oral or anal copulation with a customer or manual or other contact stimulation of the genitalia of a customer. No Operator, Entertainer, or Employee shall encourage or permit any Person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other

Person. No Operator, Entertainer, or Employee shall be unclothed or in such attire, costume or clothing, so as to expose to view any portion of the sex organs of said Operator, Entertainer, or Employee with the intent to arouse or gratify the sexual desires of the Operator, Entertainer, Employee, or customer.

Section 6. MASSAGE ESTABLISHMENTS AND MASSAGE THERAPY

No person shall operate a Massage Establishment or perform and provide Massage Therapy except as provided for by the provisions of the subdivision regulations and the State of Kansas regarding Massage. When licensed and authorized by the State of Kansas and other pertinent governmental entities, Massage Establishments and Massage Therapy shall not be considered an adult use.

ARTICLE 24 – OFF-STREET PARKING AND LOADING REGULATIONS

Section 1. GENERAL

1. No building or structure shall be erected, converted, or structurally altered, nor any building, structure or land be used for any purpose without provision of off-street parking and loading as required by this Article.
2. Off-street parking and loading spaces shall be provided, at the time of the erection, conversion, or structural alteration of any building, structure or establishment, and/or the conversion or extension of any use of land.
3. Required off-street parking space cannot be used for storage of merchandise, equipment or material and shall be open to its intended function at all times.
4. The provision of off-street parking and loading space shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements of this Article to discontinue, reduce or dispense with (or cause same) the required off-street parking and loading space established by this Article.
5. Whenever off-street parking is required and cannot be provided within the principal building or on the same lot as the principal building and is located on another parcel or property as permitted by this Article, such parcel or property shall be owned by the owner of the principal building, or in the alternative, shall be restricted by recorded agreement to off-street parking purposes during the lifetime of the principal building, or as long as off-street parking is required for the principal building in accordance with the provisions of this resolution.

Section 2. REQUIREMENTS

1. Off-street parking shall be provided for such uses enumerated and, in the amount, as specified in this Article. Where off-street parking is provided or required for three or more vehicles, the parking must be so situated as to prevent backing into public streets.
2. In the case of a use for which off-street parking requirements are not specifically enumerated, the requirements for off-street parking for a similar use shall apply.
3. Any off-street parking lot not required by the provisions of this Article but which is voluntarily provided shall observe all requirements of this Article in the development of such parking area.

Section 3. TABLE OF OFF-STREET PARKING REQUIREMENTS

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Apartment Hotel	One for each guest room or residence unit
Assembly Hall, Auditorium (fixed seating)	One for each three seats of maximum seating capacity of the main assembly room
Assembly Hall, Auditorium (without fixed seating)	One for each one hundred square feet of useable floor area
Auction or Swap Meet	Five spaces for each one hundred square feet of usable area as defined in Section 4, Item 1.
Automobile Service Station	One for each service stall and one for each two gasoline pumps
Auto Wash (mechanical service)	Ten minimum for line customers awaiting assembly service
Auto Wash (self-service)	Two per stall
Auto Repair Garage	One for each five hundred square feet of floor area with a minimum of five spaces required
Banks, Financial Institutions	One for each two hundred square feet of floor area
Barber and Beauty Shops	Two per shop operator
Boarding House	One for each boarder
Bowling Alley	Five for each alley plus required spaces for any bar, restaurant and/or assembly space which may be part of the bowling alley
Church	One for each four seats in sanctuary or Auditorium
Clubs, night	One for each one hundred square feet of floor area
Clubs, country or golf	Two for every hole of golf and one for each two hundred square feet of clubhouse
College, university, institution of higher learning above high school	One for every two students
Community Center	One for each two hundred square feet of floor area
Dance Hall, Ballroom	One for each two hundred square feet of floor area
Dance or music studios	One for every two hundred square feet of floor area
<u>USE</u>	<u>PARKING SPACES REQUIRED</u>

Dormitory	One for each two beds
Drive-in eating place with service	One for each employee on maximum shift to automobile only
Dwelling:	
One and Two family	Two for each dwelling unit
Multi-family (3 or more units)	Two and one-half for each dwelling unit
Fraternity and Sorority Houses	One for each two members or residents
Fraternal Organizations	One for each two hundred square feet of gross floor area with a minimum of ten
Funeral Homes	One for each slumber room or parlor or one for each seventy-five square feet of floor area of assembly rooms used for services, whichever is greater
Furniture and Appliance Store	One for each eight hundred square feet of floor area
Health Center	One for each two hundred square feet of floor area
Homes for the Aged	One for each four beds, plus one for every three staff members
Hospital, general acute care	One for each bed, plus one for every three staff members
Hotel, Motel	One for each guest unit plus required parking for any bar, restaurant and/or assembly area within the hotel
Industrial Establishment	One for every two employees on maximum shift
Laundromats	One for every two washing machines
Library or museum	One for each five hundred square feet of floor area
Machinery sales, indoor	One for each five hundred square feet of floor area
Motor Vehicle Sales	One for each four hundred square feet of sales room plus one for each service stall
Nursery, garden	One for each six hundred square feet of sales area
Nursery school	One for each six pupils
Offices, office building	One for every three hundred square feet of floor area
Outdoor sales lot	One for every one thousand square feet of sales area
<u>USE</u>	<u>PARKING SPACES REQUIRED</u>

Personal service establishment	One for every two hundred square feet of floor area
Pool and billiards hall	One for each one hundred square feet of floor area
Restaurants and drinking establishments	One for each two hundred square feet of floor area
Repair shop	One for every four hundred square feet of floor area
Research/testing laboratory	One for every two employees on maximum shift
Retail shops—less than two thousand square feet of floor area	One for every two hundred square feet of floor area
Retail shops—greater than two thousand square feet	Ten plus one for every four hundred square feet of floor area in excess of two thousand square feet
Sanitarium	One for every six beds
School, elementary or junior high, private	One for every teacher, administrator, and public or employee plus any required for an auditorium, if none is present then one additional space per classroom is required
School, high school public or private	One for every teacher, administrator, and employee plus one for every ten students plus the spaces required of any auditorium
Shopping Center	One for each one hundred square feet of floor area
Skating Rink	One for each one hundred square feet of floor area
Sports arena or stadia	One for every four seats
Theater	One for every four seats
Veterinary Clinic	One for every three hundred square feet of floor area
Warehouse	One for every one thousand square feet of floor area

Section 4. DETERMINATION OF REQUIRED NUMBER OF SPACES

1. Floor area, when used as a measurement for determining the number of parking spaces for office, merchandising or service uses, shall mean the gross floor area used, or intended to be used for service to the public or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, processing, or packaging of merchandise, rest rooms or mechanical equipment rooms.
2. Places of assembly, such as a sports stadium or arena, or other uses in which patrons or spectators occupy benches or similar seating facilities, each twenty inches of such seating facilities shall be counted as one seat for determining the seating capacity.

Section 5. LOCATION OF OFF-STREET PARKING

1. No off-street parking area shall be located upon any part of a lot that would be part of a required yard.
2. No off-street parking area shall be located on or within dedicated public rights-of-way.
3. Off-street parking for four or more vehicles shall be located not less than ten feet from any dwelling, school, hospital or institution for human care, located either upon the same lot or upon an adjacent lot.
4. Off-street parking for four or more spaces located on land adjacent to property zoned for residential use shall be screened with screening or fencing having a density of not less than one hundred percent and at least five feet in height.
5. Off-street parking for four or more spaces located on land adjacent to property zoned for residential use shall not be lighted in a manner which permits intensive light or glare beyond the parking area boundaries.

Section 6. OFF-STREET LOADING REQUIREMENTS

1. For every building, structure or part thereof, intended or used for manufacturing, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles, materials, supplies or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading services.
2. No off-street loading area shall be located upon any part of a lot that would be part of a required yard.
3. No off-street loading area shall be located on or within dedicated public rights-of-way.
4. Off-street loading areas shall be located not less than ten feet from any adjacent lot.
5. Off-street loading areas for four or more spaces located on land adjacent to property zoned for residential use shall be screened with screening or fencing having a density of not less than one hundred percent and at least five feet in height.
6. Off-street loading areas located adjacent to property zoned for residential use shall not be lighted in a manner that permits intensive light or glare beyond the parking area boundaries.

ARTICLE 25 – SIGN REGULATIONS

(Resolution 2022-26 – November 2, 2022)

Section 1. PURPOSE

Signs perform important functions that are essential for public safety and general welfare. It is the purpose of this Article to promote the public safety and general welfare through reasonable, consistent and content-neutral sign standards. These sign regulations have been prepared with the intent of enhancing the visual environment of the County and promoting its continued well-being, and are intended to:

1. Encourage the effective use of signs as a means of communication in the County;
2. Prevent the obstruction of travel through the county resulting from improperly placed and designed signs;
3. Maintain and enhance the aesthetic environment, quality, and beauty of all areas of the County while enhancing the County’s ability to attract sources of economic development and growth;
4. Improve pedestrian and traffic safety; Encourage and allow signs that are appropriate to the zoning district in which they are located and consistent with the category of use and function to which the pertain;
5. Protect property values by ensuring that sign-types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs, in the area, and
6. Enable the fair and consistent enforcement of these Sign Regulations.

Section 2. APPLICABILITY

The provisions of this Article govern the size, placement, use and structural quality of outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. No sign shall be erected, enlarged, constructed, reconstructed, relocated, refaced, structurally or otherwise altered without first obtaining a separate sign permit as set forth in this Article, unless otherwise exempted by the Article.

Section 3. SEVERABILITY

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or work in this article is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Article.

Section 4. DEFINITIONS

Abandoned Sign: Any sign, including off-site signs and Large ground signs, unless owned and operated by a bona fide billboard company, which for a period of at least ninety (90) days no longer shows evidence of regular maintenance or repair. If a billboard sign is owned and operated by a bona fide

billboard company, the length of time before the sign shall be considered abandoned as determined above shall be one hundred eighty (180) days after written notification to sign owner. Any Nonconforming Sign located on a building or property that is vacant and unoccupied for more than one year shall be deemed abandoned.

Administrative Officer or Official: The Director of Planning and Zoning for Leavenworth County shall be the Administrative Officer and shall enforce the provisions of this resolution.

Animated Sign: A sign containing or depicting action, motion, or light or color changes through electrical, electronic, or mechanical means.

Attention-Getting Device: Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this ordinance. Such device or sign may include twirling signs, pennants, streamers, spinners, balloons, inflatable signs, search lights, beacons, and flashing lights or messages.

Awning: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the building. For the purposes of this Article, an awning sign is considered a building sign and subject to all applicable regulations.

Banner: Any cloth, bunting, plastic, paper, or similar non-rigid material attached to any structure, staff, pole, rope, wire, or framing which is anchored on two or more edges or at all four corners. Banners are temporary in nature and do not include flags. For the purposes of this Article, a banner is considered a temporary sign and subject to all applicable regulations.

Billboard: A sign, that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located. For the purposes of this Article, a billboard is considered a large ground sign and subject to all applicable regulations.

Building face: The portion of any exterior elevation of a building extending vertically from the ground grade to the top of a parapet wall or eaves and horizontally across the entire width of the building elevation.

Building sign: An on-site sign attached or painted onto a wall, awning, canopy, building or structure, or that is dependent upon a building for support and projects more than one (1) foot beyond the face of said building.

Canopy: A structure other than an awning made of fabric, metal, or other material that is supported by columns or posts affixed to the ground and may also be connected to a building. For the purposes of this Article, a canopy is considered a building sign and subject to all applicable regulations.

Changeable Copy Sign: A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system. The two types of changeable-copy signs are manual changeable copy signs and electronic graphic signs, which include message center signs, digital displays, and Tri-Vision Boards.

Damaged Sign: A sign that is unmaintained; has missing pieces, inserts or cabinets; has broken pieces or parts; poses a hazard or is otherwise in poor condition.

Façade: The entire exterior surface of a particular side of a structure or establishment. Flag: A sheet made of cloth, fabric, plastic, or similar material that is typically square rectangular, or triangular in shape – but may be constructed with other shapes – that is attachable by one edge to a pole, rope, or other structure, and used as a symbol or as decoration.

Ground sign: A sign placed upon, or supported by the ground independently of any building or structure on the property. This includes a sign supported on fences, poles, posts or other similar appurtenances that are not part of a building,

Illuminated Sign: Any sign where light is used to illuminate the face of the sign. Can be externally or internally illuminated.

Inflatable Sign: A sign that is intended to be expanded by air or other gas for its proper display or support.

Interior Sign: Minor Sign: A Sign, not more than 4 square feet in area and generally not visible from or intended to convey messages to persons in the Public Right of Way. Examples of Minor Signs include such things as parking instructions, directional or wayfinding information, security warnings, business identification, or other similar communications that are accessory to the use of the site and any building located thereon.

Official sign: Any type of Sign that is constructed, placed, or maintained by or at the direction of federal, state or local government.

Off-site sign: A permanent sign that is not specifically designed to be modified in terms of the message that is conveyed, and carries a message other than the name, occupation, or nature of the activities conducted on the premises and shall not include billboard signs. For the purposes of this Article, an off-site sign is considered a building or ground sign and subject to all applicable regulations.

On-site sign: A sign that carries a message that is incidental to the use of the premises where it is located.

Owner: Any person(s), firm(s), corporation(s), or any other legal entity having legal title to or significant proprietary interest in a tract of land (including leasehold interests) or a sign.

Pole sign: A sign where the base of the sign face is more than six (6) feet above ground level and is supported by poles or post. For the purposes of this Article, a pole sign is considered a ground sign and subject to all applicable regulations.

Portable sign: A temporary on-site sign designed in such a manner to be readily movable and not permanently attached to the property; such as, A-frames, trailer signs, signs placed on vehicles, beacon lights and other similar signs. For the purposes of this Article, a portable sign is considered a temporary sign and subject to all applicable regulations.

Roof Sign: Any sign erected upon, against, or above a roof or roof eave, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eave.

Sight Triangle: An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and 8 feet

above the grades of the outside edge of the street surface of the intersection streets, measured from the point of intersection of the centerline of the streets, 30 feet in each direction along the centerline of the streets. The County Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

Sign: Any name, identification, description, display, or illustration that is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or support structure and that directs attention to or is designed or intended to direct attention to the Sign Face or to an object, product, place, building, structure, activity, person, institution, organization, or business, including all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. Any Sign located entirely within an enclosed structure and not exposed to a Public Right of Way or parking lot is not, for the purposes of this Article, considered to be a Sign.

Sign area: The calculated area of the sign as measured by establishing a, or series of, standard geometric shapes around the text, copy, logo, symbol, emblem, and any other elements that establish the message of the sign. Any single element of the sign message shall not be separated by more than one-third the overall length or height of the sign message or by four (4) feet, whichever is less.

Sign height: Sign height shall be determined by measuring from ground level at the foundation of the sign to the highest element of the sign.

Sign structure: The elements which support or are capable of supporting a sign.

Sign setback: The minimum sign setback shall be the horizontal distance between a sign and any lot line, as measured from that part of the sign, including its extremities and supports, nearest to any point on an imaginary vertical plane projecting from the front and side lot line.

Temporary Sign: Any on-site sign, including, but not limited to signs of lightweight cardboard, plastic, or paper material, displayed for not more than thirty (30) consecutive days, nor more than ninety (90) cumulative days per calendar year, unless otherwise stated in these regulations or by State law.

Window Sign: A Sign posted, painted, placed, or affixed in or on a window or a Sign that is located on the interior of a structure that is exposed to public view from the exterior of the structure through a window.

Utility Signs: Signs placed by utility companies as part of the normal operation and maintenance of facilities such as public telephones and underground services.

Section 5. GENERAL SIGN REQUIREMENTS

The following provisions shall apply to the construction, erection, or placement of any sign at any location, unless otherwise specified.

1. *Right-of-Way:* All signs and supports that are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited except as provided below;
 - a. Signs and supports required by governmental authority.

- b. A temporary sign located on public property used to announce a special event or activity, providing the sign is removed after the event or activity has been completed.
2. *Traffic Safety:* No signs shall be erected at or near the intersection of any street(s) or driveways(s) in such a manner as to obstruct or confuse the view of motorists or cyclists. No sign which obstructs the view of motorists using any street intersection shall be allowed within the sight triangle of an intersection. No sign shall be illuminated in a way that interferes with the vision of pedestrians or vehicular traffic.
3. *Maintenance required:* All signs and all components, including, but not limited to, supports, braces, and anchors, shall be of sound structural quality and shall be kept in a state of good repair, have a clean and neat appearance, and land adjacent to it shall be kept free from debris, weeds, trash, or other such condition by the owner. If signs are not maintained in conformance with the regulations, the Administrative Official shall have the ability to order the repair or removal of any sign found in violation. No subsequent sign permits shall be approved until all violations have been remedied.
4. *Abandonment/Failure to Maintain.* Any sign considered abandoned by these regulations, the Administrative Official shall proceed against the owner by appropriate legal remedy to obtain compliance. No subsequent sign permits shall be approved until all violations have been remedied.
5. *Unsafe Signs.* If any sign becomes unsafe or in immediate danger of falling, the Administrative Official will give notice requiring all deficiencies be corrected or the sign be removed within 48 hours.
6. *Signs on Utility Poles or Trees.* No signs shall be attached to trees, utility poles, or any other unapproved supporting structure.
7. *Illuminated Signs.* Illuminated signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Signs shall be equipped with a mechanism to automatically adjust the display's illuminative brightness and shall be controlled by means of a light detector/photo cell.
8. *Use of spotlights and floodlights for illumination.* It shall be unlawful for any person to maintain any sign that is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrians or vehicular traffic.

Section 6. PERMIT PROCEDURES

No person shall install, erect, cause to be erected, construct, hang or alter any Sign within the County without first obtaining from the County a Sign Permit, unless otherwise exempted by this Article.

1. *Application for Permit:* Applications for a permit shall be made in writing upon forms provided by the Planning & Zoning Department. All applications shall be subject to be rejected if not complete upon receipt by the Planning & Zoning Department. The Planning and Zoning Department may request the following information, among other items, as a complete application:

- a. The name, street address, and telephone number of both the applicant and the person erecting, constructing, reconstructing, relocating, refacing, structurally or otherwise altering the sign.
 - b. The legal description of the lot or tract and the street address of the building or structure where the sign is to be located.
 - c. Sign plans drawn to scale which shall include external dimensions, above ground elevations, and sign face area of the proposed sign and sign structure, along with the method of construction and attachment to the building or ground.
 - d. A site plan showing the position of the sign(s) in relation to property lines, nearby buildings and structures, along with the locations of rights-of-ways and utility easements.
 - e. A copy of the deed showing ownership of the land.
 - f. If the applicant is not the owner, a signed affidavit with the written consent of the owner(s) of the lot or tract, building or structure on which the sign is to be erected.
 - g. Application fee. Additional fees may be assessed dependent upon the level of review required.
2. *Unusual Signs:* Applications for unusual signs or displays which give rise to questions of interpretation of these regulations may be referred by the Planning & Zoning Department to the Board of County Commissioners for the purpose of interpretation by the Board and recommendation for action on the application by the Planning & Zoning Department. If in the opinion of the Board, the application is not adequately covered by these regulations, the Board may make recommendations for amendment of this Article.
3. *Issuance of Permit:* Upon the filing of an application for a sign permit and payment of the applicable permit fee as provided herein, the Planning & Zoning Department or such persons designated shall examine such plans and specifications, along with the premises upon which the sign proposed to be erected, and any other pertinent data, to determine whether the proposed sign would comply with these regulations. If all applicable requirements are met, the permit shall be issued and shall be valid for construction and erection, alteration or relocation of the sign within six (6) months from the date the permit is issued.
- a. The issuance of the Sign Permit, as required by these regulations, shall not act in lieu of any other permits or fees required by the electrical code or building code or any other governmental rules or regulations adopted by the County or any other governmental entity and made applicable to the sign and its placement.
 - b. **Permit Fees:** Before being granted a permit for a sign, every applicant shall pay to the County a permit fee as established by resolution of the Board.
 - c. **Permit Revocation:** If the Administrative Official or such persons designated shall find that any sign subject to these regulations is unsafe or insecure; is a possible danger to the public health, safety, or welfare due to structural defects; has been allowed to deteriorate to such condition that it is unsightly; has been constructed or erected or is being maintained in violation of the provisions of these regulations, then written notice shall be given to the owner of the premises or, if different than the owner, the occupant(s) of the premises on which the sign is located, specifying the problem. If such person fails to

remove or alter the sign to comply with the provisions of these regulations within fifteen (15) days of such notice, the Administrative Official may take such action as may be necessary to cause such sign to be removed or altered to comply with these regulations, which shall be at the expense of the applicant or owner(s) of the property on which the sign is located. If a sign is an immediate hazard to the public health, safety, or welfare, in the opinion of the Planning & Zoning Department, the Planning & Zoning Department may cause it to be removed immediately and without notice.

Section 7. GENERAL REGULATIONS

No sign of the following types shall be placed, located, erected, constructed, reconstructed, remodeled, relocated, altered, hung, affixed, or created by painting, which does not comply with all of the district regulations set forth in this section are permitted. Signs not listed as permitted in a particular district in this section are not allowed in such district, unless otherwise expressly permitted by other regulations of this article.

1. Residential Districts.

The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned Residential are permitted, subject to all other restrictions and requirements of this article and all other applicable codes, rules and regulations of Leavenworth County, Kansas:

a. Permitted Signs

Residential Sign Maximum Requirements				
	Area (Sq. Ft.)	Sign Height (Ft.)	Number of Signs	Permit Required
Building Sign	32	n/a	1	Yes
Ground Sign	32	10	1	Yes
Temporary Sign	32	6	Total Signage shall not exceed the Sign Area	No

Table 25.1

b. Setback Requirement

- i. All signs shall not project beyond the property line along all street frontages of the lot nor be closer than fifteen (15) feet from any side or rear property line.

c. Illumination

- i. No sign shall be illuminated

2. Business Districts.

The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned Business are permitted, subject to all other restrictions and requirements of this article and all other applicable codes, rules and regulations of Leavenworth County, Kansas:

a. Permitted Signs

Business District Sign Maximum Requirements				
	Area (sq. feet)	Sign Height (Ft.)	Number of Signs	Permit Required
Building Sign	20% of building face	N/A	See Area	Yes
Ground Sign	100	10	1 per every 200 feet of road frontage	Yes
Temporary Sign	32	6	Total Signage shall not exceed the Sign Area	No
Oversized Ground Sign	300	40	1	Yes (See Sec 7.4)

Table 25.2

b. Required Setback

- i. All signs shall not project beyond the property line along all street frontages of the lot nor be closer than fifteen (15) feet from any side or rear property line.

c. Illumination

- i. Illuminated signs are permitted.

d. Sign Separation

- i. All ground signs must maintain two hundred (200) feet of separation between signs on a zoning lot.

3. Industrial Districts.

The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned Business are permitted, subject to all other restrictions and requirements of this article and all other applicable codes, rules and regulations of Leavenworth County, Kansas:

a. Permitted Signs

Industrial District Sign Maximum Requirements				
	Area (sq. feet)	Sign Height (Ft.)	Number of Signs	Permit Required
Building Sign	20% of building elevation	N/A	See Area	Yes
Ground Sign	100	10	1 per every 200 feet of road frontage	Yes
Temporary Sign	32	6	Total Signage shall not exceed the Sign Area	Yes
Oversized Ground Sign	300	40	1	Yes (see Sec. 7.4)

Table 25.3

b. Required Setback

- i. All signs shall not project beyond the property line along all street frontages of the lot nor be closer than fifteen (15) feet from any side or rear property line.

c. Illumination

- i. Illuminated signs are permitted.

d. Sign Separation

- i. All ground signs must maintain two hundred fifty (200) feet of separation between signs on a zoning lot.

4. Oversized Ground Sign

All Oversized Ground signs shall conform to the following regulations:

- a. Oversized Ground signs require a Special Use Permit.
- b. Oversized Ground signs shall be limited to 300 square feet.
- c. Oversized Ground signs shall be located a minimum of seventy-five (75) feet from a residential structure.

- d. Oversized Ground signs shall be erected so that all elements of the sign and its structure remain on or over the lot where the sign is constructed. No portion of any billboard sign shall encroach upon, or project over any public right-of-way.
 - e. All lighting of Oversized Ground signs shall be so shielded as not to produce intensive or excessive light or glare on adjacent property or roadways.
 - f. All Oversized Ground signs shall be freestanding structures and shall be no more than two (2) pole structures only.
 - g. All Oversized Ground signs shall be limited to one (1) advertising face per direction.
 - h. All Oversized Ground signs shall only be permitted along arterial and State highway designated public rights-of-way.
 - i. The number of Oversized Ground signs facing a direction of travel along a public right-of-way shall be limited to two (2) per mile within the unincorporated area of Leavenworth County, with "mile" defined within this code as being the distance between two (2) section line roads that are approximately one (1) mile apart from one another.
 - j. There shall be a maximum of one (1) Oversized Ground permitted per parcel.
5. Changeable Copy Signs
- a. Changeable copy signs shall be classified in accordance with a sign type (ground, building, etc.). Changeable copy signs shall be included in the maximum area and height calculations. All electric changeable copy signs shall be equipped with a default mechanism that shall freeze the sign in one position or static message if a malfunction occurs.

Section 8. PROHIBITED SIGNS AND DEVICES

The following signs shall not be permitted in any part of Leavenworth County, Kansas:

1. Animated Signs
2. Abandoned Signs
3. Attention Getting Devices
4. Backlit Translucent Awning Signs
5. Signs that Block Ingress or Egress
6. Internally Illuminated Awnings
7. Signs Located in Public Right-of-Way
8. Roof Signs
9. Any sign that makes use of any work, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic on a public right-of-way

10. Any sign displaying any material, be it words, scenes or graphics, that are obscene, indecent, immoral, or harmful to minors with the meaning of K.S.A. 21-6401, as amended
11. Any sign that is not otherwise included under types of signs permitted in this Section.

Section 9. SIGNS EXEMPT FROM PERMITTING

The following signs shall be exempt from paying fees and obtaining a sign permit; however, such signs shall be subject to all restrictions within this article. Any sign found to be in non-compliance is subject to removal by the County, as outlined in 26.5.

1. Official signs
2. Accessory flags
3. Flags
4. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.
5. Traffic Control Signs
6. Window and Interior Signs
7. Temporary Signs
8. Utility Signs
9. Portable Signs
10. Memorial Signs
11. Minor Signs

ARTICLE 26 – MANUFACTURED HOMES

Section 1. CLASSIFICATION

For the purpose of these regulations, manufactured homes are divided into classes:

Class A – new manufactured homes, certified as meeting the Manufactured Home Construction and Safety Standards of the Department of Housing and Urban Development, and approved as meeting the “acceptable similarity” appearance standards in accordance with Section 2 of this Article and with a minimum body width of twenty-two (22) feet.

Class B – new manufactured homes certified as meeting the Manufactured Home Construction and Safety Standards of the Department of Housing and Urban Development, but not approved as meeting the “acceptable similarity” appearance standards in accordance with Section 2 of this Article.

Class C – new manufactured homes certified as meeting the Standards for Mobile Homes – Body and Frame Construction, Installation of Plumbing, Heating and Electrical Systems, NFPA No. 501B, ANSI A119.1; or used manufactured homes certified as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, found on inspection to be in good condition and safe and fit for residential occupancy.

Class D – used manufactured homes, whether or not certified as meeting any particular building code, found on inspection to be in poor condition and unfit for residential occupancy.

Section 2. ACCEPTABLE SIMILARITY STANDARDS

The following standards shall be used in the determinations of acceptable similarity in appearance between manufactured homes and residences constructed on the site to assure that such manufactured homes will be compatible in appearance with site-built housing that has been or may be constructed in adjacent or nearby locations.

1. A visible permanent foundation, the appearance and durability of such being acceptably similar in appearance to foundations of residences built on the site.
2. Minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty-two (22) feet, as measured across the narrowest portion.
3. The pitch of the main roof shall not be less than one-foot rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be eight (8) feet. In general, any roofing material may be used that is generally acceptable for housing built on the site, if applied in such a manner as to be similar in appearance.
4. The minimum floor area shall not be less than 600 square feet, with such floor area shall include that of any attached living area, but not including the floor area of attached carports, garages, utility or storage rooms.

Section 3. DISTRICT REGULATIONS

Class A Manufactured Homes – permitted as a principal or accessory residence in any district which permits single-family residences, and permitted as a principal residence in approved manufactured home parks.

Class B Manufactured Homes – permitted as an accessory residence in zoning districts that permit accessory residences, and as a principal residence in approved manufactured home parks.

Class C Manufactured Homes – permitted as an accessory residence in the R-Rural, B-1, B-2, B-3, I-1, I-2, and I-3 districts, and as a principal residence in approved manufactured home parks.

Class D Manufactured Homes – not permitted in any district.

Section 4. ACCESSORY MANUFACTURED HOMES

Accessory manufactured homes shall include manufactured homes as:

1. an accessory dwelling to a farm, (minimum forty (40) acre tract size);
2. an accessory dwelling for locating the elderly on property occupied by the immediate family, (minimum 5-acre tract size and accessory manufactured home provided with a separate potable water supply and separate sewage disposal system);
3. an accessory dwelling for members of the immediate family (parents and their children) on property owned and occupied by the immediate family, (minimum 5-acre tract size and accessory manufactured home provided with a separate potable water supply and separate sewage disposal system);
4. a temporary dwelling for one year while building, remodeling or rebuilding a residence. An affidavit must be signed by the property owner stating that the manufactured home will be for one of the above uses and a manufactured home fee as set out by the Board of County Commissioners shall be paid. All manufactured homes other than for “one year while building” shall be placed upon a permanent foundation, the appearance and durability of such foundation being acceptably similar to foundations of residences built on the site.

ARTICLE 27 – SITE PLAN APPROVAL

Section 1. PURPOSE AND INTENT

The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, and drainage on the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.

Section 2. WHEN REQUIRED

The conditions and requirements of this section shall be in full force and effect in each and all of the following instances:

1. Whenever an area is designated as a R-4, B-1, B-2, B-3, I-1, I-2 or I-3 District.
2. Whenever a use in one of the Districts listed in #1 above is altered, changed or intensified in a manner that increases parking or outside storage requirements.
3. Whenever a specific reference is made to this Article in any other section of these Zoning Regulations.

No building permit shall be issued in any of the other noted instances for the erection or alteration of a structure or building until a site plan has been submitted and approved as set forth herein.

Single-family and two-family (duplex) units are hereby expressly excepted from the provisions of this Article.

Section 3. PROCEDURE

A site plan application, five (5) copies of the site plan, and a fifty-dollar (\$50.00) review fee shall be submitted by the property owner, or his/her certified agent, to the Planning Department. No part of the review fee shall be refunded. (Prior consultation with the Planning Staff is encouraged so that the possibility of a delay in approval is minimized.) The Planning Staff shall review the site plan for conformance with the Zoning Regulations of the County, and shall approve the site plan, with or without conditions; deny it; or defer it for further study.

If the Planning Staff denies the site plan, it shall be submitted to the Planning Commission with a report and the reasons for denial. The Planning Commission, after receiving the report of the Planning Staff, the Planning Commission shall approve the site plan, with or without conditions; deny it; or defer it for further study.

Section 4. SITE PLAN CONTENTS

A site plan shall:

1. Be prepared by an architect, engineer, surveyor, landscape architect or other qualified individual at a scale on one (1) inch equal fifty (50) feet or larger;
2. Be arranged so that the top or left, of the plan represents north, and have directional arrows clearly shown;
3. Show boundaries and dimensions graphically, and contain a written legal description of the property;
4. Show the present and proposed topography of the area by contour lines at an interval of not more than five (5) feet;

5. Show, by the use of directional arrows, the proposed flow of storm drainage from the site;
6. Show the location of existing and proposed structures and indicate the number of stories, gross floor area and the entrances to the structure;
7. Show the location and dimensions of existing and proposed access points to County roads;
8. Indicate location, height, and materials for screening walls and fences;
9. List the type of surfacing and base course proposed for all parking, loading, and walkway areas;
10. Show the location and landscape schedule of all perimeter and interior landscaping, including grass, trees and shrubs;
11. Describe the proposed use of the site and list the number of required off-street parking spaces. If the exact use is not known at the time of the site plan submittal, off-street parking requirements shall be calculated by the general requirements for the existing zoning district;
12. Show the proposed location, indicate direction, and list the amount of illumination of proposed lighting facilities;
13. Show the location of each outdoor storage area.

Section 5. CONDITIONS OF APPROVAL

Before approving a site plan, the Planning Staff shall first find that the following conditions have been met:

1. That the proposed use is a permitted use in the district in which the property is located;
2. That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;
3. That the vehicular ingress and egress to and from the site and the circulation within the site provides for safe, efficient, and convenient movement of traffic not only within the site but on adjacent roadways as well;
4. That the site plan provides for the safe movement of pedestrians within the site;
5. That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan not used for the building, structures, parking or access ways shall be landscaped with a mixture of grass, trees, and shrubs; and,
6. That all outdoor trash areas are screened;

7. That the design for storm drainage must provide for attaining a zero-net gain in storm water runoff between the tract in its natural state and the proposed developed state.

Section 6. OCCUPANCY OF SITE

In general, no initiation or use of a site shall take place before all conditions of the site plan and other provisions of the Zoning Regulations have been satisfied, except:

1. That in planned unit developments, planned shopping centers, or planned industrial parks, approved for phased development by the Board of County Commissioners, such activity may commence as each phase is completed if the conditions of the site plan relating to the particular conditions are satisfied.
2. That consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of landscaping plans before initiation of such activity; provided, that landscaping shall be completed within six (6) months following commencing of such activity.

Such conduct of an activity on a parcel of ground having an approved site plan without completion of site plan conditions, excepted as noted above, and/or Zoning Regulations shall be considered a violation of the Zoning Regulations.

Section 7. APPROVED SITE PLAN CHANGE

An applicant who wishes to change an approved site plan must contact the Planning Department. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved site plan, the Director of Planning may approve the revised site plan. If the proposed changes substantially rearrange proposed uses, parking, landscaping, drainage, lighting, or location of structures, etc., the applicant must apply for new approval of the revised site plan in the manner set forth in Subsection 3 of this Article.

Section 8. TIME LIMITATIONS

If no building permit is issued for the site within one year from the date of the site plan approval, the site plan shall be and become null and void.

ARTICLE 27 (A) – SITE DEVELOPMENT PLAN APPROVAL

(BOCC Resolution 2021-11; March 31, 2021)

Section 1. GENERAL

These standards shall only be applicable to new developments within the Planned Development Districts that create a change of use.

Section 2. PRELIMINARY PLANNING MEETING

A meeting(s) should be arranged between the applicant and the Planning Staff within 60 days of submittal to discuss the proposal in order to avoid a delay in the approval process. For the meeting, the applicant should be prepared to provide as much of the following information as possible:

1. Sketch drawing of proposed site plan.
2. Topographic map of the area (5' contours).
3. General outline of 100 year floodplain or on-site drainage ways.
4. Proposed locations of all buildings, structures, parking areas, drives, walks, screening/buffering, public streets and existing easements.
5. Proposed landscaping.
6. Public streets, driveways, structures, drainage systems, fire hydrants.
7. Other pertinent existing or proposed facilities or landscape features that have a bearing on the site including existing foliage.
8. Approximate areas of proposed improvements.
9. Approximate timeline for project.
10. Elevation (exterior wall) sketches showing the general style and size of the building and proposed materials.

Section 3. PURPOSE AND INTENT

- A) The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, and drainage on the site, any or all of these, in a manner that will promote safety and convenience for the public.
- B) No building permit shall be issued in any of the noted instances for the erection or alteration of a structure or building until a Site Development Plan has been submitted and approved by the Leavenworth County Planning and Zoning Department.

When Required

The conditions and requirements of this section shall be in full force and effect in each and all of the following instances:

1. Whenever an area is designated as PR-1, PR-2, PR-3, MXD, PC, and PI District.

2. Whenever a use in one of the Districts listed in a) above is altered, changed or intensified in a manner that increases parking or change outside appearances.
3. Whenever a specific reference is made to this section in any other section of the Zoning Regulations.
4. Single-family and two-family (duplex) units are hereby expressly excepted from the provisions of this section.

Section 4. PROCEDURE

A site plan application, three (3) copies of the site plan, and a review fee as established by the resolution of the Board shall be submitted by the property owner, or his/her certified agent, to the Planning and Zoning Department. No part of the review fee shall be refunded. (Prior consultation with the Planning Staff is encouraged so that the possibility of a delay in approval is minimized.) The Planning Staff shall review the site plan for conformance with all the Regulations applicable to the area.

If the Planning Staff denies the site development plan, it shall be submitted to the Planning Commission with a report and reasons for denial. The Planning Commission, after receiving the report of the Planning Staff, the Planning Commission shall approve the site development plan, with or without conditions; deny it; or defer it for further study.

Section 5. SITE PLAN CONTENTS

1. The site development plan shall be prepared by an architect, engineer, surveyor, landscape architect or other qualified individual at a scale on one (1) inch equal fifty (50) feet or larger.
2. One or more maps shall be submitted with the final development plan. Each map shall contain all map submission requirements, and shall bear such professional certifications and seals as the County may require.

The maps shall show:

- a. Finished grades or contours for the entire site (2-foot contour intervals shall be required by the Director, depending on the site).
- b. Legal description of the lot.
- c. Name, address and phone number of the applicant, owner and designer.
- d. All proposed and existing adjacent public street rights-of-way with centerline location.
- e. All proposed and existing adjacent public street and public drive locations, widths, curb cuts and radii.
- f. Location, width and limits of all existing and proposed sidewalks.
- g. Location, size and radii of all existing and proposed median breaks and turning lanes.

- h. Distance between all buildings, between buildings and property lines and between all parking areas and property lines.
- i. Location of all required building and parking setbacks.
- j. Location, dimensions, number of stories and area in square feet of all proposed buildings.
- k. Area of land in square feet or acres, Area of the building in square feet, percentage of pervious area (green space), and parking space ratios.
- l. Limits, location, size and material to be used in all proposed retaining walls, including top and bottom of wall elevations.
- m. The location, number, size, and type of landscaping plants and material;
- n. Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas, trash enclosures and docks.
- o. Location, height, intensity, type, and color of outside lighting and fixtures for buildings and parking lots (photometric study shall be provided).
- p. Location, size, and type of material of all proposed signs, including monument or freestanding signs.
- q. The location of adjacent developments, alignment and location of public and private driveways and streets, medians, and public and semi-public easements.
- r. Final storm water collection, detention and erosion control plans.
- s. Final water and sanitary sewer plans.
- t. One or more illustrations shall be submitted with the final development plan showing building elevations (except for single-family dwellings) including the following:
 - i.) Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs and height dimensions on the building.
 - ii.) Size, location, color and materials of all signs to be attached to building exteriors.
 - iii.) Location, size and materials to be used in all screening of rooftop or ground-level mechanical equipment, trash and refuse collection areas, and loading areas.
 - iv.) Building sections.
- u. Design guidelines relating to signage, architecture, and similar design features if the development involves multiple buildings.
- v. Dimensions and areas of all floors within proposed buildings.
- w. Landscaping, tree preservation and planting and buffer yard plans as required.

3. The following additional comments shall be submitted in support of the application for final development plan approval:
 - i.) Evidence of the establishment of the agency for the ownership and maintenance of any common open space and / or storm water system and all assurances of the financial and administrative ability of such agency, to maintain such space.
 - ii.) Conditions on Final Approval. If the County attaches conditions to the approval of a final development plan, it shall designate specific requirements, if any, that must be met before issuance of a building permit and/or prior to recording of the plat.

Section 6. CONDITIONS OF APPROVAL

Before approving a site plan, the Planning Staff shall first find that the following conditions have been met:

1. That the proposed use is a permitted use in the district in which the property is located.
2. That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses.
3. That the vehicular ingress and egress to and from the site and the circulation within the site provides for safe, efficient, and convenient movement of traffic not only within the site but on adjacent roadways as well.
4. That the site plan provides for the safe movement of pedestrians within the site.
5. That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan not used for the building, structures, parking, sidewalks or access ways shall be landscaped with a mixture of grass, trees, and shrubs.
6. That all outdoor trash areas are screened.
7. That a traffic study for the site is conducted.
8. That the design for storm drainage must provide for attaining a zero net gain in storm water runoff between the tract in its natural state and the proposed developed state.

Determining The Need For Detention: An engineering study will be required for all locations to determine the impact of the proposed development on the existing drainage system and the need for detention. The study shall be submitted to the County with the preliminary plat or site plan for proposed development. The study shall be prepared under the direct supervision of a professional engineer licensed in the State of Kansas.

Section 7. OCCUPANCY OF SITE

In general, no initiation or use of a site shall take place before all conditions of the site plan and other provisions of the Zoning Regulations have been satisfied, except:

1. That in planned unit developments, planned shopping centers, or planned industrial parks, approved for phased development by the Planning and Zoning department, such activity may commence as each phase is completed if the conditions of the site plan relating to the particular conditions are satisfied.
2. That consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of landscaping plans before initiation of such activity; provided, that landscaping shall be completed within six (6) months following commencing of such activity.
3. Such conduct of an activity on a parcel of ground having an approved site plan without completion of site plan conditions, excepted as noted above, and/or Zoning Regulations shall be considered a violation of the Zoning Regulations.

Section 8. APPROVED SITE PLAN CHANGE

An applicant who wishes to change an approved site plan must contact the Planning and Zoning Department. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved site plan, the Director of Planning and Zoning may approve the revised site plan. If the proposed changes substantially rearrange proposed uses, parking, landscaping, drainage, lighting, or location of structures, etc., the applicant must apply for new approval of the revised site plan in the manner set forth in this Article's Section 4.

Section 9. TIME LIMITATIONS

If no building permit is issued for the site within one year from the date of the site plan approval, the site plan shall be and become null and void.

Section 10. VARIANCE

An applicant may apply for a variance to the Planned Development District guidelines. The Board of Zoning Appeals may review and approve a variance on a case-by-case basis according to the impact the proposed change would cause to the overall district.

In recommending such variance or exception, the Board of Zoning appeals shall find the following:

1. That there are special circumstances or conditions affecting the property.
2. That the variance or exception is necessary for the reasonable and acceptable development of the property in question.
3. That the granting of the variance or exception will not be detrimental to the public welfare or injurious to adjacent property.

ARTICLE 27 (B) – PERFORMANCE STANDARDS

(BOCC Resolution 2021-11; March 31, 2021)

Section 1. GENERAL REQUIREMENTS FOR ALL PLANNED DISTRICTS

A) Environmental Protection

- a. No use shall create noise in excess of that of normal daily traffic measured at the lot lines of the premises. In no case shall the noise level exceed 60 dB at repeated intervals or for a sustained length of time, measured at any point along the property line.
- b. In Planned Industrial District a buffer along the lot lines of the premises shall be created such that noise levels shall not increase more than 60 dB outside the boundaries of the Planned Industrial District. Noise levels for the Planned Industrial District shall be reviewed on a case by case basis by the Planning and Zoning Department.
- c. No use shall create dust, dirt, particulate matter, smoke, noxious odor, radiation, noxious gases, heat, unscreened glare, vibration or concussion which is perceptible without special instruments at the lot lines of the premises except in industrial districts.

B) Exterior: Architectural quality of the buildings must be of sufficient similarity on all sides of the structure such that all sides of the building are “finished.”

C) Site: The design of all developments, whether residential, commercial or industrial shall be such that access and circulation by firefighting equipment is assured and not hindered by steep grades, heavy landscaping or building spacing.

D) Screening: Fences and walls up to 6 feet in height may be allowed if designed as an integral part of a development to provide privacy, security, or as part of an entry monument detail or, in some cases, required to provide screening from one property to another.

E) Glare: All lights, other than publicly installed street lights, shall be located and installed to reflect the light away from abutting properties zoned for or developed with residential structures. No more than a maximum 0.5 foot-candle is allowed at the perimeter of the premises.

Section 2. REQUIREMENTS IN ALL PLANNED COMMERCIAL, PLANNED INDUSTRIAL DISTRICT AND PLANNED MIXED LAND USE DISTRICT

A) General:

- a. Except as provided by an approved development plan or special use permit, all products shall be sold and all services rendered inside a building.
- b. All equipment necessary for supplying electric, communication, or related services to be constructed shall be placed underground. Equipment shall include, but not be limited to poles, towers, supports wires, conductors, guys, stubs, platforms, cross arms, braces, line transformers, insulators’ cut-outs, switches, communication circuits, appliances, attachments and appurtenances. The purpose of this requirement is to promote and preserve public health, safety and welfare and to improve the appearance and orderly development of subdivisions within the corridor.

B) Lighting

- a. Site lighting should achieve intended illumination within parking lots, pedestrian spaces, storm water collection and detention areas and other areas where design or safety considerations are warranted. Site lighting is meant to create safe, recognizable, and aesthetically pleasing environments throughout public and private developments.
- b. Mast-carried luminaries shall not exceed 25' in height.
- c. High-pressure sodium lights and/ or other non-color corrected lights shall not be used.
- d. A maintained minimum required illumination for parking lots and building entries is 0.50 foot-candle (fc). Parking lot lighting shall not cause illumination in excess of 0.5 foot candles when measured at the property line of the subject parking lot adjacent to residential use. Illumination shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. Such measurement shall be taken with the photoelectric photometer while held parallel, 3 feet above the ground at the property line of the subject parking lot. Parking lot lighting shall be accomplished with pole mounted cut-off fixtures which shall be of a no-tilt, shoebox, or similar type design, equipped with flat lenses and nonadjustable mounted arms or brackets. Parking lot lighting shall have an initial average uniformity ratio of 4 to 1 (average (fc) over minimum (fc)). Pedestrian walkway lighting may use point-to-point lighting, such as light bollards, with a minimum maintained average illumination of .18 foot-candles (fc).
- e. Lighting shall not impact traffic movements.
- f. Building illumination and architectural lighting shall be indirect in character (no light source visible). Indirect wall lighting, overhead down-lighting or interior illumination that spills into the landscape is encouraged. Architectural lighting shall articulate and animate the particular building design as well as provide the required functional lighting for safety and clarity of pedestrian movement.
- g. Use of minimum wattage metal halide or color corrected sodium light sources, which provide "natural" light are required. Non-color corrected low-pressure sodium and mercury vapor light sources are prohibited as building lighting sources.
- h. Use of neon lighting shall be reviewed on a case-by-case basis.

C) Relationship of Building to Street, Parking, and Adjacent Properties

- a. All buildings shall be designed to create a strong physical relationship with their street frontages.
- b. Every building shall have a main entrance oriented toward the street-side of the building, connecting with the sidewalk. Additional entrances may be provided and oriented toward parking courts or pedestrian paths.

- c. Sidewalks, landscaping and other pedestrian amenities shall be provided in parking lots as per section 4 of this article.

D) Natural Site Conditions

- a. Proposed landscaping shall accentuate the overall natural character of the site in terms of existing topography and plant material. All parcels shall be developed so as to create a minimum disturbance to the existing natural systems found on site. The intent of the performance standards is to minimize removal of natural systems that provide habitat, visual qualities of value, and the existing natural capacity for storm water control and mitigation.

E) Service, Loading, and Utilities/Outside; Storage & Display; Screening

- a. Service or loading areas shall be accommodated entirely onsite for each parcel.
- b. Parallel parking space for delivery vehicles shall be provided along service drives or in specially designated courts or loading areas.
- c. Enclosures and service elements shall be integrated with the building elevation design so as to minimize the visual impact of such elements.
- d. Hours of loading and unloading may be limited, depending upon location and surrounding property use.
- e. All new installations and replacement of existing exterior utilities such as water, gas, sewerage, electrical, communication lines, etc. shall be installed under-ground.
- f. Industrial buildings should be designed in a manner so that loading docks and service area are located at the side or rear of the buildings.
- g. Any emission of noise, vapor, heat or fumes shall be mitigated by using best management practices.
- h. Consideration should be given to developing common service courts at the interior of parcels.
- i. Garbage, recycling collection and utility areas shall be enclosed and screened around their perimeter by walls minimum of 6 feet in height and constructed of materials consistent with the rest of the building.

Section 3. ARCHITECTURE/CONSTRUCTION

The requirements of this section shall apply to all buildings and structures (excluding single-family and two-family (duplex) dwellings), unless otherwise expressly provided in a development plan. The use of traditional materials and forms is encouraged. These requirements shall be in addition to and in conjunction with requirements set forth in an approved Development Plan.

A) Building Massing, Scale

- a. Each building is to have simple, well-proportioned, a simple form that is manipulated for relief. Massing of the buildings shall reflect a continuous mass of the building envelope.

- b. Parapets must read as integral to the mass of the building. No flat vertical surface projections will be allowed above the building roofline. Loggias and other architectural elements may be created by "carving" into the mass of the building, not by applied decoration.
- c. Details that provide human scale to structures should be fully considered and incorporated into the design.
- d. Roof forms and pitch shall be consistent for all roofs part of the same building or block of buildings.
- e. Deviation from simple forms shall be allowed to accentuate building entries and significant corners or points of access. Corners of buildings shall provide articulation through fenestration, material, and detailing.

B) Shading Devices

- a. Buildings shall provide a means for solar shading at all fenestration. This may include freestanding or attached screen walls or shade fins, architecturally constructed awnings, roof or building overhangs, recessed openings, and/or upper level balconies.
- b. Applied awnings shall be constructed of metal, canvas, and/or glass and shall be integrated into the overall design of the facade.

C) Shade trees

Refer to Article 27 (C) Section 2.2.H for details on providing shade trees in the Planned Development Districts.

D) Materials and Colors

To create a harmonious and coherent image for each development, building designs shall pay close attention to choice of materials and colors. Building construction shall be of quality and durable materials. Equally valued materials and colors shall wrap all exposed elevations of the building as a solid mass.

- a. Permitted Building Materials
 - i. Masonry products such as stone, brick, finished concrete, stucco and decorative concrete blocks.
 - ii. Copper
 - iii. Clear Glass
 - iv. Metal with a quality appearance and finish is acceptable in limited areas.
 - v. Wood - painted or preserved
 - vi. Vinyl Products, approved on a case by case basis.

- vii. Vinyl windows meeting or exceeding the following AAMA/NWWDA 101/1.S.2-97 Design Specifications: All vinyl windows, except basement windows shall have a minimum Structural Test Pressure of 45.0 pounds per square foot. All basement windows shall have a minimum Structural Test Pressure of 37.5 pounds per square foot.
- b. Permitted Roofing Materials
 - i. Standing Seam Metal or Copper
 - ii. Clay, slate or cast concrete tiles
 - iii. Asphalt shingles or better.

Section 4. PARKING STANDARDS

In addition to the parking standards outlined in Article 24 of the Leavenworth County Subdivision Regulations, the following additional standards shall apply in Planned Residential, Planned Commercial, Planned Industrial and Planned Mixed land use districts except detached single family residential lots.

- A) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.
- B) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- C) Parking lots shall be provided with landscape islands which shall include shade trees, ornamental trees, ground cover and other plant materials.
- D) All parking spaces other than those for handicapped access shall be a minimum of 9' x 17'. All parking spaces for handicapped access shall be a minimum of 12' x 18'. Additional space shall be provided, as necessary, for maneuvering into and out of the spaces. The minimum widths driving lanes with a row of parking spaces on both sides of the driving lane shall be as follows:
 - a. Parking spaces at 90 degrees to driveway = 24' wide
 - b. Parking spaces at 60 degrees to driveway = 18' wide *
 - c. Parking spaces at 45 degrees to driveway = 13' wide *

* One-way traffic flow only. If two-way traffic flow, must be at least 20 feet wide.

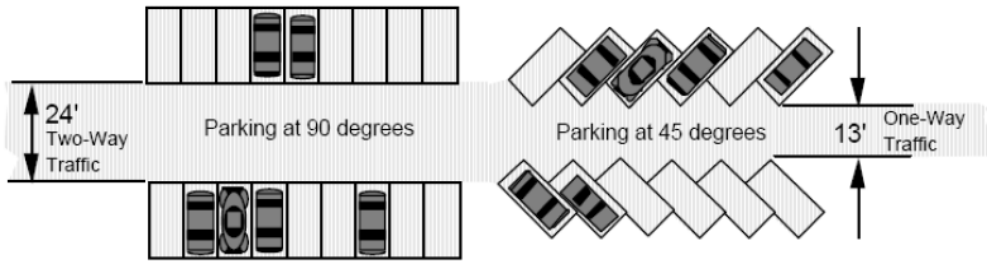


Figure: Parking Spaces and Angles

- E) All required parking lots and all driveways to and within any required parking lot, shall be surfaced with a permanent bituminous or concrete pavement.
- F) The perimeter of all required parking lots and all driveways to and within any required parking lot shall be provided with concrete curbs or concrete curb and gutters.
- G) Concrete curbs, curb and gutter or wheel-stop blocks shall be provided at the front of any parking space which abuts a building, walk, other structure or landscaped area.
- H) The design for storm drainage must provide for attaining a zero net gain in storm water runoff between the tract in its natural state and the proposed developed state. An engineering study of storm water runoff shall be required for parking lots.

ARTICLE 27 (C) – SUBDIVISION STANDARDS (Design Review Required)

(BOCC Resolution 2021-11; March 31, 2021)

Section 1. OVERVIEW

The requirements and standards of this Article support the Planned Development District’s Future Land Use Plan. This Article establishes minimum standards so that subdivisions:

1. have street systems, lot layouts, and subdivision improvements that reflect good planning principles, construction practices, incorporate and utilize the surrounding environmental attributes, and;
2. are designed and developed in a manner that demonstrates an understanding of and appreciation for both the near term, and lasting, long-range impacts, that subdivisions have on the health, safety, and general welfare of the public.

Section 2. STREETS AND DRIVEWAYS

1. General Layout and Design Criteria- Existing and New Streets and Driveways:

A. General Street Layout and Design Considerations: A convenient, safe street system is important for the health, safety and welfare of the community and the economic well-being of the County. The County’s street system should be designed to provide appropriate routes for through traffic, especially with respect to major nodes of urban development. Ultimately, local streets that serve individual building sites should be interconnected to the network of major and minor arterial streets which primarily provide for the through traffic needs. As areas of the County develop, a pattern of interconnected streets should follow. This street network is particularly important within subdivisions with multiple streets and will become increasingly important upon the area’s urbanization and densification.

B. Environmental Considerations: Street layouts shall attempt to conform to the existing natural topography and shall attempt to avoid the disruption of existing mature vegetation, 100-year flood plains and other significant natural features of the area.

C. Internal Street Layout Considerations: The location, arrangement, alignment, character, and type of all streets in the subdivision shall:

- i) Provide for safe and convenient traffic circulation within, and to and from, the subdivision for the uses of the land to be served by such streets.
- ii) Be arranged so that through traffic is minimized for local streets and so traffic is channeled to Collector streets and to Arterial Streets.
- iii) Be arranged to facilitate the free flow of traffic and limit potential traffic hazards by providing lots in all Planned Development District with access onto local or collector street via driveways; and preventing direct access onto Arterial Streets, and Highways in accordance with the Street Frontage Required per Driveway of this Article’s, Section 2.A.
- iv) Local or Collector Street layouts shall attempt to serve each subdivision lot or parcel and provide transportation access, and routes for utility service lines.

D. Connectivity and the Relationship of Internal Street Layouts to Adjoining Properties and Streets:

The location, arrangement, alignment, character, and type of streets serving new subdivisions shall be planned and designed:

- i) For the extension of existing dead-end streets except where topography, lakes, streams, Highways, Arterial streets, or other such natural or man-made features would obstruct the provision of through streets.
- ii) For the continuation of existing streets from adjoining subdivisions.
- iii) For streets to be continued to adjoining properties that have not been subdivided.
- iv) To be properly integrated with the existing and planned street system and pattern.
- v) To be continued to the boundaries of the area being subdivided at reasonable intervals that shall be not greater than 1,320 feet so that future-abutting subdivisions may connect therewith.

E. Geometric design and right-of-way requirements for all streets shall be based upon projected future traffic volumes. Additional factors to be considered in the geometric design and right-of-way requirements are as follows:

- i. Topography and physical features
- ii. Design speeds
- iii. Access conditions (controlled access with access opening, turning radius of design vehicles, medians, and pedestrian facilities).

F. Functional Street Classifications: Functional classification is an ordering system that defines the part that any particular road or street plays in serving the flow of vehicle trips through a street network. Functional classification categorizes streets according to their ability to 1) move vehicle traffic, and 2) provide access to adjacent properties.

For existing or planned streets within subdivisions, the following functional street classifications and criteria shall apply:

- a. Cul-de-sac Streets: Serve individual building lots. Connecting to other Local Streets or Collector Streets is encouraged.
- b. Local Streets: Serve individual building lots. Connecting to other Local Streets or Collector Streets is encouraged; however, Local Streets may connect directly to Arterial Street.
- c. Collector Streets: Connect Local Streets to Arterial Streets. Direct access from individual building lots is discouraged. Collector Streets are typically located at the 1/4-section, 1/2-section, or 1/3-section lines.
- d. Arterial Streets: Provide for travel between Collector Streets and Highways.

For each arterial street, whether it is a Major Arterial Street or a Minor Arterial Street, the ultimate pavement width is intended to be two (2) to four (4) lanes for through traffic movements.

G. Street Design and Construction and Right-of-way Dedication

- a. Arterial Streets within or adjacent to subdivisions and Lot Splits shall comply with the following requirements:
 - 1. The right-of-way width shall be a minimum of eighty (80) feet.
- b. Collector Streets adjacent to Lot Splits or within or adjacent to subdivisions shall comply with the following requirements:
 - 1. The right-of-way width for Collector Streets with curbs shall be a minimum of sixty (60) feet.
 - 2. The right-of-way width for Collector Streets without curbs shall be a minimum of eighty (80) feet.
- c. Local Streets adjacent to Lot Splits or within or adjacent to subdivisions shall comply with the following requirements:
 - 1. The right-of-way width shall be a minimum of sixty (60) feet.

2. Driveways, Intersections, and Frontages

A. Minimum street frontage Required per Driveway in All Planned Districts:

Road Classification	Minimum Street Frontage Required per Driveway	Corner clearance from intersection for driveway entrance.
a. Highway	Lots shall not have access directly onto a Highway	
b. County Road One	2640 feet	330 feet
c. Major Arterial	660 feet	330 feet
Minor Arterial	300 feet	200 feet
d. Major Collector	300 feet	200 feet
Minor Collector	200 feet	100 feet
e. Local	125 feet	100 feet

The minimum Public Road spacing standards for spacing between new public roads intersecting with other public roads (regardless of which government entity maintains the public road) for the purposes of approval of subdivision plats pursuant to the Leavenworth county Subdivision Regulations shall depend upon the road classification of other public road and hereby adopted as follows:

Road Classification	Minimum Public Road Spacing
a. Major Arterial	5,280 feet
Minor Arterial	2,640 feet
b. Major Collector	2,640 feet
Minor Collector	2,640 feet
c. Local	1,320 feet

- B. Minimum sight distances shall be provided at all intersections and driveways. Minimum sight distances shall be subject to Public Works standards for road type and traffic counts.

- C. Streets shall intersect as nearly as possible at 90-degree angles; no street shall intersect at less than a 75-degree angle.

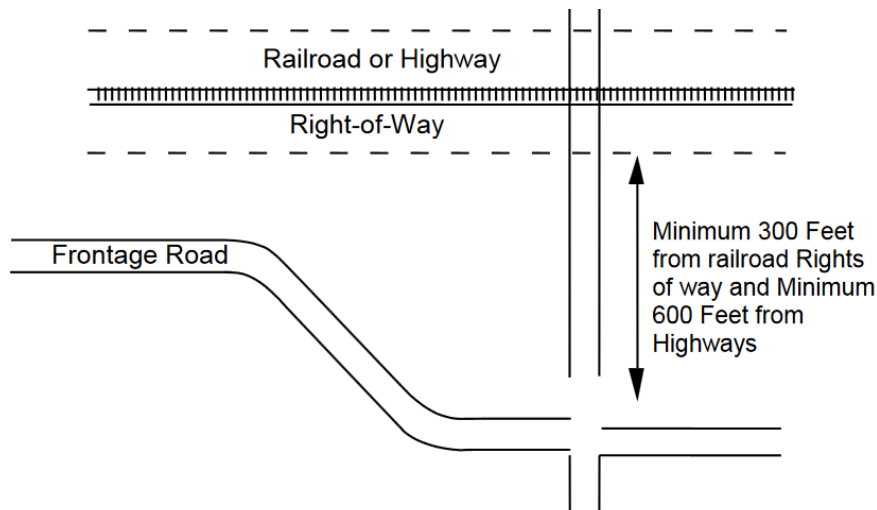
- D. Street centerlines shall be laid out to meet the following:
 - a. Arterial Streets continuing through an intersection shall have a continuous, straight centerline.
 - b. Offset intersections shall not be allowed where on Collector Streets that intersect Arterial Streets.
 - c. Collector Streets continuing through an intersection shall have a continuous, straight centerline.
 - d. Local Streets that intersect a Collector Street shall have either a continuous, straight centerline through the Collector Street right-of-way or shall be offset so that there is at least one hundred fifty (150) feet between the centerlines of the Local Streets. Collector Streets that intersect another Collector Street also shall meet this criterion by having either a continuous, straight centerline through the intersection or by being offset so there is at least one hundred fifty (150) feet between their centerlines.

- E. Cul-de-sac Streets
 - a. Dead-end streets, whether temporary or permanent, shall be constructed as cul-de-sac streets. It is recommended, but shall not be required, that temporary dead-end streets may terminate at the boundary of a subdivision. If a cul-de-sac terminates more than 200 feet from the nearest intersection, it shall be a temporary cul-de-sac designed to provide future connection with adjoining un-subdivided areas.
 - b. Cul-de-sac streets shall not be longer than 700 feet measured from the intersecting street right-of-way line to the centerline of the cul-de-sac radius.

- c. Unless topography, lakes, streams, Highways, Arterial Streets, railroads or other such natural or man-made features would obstruct the provision of through streets, permanent cul-de-sac streets shall be minimized by laying out the subdivisions to comply with the block length and cul-de-sac street length criteria of these regulations in order to facilitate traffic circulation, utility line interconnections, road maintenance and snow removal.

F. Frontage Roads

- a. Frontage roads are specific type of internal street pattern and shall be encouraged when access to certain arterial roads are limited or existing geology, topography, floodplain, or other environmental constraints or lot patterns are such that frontage roads are the most feasible way to provide for local traffic service to appropriate access points on the arterial streets. For example, when internal street patterns cannot be arranged to meet the street spacing and road frontage requirements of these regulations, or if the lots cannot be arranged with side lot lines or rear lot lines adjacent to Major Arterial Streets or Highways.
- b. Frontage roads or other internal street patterns shall be planned and constructed in subdivisions when the number of access points on one side of the Arterial Street would exceed the maximum number that would be allowed by compliance with the minimum Road Spacing requirements mentioned in Section 2 (2) (A) of this Article.
- c. Frontage roads shall not intersect Arterial Streets or Collector Streets at closer intervals than minimum Road Spacing's allowed by Section 2 (2) (A) of this Article.
- d. Frontage roads shall conform to Leavenworth County's Road Construction and Storm Water Drainage standards, 1994 Edition or latest editions as approved by the Board of County Commissioners.
- e. Frontage roads or other streets that are parallel to railroad or Highway or Major Arterial roads rights-of-way shall not intersect streets that cross the railroad or Highway-at-grade unless the frontage road or other parallel street centerline is at least three hundred (300) feet from the closest edge of the railroad or six hundred (600) feet from the closet edge of the Highway right-of-way.



- f. Frontage road access points on opposite sides of Arterial Streets shall be aligned to minimize the number of future median openings.

G. Sidewalks:

- a. Sidewalks are required and shall be installed by the developer on one side of all streets in residential subdivisions with a majority of the lots less than one (1) acre in size, and are permitted in all other subdivisions in conformance with the requirements set forth herein. Sidewalks are permitted in all other districts.
- b. Sidewalks shall be located within the public right-of-way and shall not be more than one (1) foot from the public right-of-way line of all streets. There shall be a landscaped area at least two (2) feet wide between the sidewalk and curb. If site conditions do not allow for the buffer area and sidewalks must be constructed adjacent to the curbs, the sidewalks shall be constructed as a separate entity to the curb, and at no time shall the two be constructed as a single unit.
- c. Sidewalks shall provide for continuous pedestrian access, and also connect abutting properties or subdivisions.
- d. Sidewalks shall also be provided as part of the construction of the internal subdivision streets.
- e. The minimum width of sidewalks shall be four (4) feet.
- f. Sidewalks at street intersections shall be ramped to provide access for physically impaired persons.

H. Shade trees

Along Arterial and Collector Street rights-of-way adjacent to planned residential subdivisions, or within or adjacent to any commercial or employment center subdivision, new shade trees shall be planted or existing trees shall be kept as follows:

1. One (1) street tree shall be provided for each 100 feet of street frontage within the landscaped setback abutting said street frontage.
2. In addition to the street trees, one ornamental tree per 50 lineal feet and one shrub per 25 lineal feet or portion thereof shall be planted within the setback. Additional trees may be clustered or arranged within the setback if approved as part of the landscape plan.
3. A minimum of 5% of the interior site shall be landscaped.
4. A minimum of 10% of the lot shall be kept as pervious area (green space).

Section 3. LAYOUT OF LOTS

Planned Residential Subdivision Lots:

- a. Within subdivisions of property planned residential district, the lot-depth to lot-width ratios shall not exceed three and a half to one (3.5:1) or be less than one to one (1:1). Within subdivisions of property zoned Planned Residential District, the lot-depth to lot-width ratios for lots ten (10) acres or larger shall not exceed four to one or be less than one to one.
- b. Corner lots shall have sufficient depth and width to allow the yard setbacks required in the applicable zoning district to be provided along all street frontages.
- c. The minimum lot width required in the zone shall be provided at least at the front building setback line.
- d. Double frontage lots shall be avoided unless no other lot arrangement is possible, such as where lots back onto a major Arterial Street. Access for a double frontage lot shall be on the least travelled road. All double frontage lots shall include a non-access easement which shall prevent driveway access on the rear lot line.
- e. Lots shall be arranged so that surface drainage in swales or channels across residential lots is avoided or is located along side or rear lot lines, unless surface drainage in other locations on the lots is necessary as determined by the County Engineer. Where surface drainage in a swale or channel on a residential lot is necessary, as determined by the County Engineer, drainage easements may be required and the drainage systems in such easements shall be improved in accordance with Leavenworth County's Road Construction and Storm Water Drainage standards, 1994 Edition or latest editions as approved by the Board of County Commissioners. Each residential lot that will have surface drainage in a swale or channel shall be appropriately shaped, sized and dimensioned to provide a buildable area that the County Engineer deems to be appropriate for the subdivision.

ARTICLE 28 – BOARD OF ZONING APPEALS

Section 1.

The composition of the Board of Zoning Appeals shall be established by Resolution of the Board of County Commissioners. The composition and the actions of the board shall be in accord with, and governed by, the provisions of K.S.A. 12-759. (BOCC Resolution 2011-22, June 16, 2011)

Whenever the word “Board” is used in this Article, it shall be construed to mean the Leavenworth County Board of Zoning Appeals, which is appointed as the Board of Zoning Appeals. The Board is hereby authorized and ordered to adopt rules, hold meetings, compel the attendance of witnesses, take testimony and do all other things necessary to carry into effect the provisions of this Article.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing 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 immediately filed in the office of the County Planning Commission and shall be a public record.

Section 2.

The Board shall hear and decide appeals from and review any order, requirements, decision or determination made by an Administrative Officer in the enforcement of these regulations. Such appeal shall be taken within a period of not more than three (3) months and in a manner prescribed by the rules of the Board by filing with the Administrative Officer and with the Board a notice of appeal specifying the grounds thereof.

The Board shall have full power to adopt all rules for the transaction of its business, the regulation of the procedure before it, and the carrying out of the powers granted to it by the provisions herein set forth and not inconsistent therewith.

Section 3.

The Board shall have the following powers and it shall be its duty:

1. To hear and decide on appeals where it is alleged that there is an error of law in any order, requirement, decisions, or determination made by an Administrative Officer in the enforcement of these regulations.
2. Upon application by a property owner to permit exceptions to the terms of the Zoning and Subdivision Regulations as follows:
 - a) To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the adoption of these Regulations.
 - b) To permit, where the boundary line of a district divides a tract of more than ten (10) acres under single ownership, adjustment of such line to conform with the topography of the ground where such tract is being subdivided, provided such a variation does not extend for a distance of more than five hundred (500) feet and does not come closer than three hundred (300) feet to any boundary of the tract.
 - c) To interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the plan, as shown upon the maps fixing the several districts

accompanying and made part of these regulations where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

- d) To permit the construction of a nonconforming building which has been damaged by explosion, fire, act of God or public enemy, to the extent of more than fifty (50) percent of its fair market value, where the Board finds some compelling public necessity requiring a continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
 - e) To permit a variation in the yard requirements of any district where there are practical difficulties or unnecessary hardships in carrying out these provisions due to an irregular shape of the lot, topographic or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare.
 - f) To permit the erection of buildings, not to exceed twenty (20) feet in height, on land which is restricted to building heights of less than twenty (20) feet because of its location within the approach or transition zone of any airport.
3. To authorize upon application whenever a property owner can show that a strict application of the terms of these regulations relating to the uses, construction or alteration of buildings or structures or the use of land will impose upon him practical difficulties or particular hardship, such variations of the strict application of the terms of these regulations as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance will not merely serve a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by these regulations, and at the same time the surrounding property will be properly protected.
 4. In exercising the above power, the Board may reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made, and to that end shall have all the powers of the Administrative Officer from whom the appeal is taken. Every variation granted or denied by the Board shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the reason for granting or denying the variation.

Each and every appeal taken by every person, firm or corporation from the ruling of the Administrative Officer to the Board of Zoning Appeals shall be accompanied by a fee, the amount established by the Fee Schedule adopted and amended by the Board of County Commissioners, to cover the cost of postage, stationary and other expenses incurred in such appeal. No part of said fee shall be returned to the applicant.

Section 4.

The Board shall administer the details of appeals from, or other matters referred to it regarding the application of the Zoning and Subdivision Regulations, by fixing a reasonable time for the hearing of and appeal or any other matter referred to it. Notice of the time, place, and subject of such hearing shall be published once in the official county newspaper at least twenty (20) days prior to the date fixed for the hearing. A copy of the notice shall be mailed to each party to the appeal and to the Planning Commission.
(BOCC Resolution 2011-36; August 25, 2011)

ARTICLE 29 –BUILDING PERMITS, PLANS, SPECIFICATIONS AND VESTING OF DEVELOPMENT RIGHTS

Section 1. BUILDING PERMITS, PLANS, SPECIFICATIONS

A building permit is the authorization by Leavenworth County to commence construction of a structure or an addition to a structure on a lot or tract. The following requirements shall apply for all building activity:

1. Permit Required: No building, structure, or addition thereto, including but not limited to garages, sheds, barns, pole barns, gazebos, pools, ponds, earthen embankments for ponds, and retaining walls with a foundation shall hereafter be constructed, erected, reconstructed, or structurally altered, nor shall any work be started upon the same unless a building permit has been issued for the same by the Administrative Officer.

A building permit shall be required from the initial phase of construction to the completion of the construction activity described in the building permit application. Initial construction activities include, but are not limited to, excavation for a foundation, placement of concrete forms, footings, structural walls, and framing. Clearing and grubbing for a build-site shall not constitute construction activity.

2. Application: Each application for a building permit shall be accompanied by a plan drawn to scale, showing the actual dimensions of the lot or tract to be built upon or used; the size, shape and location of the building to be erected, reconstructed or altered, all existing structures including on-site sanitary waste disposal systems (septic systems); and any other information as may be necessary to provide for enforcement of these regulations.
3. Exemptions: The following structures and/or alterations are exempted from the requirements of this Article:
 - a. Any accessory residential building within a residential zoning district containing less than 100 square feet of floor area;
 - b. Interior or exterior renovation of a single-family residence or duplex, which does not enlarge the ground floor area or increase the height of the structure.
4. Duration of Permits:
 - a. Building permits for new single-family residential buildings, single-family residential additions, residential accessory buildings, and additions to residential accessory buildings shall be valid for one (1) year from the date of issuance.
 - b. A building permit for a single-family residential building, single-family residential addition, residential accessory building, and an addition to a residential accessory building may be renewed **one-time** within the valid one (1) year duration of the permit. The renewal permit fee shall be paid for the one-time renewal. A renewal permit shall be valid for one (1) year. A new permit shall be required after the **one-time** renewal has expired and shall be subject to all submission standards and applicable fees.
 - c. All building permits for multi-family residential buildings, additions to multi-family residential buildings, commercial buildings, additions to commercial buildings,

industrial buildings, and additions to industrial buildings shall be valid for the duration of the construction of the permitted building, subject to the following:

- i. All building permits for multi-family residential buildings, additions to multi-family residential buildings, commercial buildings, additions to commercial buildings, industrial buildings, and additions to industrial buildings shall be considered lapsed and become void if construction activity has not commenced within 120 days from the date of issuance.
 - ii. All building permits for multi-family residential buildings, additions to multi-family residential buildings, commercial buildings, additions to commercial buildings, industrial buildings, and additions to industrial buildings shall be considered lapsed and become void if construction activity ceases for a period of 120 consecutive days.
 - iii. A new building permit shall be required to commence construction activity for a structure that has a lapsed building permit and shall be subject to all submission standards and applicable fees.
5. Fees: Building permit fees shall be established by the Board of County Commissioners. All fees, as established by resolution, shall be paid prior to the issuance of a building permit.
6. Waiver of fees, appeal:
 - a. Permit fees shall be waived for all federal, state, and local governmental agencies.
 - b. All non-residential building permit fees for agricultural structures on farms containing at least forty (40) or more acres shall be waived upon being granted a waiver by the Director of Planning and Zoning.
 - i. An Agricultural Use Exemption Waiver application shall be completed in full by the applicant.
 - ii. An Agricultural Use Exemption Waiver shall be reviewed based upon all information provided and available to the Planning and Zoning Department at the time of submittal including, but not limited to, County Assessors information, County GIS information, and all other public records.
 - iii. The Planning and Zoning Department shall provide in writing the findings of determination for approval, denial, or whether additional information is necessary to approve or deny an Agricultural Use Exemption Waiver application within ten (10) business days of the receipt of a completed application.
 - c. Any request for a waiver of any fees for a new building permit for a new residential dwelling due to the use of such a dwelling being an agricultural use shall submit the

following documents for consideration of an Agricultural Use Exemption for a residential dwelling:

- i. An Agricultural Use Exemption Waiver application shall be completed in full by the applicant.
 - ii. A verification statement of agricultural purpose income certified by a Certified Public Accountant (CPA) and printed on letterhead of said CPA. The verification statement shall state the applicant's percentage of the total gross income derived from an agricultural purpose. A minimum of sixty-five percent (65%) of gross income shall be derived from an agricultural purpose in order to request the fee(s) to be waived for a residential dwelling building permit.
- d. Appeals of the assessment of the fee(s) for a building permit shall be considered by ~~to~~ the Board of County Commissioners. A request for an appeal shall be submitted to the Planning and Zoning Department and include a written statement from the applicant explaining the reasons why the fee(s) should not be assessed. The Board of County Commissioners shall consider such an appeal within thirty (30) days of submitting an appeal. The Board of County Commissioners shall make written findings of the decision and the Planning and Zoning and Department shall notify the applicant of the decision. (BOCC Resolution 2011-7; February 24, 2011)
7. Records: A record of applications, plans and specifications shall be kept in the office of the Administrative Officer.
8. Penalties:
- a. Where work for which a building permit is required by this Article is started or proceeded with prior to obtaining said permit, the fee specified shall be doubled. The payment of such double fee does not relieve any persons from fully complying with the requirements of these regulations.
 - b. Failure to comply with the provisions of these regulations after issuance of the building permit may result in the revocation of the building permit by the Administrative Officer.
 - c. The revocation of any building permit by the Administrative Officer is subject to review by the Board of County Commissioners upon appeal by the holder of the permit.

Section 2. PARCEL STATUS STANDARDS

1. Parcel status shall be determined by the Planning and Zoning Department upon submittal of any building permit application. A parcel shall be determined to be one of the following:
 - i. Compliant and entitled to a building permit.
 - ii. *Allowed Non-Compliant* and entitled to a building permit.
 - iii. Non-Compliant and **not** entitled to a building permit.
2. Consideration of the status of a parcel with the Zoning and Subdivision Regulations shall be subject to the date which a parcel has been established per the following *Table 29-2-1*:

Date parcel is established	Applicable Section of regulations
Prior to August 27, 1998	Article 29, Section 3
August 27, 1998 to June 30, 2011	Article 29, Section 4 (for tracts) Article 29, Section 2.3 (for platted lots)
July 1, 2011 to present	Article 29, Section 2.3

Table 29-2-1

3. Minimum standards for compliant parcels:
 - a. All tracts (*unplatted*) shall comply with the following:
 - i. Have been established by deed and the deed shall be recorded at the Leavenworth County Register of Deeds Office.
 - ii. The requirements of these Zoning and Subdivision Regulations.
 - b. All platted lots shall comply with one of the following:
 - i. Be the complete and individual platted lot as depicted on the recorded plat thereof.
 - ii. Be a part of a platted lot that has been divided by approval of a Lot Split.
 - c. The recorded deed of a compliant parcel shall indicate that the parcel has not been subdivided or otherwise altered by means which are inconsistent with these regulations (except for the dedication of additional roadway easement or right-of-way).
 - d. A parcel may be granted *allowed non-compliant* status by meeting the criteria as established by the provisions of Section 3 or Section 4 of this Article based on the date which such a parcel has been established from the parent parcel per *Table 29-2-1*.

Section 3. PARCELS ENTITLED TO A BUILDING PERMIT

1. Any parcel (platted or unplatted) that has been established by metes and bounds description (created by deed) or described as a part of a *subdivision plat of land* (and said plat recorded with the Register of Deeds Office), prior to August 27, 1998 shall meet the size standards of *Table 29-3-1* to be considered an *allowed non-compliant* parcel entitled to building permit. Both categories of the parcel requirements of *Table 29-3-1* shall be met for the date which the parcel has been established by deed.

Date lot or tract is established	Parcel requirements	
	Minimum area	Minimum road frontage
Prior to January 1, 1962	1 acre	30 feet
January 1, 1962 to December 31, 1995	1 acre	160 feet
January 1, 1996 to December 31, 1997	1 acre	100 feet

January 1, 1998 to August 26, 1998	2.5 acres	200 feet
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Table 29-3-1

2. All parcels created on or after August 27, 1998 shall meet the applicable Zoning and Subdivision Regulations in effect at the time that the parcel was established. A parcel which does not meet the criteria of this Section may be entitled to a Minor Permit in accordance with Section 5 of this Article.
3. In addition to item 1 and 2 of this Section, the following shall apply to the **reconstruction** of any single-family residential structure in the unincorporated area of Leavenworth County:
 - a. Any reconstructed single-family residential structure shall meet the following setback and area requirements:
 - i. The minimum setback requirements of the respective zoning district.
 - ii. All height and area requirements as stated in Article 20 of these regulations.
 - iii. All manufactured homes shall meet the Similarity Standards as stated in Article 26 of these regulations.
 - b. Any reconstructed single-family residential structure shall meet the requirements of the Leavenworth County Sanitary Code.
4. All new structures shall comply with the Leavenworth County Floodplain Regulations regardless of the date the original structure was constructed.
5. Deed history of the parcel shall indicate that the parcel has not been otherwise altered (except for the dedication of additional roadway easement or right-of-way) to be allowed to meet the listed requirements of *Table 29-3-1*.

Section 4. NON-COMPLIANT TRACTS

1. A non-compliant tract is an unplatted tract that does not meet the standards of these regulations. A non-compliant tract may either be deficient by one or more physical conditions such as, but not limited to, land area, road frontage, and depth-to-width ratio or by the establishment of the tract by means which are inconsistent with the subdivision provisions of these regulations. A non-compliant tract shall **not** be entitled to a building permit for a new residential dwelling.
2. A non-compliant tract may be entitled to a Minor Permit in accordance with Section 5.
3. A non-compliant tract which has been established by means which are inconsistent with the subdivision provisions of these regulations may be brought into compliance by means of a Plat, Tract Split, or Boundary Line Adjustment. A non-compliant tract may require a variance from the Board of Zoning Appeals in addition to a Plat, Tract Split, or Boundary Line Adjustment to resolve a non-compliant condition.
4. The Director of Planning and Zoning may, at his or her discretion, grant a non-compliant tract the status of an *allowed non-compliant tract*; therefore, entitlement to a building permit by completing a Certificate of Survey for a single tract. The following criteria must be met for a Certificate of Survey to establish an *allowed non-compliant tract*:

- a. A completed application for consideration of an *allowed non-compliant tract* and the applicable application fee shall be submitted with the Certificate of Survey.
 - b. The tract shall **not** be entirely or partially within a platted subdivision.
 - c. The tract shall have a recorded deed with the Register of Deeds Office. The deed shall indicate that the date of establishment of the tract, from the parent tract, was after August 26, 1998 and prior to July 1, 2011.
 - d. The tract shall comply with the minimum road frontage and area requirements of the respective zoning district. Parcels established by recorded deed on or after August 27, 2009 shall comply with the depth-to-width ratio requirement as stated in Article 50, Section 40.3. In lieu of meeting the road frontage, parcel area and depth-to-width ratio requirements of these regulations, an approved variance is an acceptable alternative to be considered for an *allowed non-compliant tract*.
 - e. The deed shall describe a single tract, either by metes and bounds description or by aliquot parts, and shall be inclusive of all lands to constitute a single tract.
 - f. No division of land shall be represented by the Certificate of Survey.
 - g. The Certificate of Survey shall **not** be considered as a substitute for a Plat, Tract Split, or Boundary Line Adjustment.
 - h. The Certificate of Survey shall be reviewed and approved by the Planning and Zoning Department and County Surveyor and recorded at the Register of Deeds Office prior to granting *allowed non-compliant tract* status.
5. Completion of the Certificate of Survey does not resolve the inconsistency with the Zoning and Subdivision Regulations regarding the division of land. Submission of the Certificate of Survey does not guarantee the granting of *allowed non-compliant tract* status.

Section 5. MINOR PERMITS

1. A Minor Permit shall be considered a permit for an accessory structure or a permit for an addition to an existing structure.
2. In no case shall a Minor Permit be issued for a new residence or an accessory residence.
3. A Minor Permit may be issued for **any** parcel if the following criteria are met:
 - a. The parcel contains an existing residence.
 - b. The parcel is zoned either R or R-1. If the parcel is exclusively used for *agricultural purposes* or a *farm* (as defined in Article 3), the parcel shall **not** be required to be zoned R or R-1 or contain an existing residence.
 - c. The tract shall have a recorded deed with the Register of Deeds Office. The deed shall indicate that the date of establishment of the tract, from the parent tract, was prior to July 1, 2011.
 - d. The proposed accessory structure or addition to be permitted shall comply with the

setback, building height, and area requirements of the respective zoning district, the Leavenworth County Sanitary Code, and the Leavenworth County Floodplain Regulations.

- e. Issuance of a Minor Permit shall **not** result in any violations or new non-compliant conditions per these regulations.
 - f. A Minor Permit issued for an addition to a residence shall be issued only upon confirmation of conformance to the Leavenworth County Sanitary Code.
 - g. A Minor Permit issued for an addition to a residence shall **not** exceed 50 percent of the total square footage of the existing residence.
4. All applicable permit fees shall be paid prior to the issuance of a Minor Permit.

(BOCC Resolution 2014-11; April 24, 2014)

ARTICLE 30 – INTERPRETATION

Section 1.

In interpreting and applying the provisions of this resolution, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. Wherever the regulations of this resolution require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a lesser number of stories, or require a greater percentage of the lot to be left unoccupied, or require a lower density of population, or require a more restrictive use of land, or impose other higher standards than are required in any other resolutions or regulation, private deed restrictions or private covenants, the other resolution, regulation, private deed restriction or private covenant are more restrictive, then those requirements shall govern.

ARTICLE 31 – AMENDMENTS

Section 1. WHO MAY PETITION

Applications for amendments, revisions or changes in the Zoning District Boundary Map or Zoning Resolution in effect for Leavenworth County may be made by any person who owns the land sought to be rezoned, or an agent of the landowner as defined by this resolution. If such application is made by the owner's agent, the agent must attach a letter signed (and notarized) by the owner or some other appropriate legal documentation authorizing the person as the owner's agent.

Recommendations for amendments, revisions or changes to the Zoning Resolution or the Zoning District Boundary Map may also be made by the Leavenworth County Board of County Commissioners or by the Leavenworth County Planning Commission. Amendments, revisions or changes in the Zoning Resolution or Zoning District Boundary Map initiated by the Board of County Commissioners shall first be submitted to the Planning Commission for report and recommendation.

Section 2. PROCEDURES

All applications or requests for amendments, revisions or changes to the Zoning Resolution or the Zoning District Boundary Map or for Special Use Permits shall be made to the Administrative Officer on such forms as are provided. Immediately upon receipt of a complete application, with the fee required by the Leavenworth County Fee Schedule as adopted by the Board of County Commissioners, the Administrative Officer shall note the date and make a permanent record thereof. All such hearings shall be set for hearing before the Planning Commission within sixty (60) days of submission of a complete application. Notice of hearing shall be published in the official county newspaper not less than twenty (20) days prior to the date of the hearing. In addition, notices shall be sent by mail to the owners of all property located within the unincorporated area of the county within one-thousand (1,000) feet of the area proposed to be rezoned (the notice area shall extend two hundred (200) feet in those areas where the notification area extends within the corporate limits of a city) at least twenty (20) days prior to the date of the hearing.

An affirmative vote by a majority of the members present and voting shall constitute a recommendation by the Planning Commission on a zoning change. On any other matter before the Planning Commission, a majority vote of the entire membership is required to make a recommendation or take other action.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Board of County Commissioners may adopt the same by resolution. Upon receipt of a recommendation of the Planning Commission with which the Board of County Commissioners disagrees, the Board of County Commissioners may return the recommendation to the Planning Commission with a statement specifying the basis of disagreement or take such action as they deem appropriate. If a recommendation is returned to the Planning Commission, it shall, after reconsideration of the same, resubmit their recommendation, giving the reasons thereof, or submit a new recommendation.

Regardless of the recommendation of the Planning Commission, if a valid protest petition against a proposed amendment is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the hearing, duly signed and acknowledged by the owners of twenty (20) percent or more of the property proposed to be rezoned or by the owners of twenty (20) percent of the owners of the total area, excepting public streets and ways, which is located within one-thousand (1,000) feet of the boundaries of the property proposed to be rezoned, such amendment shall not be approved except by a 3/4 vote of the Board of County Commissioners.
(BOCC Resolution 2019-23; September 4, 2019)

Section 3. FACTORS TO BE CONSIDERED

The following matters are to be considered by the Planning Commission and the Board of County Commissioners when approving or disapproving a rezoning request:

1. Character of the neighborhood.
2. Zoning and use of nearby property.
3. Suitability of the property for the uses to which it has been restricted.
4. Extent to which removal of the restrictions will detrimentally affect nearby property.
5. Length of time the property has been vacant as zoned.
6. Relative gain to economic development, public health, safety and welfare.
7. Conformance to the Comprehensive Plan.
8. Staff recommendation.

The following matters may also be considered, when appropriate, by the Planning Commission and the Board of County Commissioners when approving or disapproving a rezoning request:

- Traffic / Parking
- Location /Access
- Archaeological / Historic significance
- Topography / Drainage
- Wildlife Presence
- Design compatibility with surrounding area
- Ecological analysis
- Vegetation analysis
- Flood hazards
- Soil survey
- Sewage disposal
- Market / Economic analysis
- Water supply
- Police / Fire / EMS protection
- Air / Noise pollution
- Demographic study
- Tax base implications

Section 4. LIMITATIONS ON SUCCESSIVE APPLICATIONS

In the event of a denial by the Board of County Commission of an application for any rezoning or special use permit affecting a tract of real property, no subsequent application for any rezoning or special use permit for that tract of real property shall be accepted by the County until 12 months has elapsed from the date of the denial, provided that upon a finding by the Board of County Commission that there has been a material change of circumstances affecting the tract, such an application may be accepted by the County prior to the expiration of the 12 month period.

(BOCC Resolution 2016-15; June 2, 2016)

ARTICLE 32 – RECREATIONAL VEHICLES

(BOCC Resolution 2021-46; September 29, 2021)

Section 1. GENERAL PROVISIONS

Recreational vehicles shall not be considered dwelling units unless provided for within this Article.

Section 2. TEMPORARY LIVING ACCOMMODATIONS.

1. Recreational vehicles are permitted for use as a temporary living accommodation on any parcel with a constructed, permitted single-family dwelling unit provided:
 - a. The recreational vehicle is used as a dwelling for no more than 90 days in a calendar year;
 - b. Wastewater or sewage from the recreational vehicle shall be disposed of:
 - i. By a licensed Septic Hauler, or
 - ii. At a licensed facility; and
 - c. There is no more than one (1) recreational vehicle used as a temporary dwelling unit on a parcel at any point in time.

Section 3. TEMPORARY DWELLING UNIT DURING CONSTRUCTION.

1. Requirements. Recreational vehicles can be permitted as a temporary dwelling unit during the building of a residence on any parcel if:
 - i. The parcel is currently vacant;
 - ii. A single-family building permit has been issued;
 - iii. The property owner has received a Recreational Vehicle Temporary Residence Permit;
 - iv. The recreational vehicle has no canvas, soft-sided, or similar exterior surface(s);
 - v. The recreational vehicle is connected to a permitted and installed septic waste system prior to use as a residence on the property; and
 - vi. The owner shall connect the recreational vehicle to a ground anchor system.
2. Time Frame Permitted. A recreational vehicle is permitted for use as a temporary dwelling unit during the period of the first single-family building permit issued for the parcel and one (1) renewal of that permit.
3. Exception. The property owner may be issued an additional Recreational Vehicle Temporary Residence Permit in the case of a fire, natural disaster, or Act of God that destroyed or rendered uninhabitable the primary single-family home on the property. This permit shall be issued at the discretion of the Director of Planning and Zoning.

Section 4. DWELLING UNITS IN A MOBILE HOME COURT.

1. Recreational vehicles may be used as dwelling units in a mobile home court.
2. Every recreational vehicle located in a mobile home court is required to be connected to a ground anchor system.

ARTICLE 33 – ACCESSORY DWELLING UNITS

(BOCC Resolution 2024-15; September 18, 2024)

Section 1. OVERVIEW

The purpose of allowing Accessory Dwelling Units is to:

1. Allow life-style choices in single-family zoning districts that respond to changing demographics and economic conditions.
2. Respond to the needs of family members with health concerns or disabilities in a manner that is appropriate for people at a variety of stages in their life cycle by providing homeowners with a means of obtaining companionship, security and services.
3. Provide homeowners with the opportunity to use their property to enhance or fulfill personal objectives by allowing more options for the use of accessory buildings.
4. Recognize that homeowners are likely to maintain an owner-occupied residence in a manner that upholds the single-family character of the property. Requiring owner occupancy is intended, therefore, to support and foster housing maintenance and neighborhood stability.

Section 2. RESTRICTIONS & LIMITATIONS

Accessory dwelling units shall comply with the following:

1. Accessory dwelling units shall only be permitted in rural residential zoning districts.
2. The accessory dwelling unit shall be under the same ownership as the principal dwelling unit.
3. The accessory dwelling unit may not be used for the purpose of long-term or short-term rentals to the general public.
4. The accessory dwelling unit shall be used for residential purposes only and shall not be used for any commercial use.
5. Lots or tracts of land shall be limited to one (1) accessory dwelling unit.
6. The accessory dwelling unit shall be required to have an appropriate onsite waste water system which conforms to the requirements of the Leavenworth County Sanitary Code and any applicable Kansas Department of Health and Environment regulations.
7. The accessory dwelling unit shall have an appropriate potable water source.
8. The accessory dwelling unit shall have appropriate utilities in compliance with County regulations.
9. The accessory dwelling unit shall meet all setback requirements of its respective zoning district.

Section 2. APPLICATION

Accessory Dwelling Units shall require a permit from the Leavenworth County Planning and Zoning Department. Permit fees shall be subject to the fee schedule as determined by the Board of County Commissioners. Permits shall remain valid unless the conditions of the accessory dwelling unit permit as set forth in these regulations have not been met.

Section 3. PROCEDURE

Property owners shall submit for review an application for an Accessory Dwelling Unit, along with all applicable supporting documents, including a site plan, to the Planning & Zoning Department. Upon receipt of all required documents, Staff will review the application and when appropriate, issue a permit for the Accessory Dwelling Unit. The applicant will be required to sign an affidavit stating they agree to the terms and conditions of an Accessory Dwelling Unit. The applicant shall register this affidavit with the Leavenworth County Register of Deeds Office. The affidavit shall be recorded prior to Staff providing the final permit to the applicant.

Section 4. TEMPORARY DWELLING UNIT

Temporary Dwelling Units, for the sole purpose of occupancy during construction of a single-family residence, shall be exempt from payment of any Accessory Dwelling Unit fees. The use of a Temporary Dwelling Unit for one year or less shall require authorization through a signed affidavit. The applicant will be required to sign an affidavit stating they agree to the terms and conditions of a Temporary Dwelling Unit. If a temporary dwelling unit is later reverted into an Accessory Dwelling Unit, as defined by these regulations, an appropriate application and payment of all fees shall be required.

ARTICLE 35 – PRELIMINARY PLAT PROCEDURE AND CONTENT

Section 5. GENERAL

The pre-application and the preliminary procedures are intermediary steps prior to the actual filing of a subdivision for processing as a “final plat” as outlined in Article 40. These two steps do not constitute “submission” as set forth in K.S.A. 12-752.

While the subdivision of land may be denied subject to the Planning Commission’s finding that such subdivision concept does not meet any one requirement set forth in these regulations, the principal reasons for denial are most likely to be:

1. Does not meet Zoning Regulations or not properly zoned.
2. Inadequate service of water or sewerage.
3. Lack of appropriate restraint of storm water runoff or protection from flooding.
4. Streets too steep, lacking continuity or hazardous to public safety.
5. Soils inadequate or lots too steep for development.
6. Destruction of unique natural features.
7. Inadequate right-of-way continuity, grades, site distance, or poor relationship to the Comprehensive Guide Plan pertinent to collector streets, thoroughfares, (arterials) or any street necessary to avoid landlocking abutting property.
8. Not meeting any of the plat subdivision design or improvement requirements for the particular class of subdivision.
9. The applicant refuses to allow the County Planner, Engineer or other officials involved in the review of the plat access to the property for which he/she is requesting approval of such Preliminary Plat.

Section 10. CLASSIFICATION OF SUBDIVISION

1. General: The Comprehensive Plan for Leavenworth County establishes two distinct areas or growth management zones as a tool to better manage such growth and development that is impacting those areas. Any proposed subdivision falling within such areas or zones must meet the requirements as set forth in these regulations.

The boundaries of such areas or growth management zones have been established through the adoption procedures as set forth in the Kansas Statutes, K.S.A. 12-741 et. Seq., for the development and adoption of the Comprehensive Plan. Any change in the boundary of these areas or zones must follow that procedure.

Subdivisions are classified as A, or C and are further defined on the basis of where they are permitted within the growth management zones as follows:

1. Class “A”: Any subdivision in which one or more lots lies within the Initial Urban Growth Area of Leavenworth County.

3. Class "C": Any subdivision in which all of the lots lie within the Rural Growth Area of Leavenworth County.

(BOCC Resolution 2023-20; August 2, 2023))

Section 20. PRE-APPLICATION

Prior to the filing of the preliminary plat, the subdivider shall contact the Planning Department to determine:

1. Subdivision requirements and class designation of the proposed subdivision.
2. Procedure for plat filing.
3. Comprehensive Plan requirements for major streets, land use, parks, easements, schools and public open spaces.
4. Zoning requirements for the property being subdivided and adjacent properties.
5. Potential problems resulting from the conceptual design of the subdivision as determined from the pre-application sketch.
6. A pre-application conference with the County Engineer and County Planning Department is required prior to the filing of the preliminary plat. The subdivider, design engineer, and surveyor shall attend this conference.

(BOCC Resolution 2023-20; August 2, 2023)

Section 30. PRELIMINARY PLAT PROCEDURE

In obtaining final approval of a proposed subdivision by the Planning Commission and County Board, the subdivider shall first submit a preliminary plat in accordance with these procedures.

1. The subdivider shall prepare and submit to the Planning Department two (2) copies, one (1) physical and one (1) acceptable digital, of a preliminary plat, to be used for review purposes, at least forty-five (45) days before the Planning Commission meets. The subdivider shall also provide preliminary road and storm drainage plans, if applicable.
(BOCC Resolution 2020-012; April 1, 2020; BOCC Resolution 2024-15; September 18, 2024)
2. Said plat shall be accompanied by a fee as established by Board Order 1985-8 dated May 13, 1985 (or as amended).
3. The Planning Director shall forthwith refer the digital copy to the County Engineer.
4. Where the preliminary plat is within 660 feet of any incorporated city, the Planning Director shall, at least ten (10) days prior to the Planning Commission meeting, forward a copy of such preliminary plat to the city staff for review and comment.
5. a. The County Engineer shall carefully examine said plat as to its compliance with the regulations of the County and specifically in regards to design and planning issues such as street grades, sight distance, storm drainage, easement locations, etc.
b. Each department head shall, submit his/her findings to the Planning Department on a timely basis.

6. A hearing on the proposed plat will be held before the Planning Commission at its next regularly scheduled meeting.
 7. Following receipt of required or requested reports, the Planning Commission will review the preliminary plat (see Section 50 of this Article).
 8. If approved, a notification shall be sent to the subdivider, thus allowing him/her to proceed with the preparation of the final plat and detailed construction drawings and specifications for the improvements required under these regulations.
 9. The approval of the preliminary plat does not constitute final approval or acceptance of the subdivision by the Board of County Commissioners or authorization to proceed on construction of the improvements within the subdivision, but shall constitute approval of layout and general engineering proposals and plans only.
 10. The approval of the preliminary plat shall only be effective for one (1) year, unless an extension is granted by the Planning Commission. If the final plat has not been filed for review and approval within this period, a preliminary plat must again be submitted to the Planning Commission for approval.
- (BOCC Resolution 2023-20; August 2, 2023)

Section 40. PRELIMINARY PLAT CONTENT (all subdivision classes)

The preliminary plat shall be made to a scale of one-inch equals one hundred feet (1" = 100') or larger, or if the subdivision contains more than one hundred and sixty (160) acres, the plat may be drawn to a scale of one-inch equals two hundred feet (1" = 200'). Unique conditions may allow for lesser scales approved by the Director of Planning. The preliminary plat shall show:

1. Clearly marked "Preliminary Plat".
2. The proposed name of subdivision and, if different, the title under which the subdivision is to be recorded.
3. The name and address of the owner and the name, address and profession of the person preparing the plat. All parts of the plat must be certified according to State Statutes and Administrative Regulations.
4. The date, scale, north point, and a key map showing the general location of the proposed subdivision in relation to surrounding development.
5. The legal description of the area being platted.
6. The boundary line (based on a survey accurately drawn to scale verifying corner pins in place), the dimensions and the location of the property to be platted, the location of section or quarter section lines, the projected control bench mark (identified as to location, elevation, and published datum). The exterior boundary must comply with Kansas Minimum Standards for Boundary Surveys.

(BOCC Resolution 2020-012; April 1, 2020)

7. Contours with intervals of not more than five (5) feet.
8. The names and location of adjacent subdivisions and the names of record owners and the location of adjoining parcels of unplatted land.

9. The location of property lines, streets and alleys, bridges and culverts, easements, public property, buildings, utilities (pipe sizes, manholes, grades, etc.), watercourses, tree masses, ground covers, lakes and other existing features within or adjacent to the proposed subdivision potentially affecting the plan.
10. The zoning classification and existing use and the proposed use of the area being platted.
11. The layout, numbers and approximate dimensions of proposed lots.
12. The location and dimensions of all existing and proposed building lines and easements.
13. The location, width, and dimensions of all streets, alleys, pedestrian ways and grounds proposed to be dedicated for parks, schools, or any public or semi-public use.
14. Proposed names for all streets in the area being platted.
15. Written and signed agreements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement and drainage structures.
16. Written and signed statement from the Environmental Officer of the County Health Department or designee, stating their approval of the type of sewage system to be used or their recommendations.
17. Applicant shall provide written and signed statements from the appropriate officials of subject utilities and public services, as follows\;
 - a. availability of gas,
 - b. electricity and
 - c. water to the proposed subdivision.
 - d. fire response
 - e. State and Local transportation review
18. Any restrictions proposed to be included in the owner's declaration of plat, including but not restricted to those listed in the appendix.
19. General layout of adjacent property, to show how streets and other public facilities in the proposed subdivision relate to adjacent subdivided and unsubdivided property.
20. Preliminary Plats shall include the location, width, dimensions, preliminary grade, proposed street name and relationship to the existing street network of all proposed streets.

(BOCC Resolution 2024-15; September 18, 2024)

21. Preliminary Plats shall include horizontal and vertical locations and materials of existing culverts and bridges, horizontal and vertical locations and materials of proposed culverts, bridges and drainage swales & a preliminary grading plan with drainage arrows.

(BOCC Resolution 2024-15; September 18, 2024)

22. A Storm Drainage Report in compliance with the current policy.
(BOCC Resolution 2024-15; September 18, 2024)

Section 50. APPROVAL OR DISAPPROVAL OF THE PRELIMINARY PLAT (all subdivision classes)

1. Within sixty (60) days after the first consideration of a preliminary plat, the Planning Commission shall approve, disapprove or, with the approval of the applicant, table the preliminary plat. Action by the Planning Commission shall be conveyed to the subdivider in writing within ten (10) days after the Planning Commission hearing at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet approval of the Planning Commission. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat.
2. If the Planning Commission disapproves or withholds approval of a preliminary plat, the applicant may request that said plat be submitted to the Governing Body, and the Planning Commission shall send the proposed preliminary plat, together with their report, stating the reason or reasons for the action taken. The Governing Body may make such findings and determinations as are deemed proper.
3. The approval of the preliminary plat shall only be effective for a period of one (1) year, unless an extension is granted by the Planning Commission. If the final plat has not been submitted for approval, within this specified period, the preliminary plat must be resubmitted to the Planning Commission for approval.

Section 60. CONTINUANCE

Applicants may request the continuance of Planning Commission consideration of an application to a specific date. A maximum of three continuances are allowed. After that time, the Planning Commission shall remove the case from the agenda. Once removed the applicant may re-file a new application at any time.

ARTICLE 40 – FINAL PLAT PROCEDURE, CONTENT AND ACTION BY THE PLANNING COMMISSION

Section 10. FINAL PLAT PROCEDURE

1. For final approval, the subdivider shall file with the Planning Department not less than thirty (30) days before the Planning Commissions regularly scheduled meeting:

- a. Two (2) copies, one (1) physical copy and one (1) digital copy of the final plat.
- b. One (1) acceptable digital copy of the Road and Storm Drainage Plans in compliance with the current policy.

(BOCC Resolution 2024-15; September 18, 2024)

- c. A performance guaranty or bond, if required (see definition) in an amount and with sureties approved by the County Engineer.
- d. The County Surveyor shall carefully examine the exterior boundaries of the final plat for compliance with county and state regulations and Kansas Minimum Standards for Boundary Surveys including the signature, seal, and date of the land surveyor preparing the boundary.
- e. Before the Final Plat is signed, the developer must submit a letter from a title company certifying the owner(s) of record as of the date that the Board of County Commissioners approved the Final Plat. All certified owners must sign the plat. The certification letter must accompany the Plat when it is recorded.
- f. A copy of the policy verifying title, easements and liens. These documents should be dated no more than thirty (30) days prior to the application date.

(BOCC Resolution 2020-012; April 1, 2020)

- g. Two (2) copies, one (1) acceptable digital and one (1) print, of three-line profiles of streets to be dedicated, indicating the grades thereon, shall be required by the Planning Commission for plats submitted where street grades are more than five (5) percent.

(BOCC Resolution 2024-15; September 18, 2024)

- h. Certificate stating that all taxes and encumbrances have been paid shall be submitted with the Final Plat.
- i. If private restrictions are to be filed affecting the subdivision or any part thereof, two (2) copies, one (1) acceptable digital and one (1) print shall be submitted to the Planning Commission with the Final Plat.

(BOCC Resolution 2024-15; September 18, 2024)

2. When the final plat has been passed upon by the Planning Commission, the original copy, furnished by the subdivider, shall be signed by the Chairman and Secretary of the Planning Commission and the County Engineer, and shall be forthwith transmitted to the County Commission with the performance guaranty or bond, if required, and a letter from the Planning Director stating the Planning Commission's approval.

The Governing Body shall accept or refuse dedication of land upon a plat within thirty (30) days of its submission to the Governing Body. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modification to comply with requirements established by the Governing Body.

3. In instances where a performance bond has been required, when the final plat has been approved by the County Board and all conditions of that approval have been met, the performance bond accepted and filed with the County Clerk and the plat duly signed as set forth in Section 20, Item 15, the Planning Director shall release the plat to be recorded by the developer/owner in the office of the Register of Deeds of Leavenworth County, Kansas. The Register of Deeds office shall retain 1 paper original for their use. .
4. Approval by the Board of County Commissioners shall constitute final approval of the subdivision of the area and upon receipt of one (1) paper copy by the subdivider from the Planning Commission office with the appropriate and necessary signatures, the subdivider shall cause such plat to be recorded in the Office of the Register of Deeds of Leavenworth County, Kansas, before the County shall recognize the plat as being in full force and effect. A final plat that has been duly approved by the Board shall be in effect for 1 year from the date of approval. Any approved final plat not filed within that period of time shall be declared void. The approved plat may be extended for one year upon appeal to the Board of County Commissioners.
5. Receipt of the duly certified final plat by the subdivider is authorization that he may proceed with the installation and construction of the required improvements subject to acquisition of appropriate permits.
6. The County Engineer shall return any performance bond or guarantee to the subdivider upon meeting all of the requirements as stipulated in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition approved by the Board of County Commissioners.
7. No plat or re-plat or dedication or deed of a street or public way shall be filed with the Register of Deeds, as provided by law, until such plat or re-plat or dedication or deed shall have endorsed on it the fact that it has been submitted and approved by the Planning Commission and by the Governing Body.
(BOCC Resolution 2023-20; August 2, 2023)

Section 20. FINAL PLAT CONTENT

The final shall be made to a scale no smaller than one-inch equals two hundred feet (1" = 200') from an accurate survey drawn on a sheet whose overall dimensions are 24" x 36". (A scale of one-inch equals one hundred feet (1" = 100') shall be used if the tract is 1350' in width or less) and shall show:

1. The correct legal description of the property being subdivided.
2. The boundary lines of the area being subdivided with accurate distances and bearings.
3. The lines of all proposed highways, streets and alleys with their width and names.
4. The accurate outline of any portion of the property intended to be dedicated or granted to public use.
5. The lines of departure of one street from another.
6. The lines of all adjoining property and the lines of the adjoining highways, streets and alleys with their widths and names.

7. All lots designated by numbers or letters and streets, avenues and other grounds by names, letters or numbers.
8. The location and widths of building lines of front yards, the location and widths of utility easements for possible future construction, and easements for drainage purposes. Show a note on the plat listing the dimension of side, rear and front setbacks.
9. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and any other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot and bearing to the nearest second of angle. The plat must comply with Kansas Minimum Standards for Boundary Surveys.
10. The radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
11. The location of all survey monuments and benchmarks together with their descriptions. All lot corners must be monumented with a minimum #4 (1/2") rebar 24" long with a survey cap bearing the registration number of the responsible party.
12. The name of the subdivision and the scale of the plat, points of the compass, and the name of the owner or owners or subdividers.
13. When private restrictions and trusteeships are of such lengths as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be on the plat.
14. Acknowledgement of the owner or owners of the plat restrictions including dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required.
15. The following certificates to be signed:
 - a. Acknowledgement of ownership by owner or owners, and statements by a notary public authorized to take acknowledgements of deeds, to the effect, that all previous taxes have been paid and that all highways, streets, alleys and public grounds shown on the plat are dedicated for public use.
 - b. Land Surveyor certifying that he/she has accurately surveyed such subdivision and that said survey has been performed under his/her direct supervision. Month and year of field survey required.
 - c. Approval of Planning Commission by the Secretary and Chairman of the Planning Commission.
 - d. Approval by the County Engineer, with the following note: The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.
 - e. Approval of the County by the Chairman of the Board of County Commissioners and attested by the County Clerk.

- f. By the Register of Deeds, stating the day, month, year, time, book and page that said plat was recorded.
- g. Approval by the County Surveyor, with the following note: "I hereby certify this survey plat meets the requirements of K.S.A. 58-2005. The face of this survey plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for survey information only.

16. True north point, graphic scale and date.

17. All exceptions to and variances from the Zoning & Subdivision Regulations shall be listed on the face of the plat.

(BOCC Resolution 2023-20; August 2, 2023)

Section 30. PLANNING COMMISSION'S ACTION

The Planning Commission shall act upon the final plat within sixty (60) days after its first meeting following submission of the final plat, and if the Planning Commission does not ask the subdivider for an extension of this period and no action is taken within this period, then the plat shall be deemed to have been approved by the Planning Commission.

If the Planning Commission feels that it lacks information on which to base the approval of said final plat within the time limitation and no "time waiver" has been provided by the subdivider, the Planning Commission will normally deny said final plat.

ARTICLE 41 – ACCESS MANAGEMENT

Section 1. OVERVIEW

(BOCC Resolution 2018-13; May 29, 2018; BOCC Resolution 2021-18; June 16 2021)

The intent and purpose of the Access Management Policy is to encourage the orderly development of land while maximizing the health, safety and welfare of residents within Leavenworth County. The proposed Access Management Policy shall promote safety within Leavenworth County by assessing the number of access points thereby evaluating the safety of County roadways. The proposed Access Management Policy shall promote current and future development within areas of the County by encouraging the preservation of property which ultimately preserves land for future development. The proposed Access Management Policy shall preserve parcels of land where services can be feasibly provided in the future. Parcels of land which are situated adjacent to and abutting County Arterial and County Local Roads shall be subject to the policies and restrictions set forth in the Access Management Policy. Policies and regulations set forth in the Special Development District and future development districts shall supersede the Access Management Policy for parcels within those districts.

The Access Management Policy provides for the development of land, while protecting and managing current and future access, by allowing access of driveways to parcels which meet the minimum required road frontage. Driveway spacing will be determined by the road classification system.

Those regulations specific to the Access Management Policy would apply to properties only upon development or change of use. The Access Management Policy encompasses all parcels of land which are adjacent to or abutting County Arterial and County Collector.

Section 2. DEFINITIONS

(BOCC Resolution 2021-18; June 16 2021)

1. Development – Any division of the land.
2. Road Classification System – See Exhibit A
3. Public Road Entrance Management Standards – See Exhibit B
4. Public Road Access Management Standards – See Exhibit C

Section 3. ZONING AND SUBDIVISION REGULATIONS

Development of parcels shall be subject to the standards and requirements set forth in the Leavenworth County Zoning and Subdivision Regulations, Sanitary Code and Floodplain Management Ordinance.

Section 4. URBAN GROWTH MANAGEMENT AREAS

Development occurring within 660' feet of an incorporated city limits shall be required to obtain and produce a Certificate of Authorization for access; unless:

1. The incorporated City and County have agreed upon and implemented a separate Access Agreement Policy.

Section 5. VARIANCES

An applicant may apply for a variance to the Access Management Policy. The Board of Zoning Appeals may review and approve a variance on a case-by-case basis according to the criteria set forth in the Leavenworth County Zoning and Subdivision Regulations Article 28 – Board of Zoning Appeals.

Section 6. EXHIBITS

(BOCC Resolution 2021-18; June 16 2021)

EXHIBIT A – Roadway Classification Definitions:

- A. MAJOR – Roadway section with historical vehicle traffic volumes of greater than 1000 vehicles per day (vpd).
- B. MINOR – Roadway section with historical vehicle traffic volumes of less than or equal to 1000 vehicles per day (vpd).
- C. STATE – Roadway that is maintained by the State of Kansas. All Access Management on state maintained roadways is determined by the State of Kansas
- D. ARTERIAL – Roadway that carries longer-distance traffic flow between communities and important centers of activity.
- E. COLLECTOR – Roadway that carries traffic from local streets to arterial streets
- F. LOCAL – Low capacity roadways that carries traffic from interior subdivision roadways to adjacent local, collector, arterial, or state roads
- G. INTERIOR SUBDIVISION – Roadways, either public or private, designed as part of a subdivision, built by the developer, to provide access to the residential properties within the subdivision. These roadways are identified as ‘Local Roadways’ or ‘Private Roadways’ on Leavenworth County Classification Map.

EXHIBIT B - Public Road Entrance Management Standards:

- 1. The minimum entrance spacing standards from adjacent roadways or other adjacent entrances shall be dependent upon the road classification of the roadway being accessed. Spacing is required to be met only along the side of the roadway that is being accessed. Entrance spacing requirements are designated by zoning districts as follows:

a. Residential Entrance Spacing:

The entrance spacing standards for entrance permits for platted and unplatted residential property onto public roads in the unincorporated areas of Leavenworth County are hereby adopted as follows:

- I. Major Arterial Roadway: Minimum Required Entrance Spacing = 660 feet
- II. Corner Clearance from Intersection = 330 feet
- III. Minor Arterial Roadway: Minimum Required Entrance Spacing = 300 feet
- IV. Corner Clearance from Intersection = 200 feet

- V. Major Collector Roadway: Minimum Required Entrance Spacing = 300 feet
- VI. Corner Clearance from Intersection = 200 feet

- VII. Minor Collector Roadway: Minimum Required Entrance Spacing = 200 feet
- VIII. Corner Clearance from Intersection = 100 feet

- IX. Local/Interior Subdivision Roadway: Minimum Required Entrance Spacing = *See Below
- X. Corner Clearance from Intersection = 100 feet

b. Additional Provisions

- I. Residential Lots fronting upon a roadway classified as a Local Road by the Leavenworth County Classification Map shall access the roadway with an entrance in a location that meets the line of sight requirements generally accepted by engineering standards within the AASHTO Green Book. It is desirable that they be designed and located to meet criteria for intersection sight distance and other design elements set forth. However, where this is not practical, they should be located to provide the best reasonable sight distance and meet other design criteria to the extent practicable.

- II. Lots with frontage on roadways of various road classifications must place their entrance along the roadway with the lower roadway classification. Any lot that abuts a local road and has secondary frontage must utilize the local roadway for its access location. Any lot that abuts two local roadways must utilize the roadway with the lowest traffic volume. All lots that have frontage on interior subdivision roadways must access the property from said interior roadway.

- III. Each Lot is allowed one primary entrance. Lots that are three acres or larger shall be allowed a secondary entrance location. The secondary location must meet the same spacing requirements set forth for the primary entrance location.

- IV. All existing lots are permitted a primary entrance, when possible. In the event that an existing property cannot meet the required spacing as stated in this policy, the entrance shall be located to provide the best reasonable sight distance and meet other design criteria to the extent practicable. No lot shall be created that would require the neighboring property to be accessed by a noncompliant entrance.

c. Business/Industrial Entrance Spacing

The entrance spacing standards for entrance permits for business or industrially zoned properties onto public roads in the unincorporated areas of Leavenworth County are hereby adopted as follows:

- I. Arterial Roadway:**
 - a. Minimum Required Entrance Spacing = 250 feet
 - b. Corner Clearance from Intersection = 330 feet

- II. Collector Roadway:**
 - a. Minimum Required Entrance Spacing = 200 feet
 - b. Corner Clearance from Intersection = 200 feet

III. Local Roadway:

- a. Minimum Required Entrance Spacing = 125 feet
- b. Corner Clearance from Intersection = 100 feet

EXHIBIT C - Public Road Access Management Standards

Roadway Spacing:

When it can be avoided, the County does not wish to create minimally offset T intersections. If there is a roadway on the opposite side of the proposed road, effort should be made to create either a 4-way intersection or provide enough spacing between the proposed and existing roadway for car stacking. The minimum spacing, if line of sight is available, between the proposed roadway and the existing roadway shall be no less than 100 feet. If the development must be reduced by more than one lot to meet this requirement, the developer may locate the proposed intersection at the location that provides the greatest distance possible but does not impact the proposed available development size.

The following roadway spacing requirements are to be met only along the side of the roadway that is being accessed. The minimum offset spacing for a new roadway intersection is based upon the highest classification of roadway for either the roadway being accessed or the nearest intersecting roadway. Where there are intersections on either side of the proposed point of access, each intersection will be treated independently and the proposed roadway must meet both roadway spacing requirements. These standards, for purposes of approval of subdivision plats pursuant to the Leavenworth County Subdivision Regulations, are hereby adopted as follows:

Existing Roadway Classification	Minimum Road Spacing (Feet)
State	660
Arterial	660
Collector	660
Local	330
Interior Subdivision	330

ARTICLE 42 – FAMILY HOMESTEAD EXEMPTION

Section 10. FAMILY HOMESTEAD EXEMPTION CRITERIA AND PROCEDURE

(BOCC Resolution 2018-9; April 23, 2018)

A property owner may transfer ownership to other family members by the following process:

1. A property owner may divide and transfer ownership to their family members as long as it meets the definition of a family member and requirements stated in this article.
2. This method of land division shall be allowed for parcels resulting 5 Acres or greater excluding parcels within special development districts and corridor plans.
3. A plat shall be required if and when any of the parcels created by the certificate of survey gets sold or transferred to anyone other than family member as defined in this article.
4. A certificate of survey shall be filed with the Register of Deeds office along with an affidavit certifying that they meet the definition of a family member and other applicable regulations.
5. The affidavit of compliance shall be recorded prior to recording of the survey. The book and page of the affidavit shall be referenced on the survey document.
6. The certificate of survey shall meet all applicable zoning, subdivision and building requirements. The certificate of survey will be reviewed and approved by the Planning and Zoning Department and the County Surveyor.
7. The division and layout of the proposed parcels shall be subject to review and approval by the Planning & Zoning director. The decision may be appealed to the Board of Zoning Appeals via the administrative appeal process outlined in Article 28 of the zoning and subdivision regulations.
8. The division shall be limited to one parcel per family member.
9. The parent parcel is also subject to all platting requirements if and when it becomes eligible for platting.
10. Standard Road Impact Fee (RIF) and Traffic Impact Fee (TIF) shall be collected at the time of building permit. Development Impact Fee (DIF) shall not be applicable to parcels regulated by this article until the parcels are divided via plat. The Development Impact Fee (DIF) shall be collected at the rate calculated at the time of plat.
11. Building permits shall not be issued for parcels that become non-compliant by violation of this Article. Article 29, Section 5 shall not be applicable for this process.
12. An application fee shall be required similar to a tract split application.
13. All applicable documents shall be filed with the Register of Deeds at the expense of the applicant.
14. A non-compliant letter will be filed with the Register of Deeds if and when a parcel becomes non-compliant with regard to the above stated regulations.

For the purpose of this article, a family member is defined as:

- A. Parents; and
- B. Spouses and descendants thereof; and
- C. Children and descendants thereof.

ARTICLE 43 – CROSS ACCESS EASEMENTS

(BOCC Resolution 2020-29; September 2, 2020)

Section 1. OVERVIEW

The purpose of this policy is to allow a procedure for divisions of land to accommodate rural residential development within Leavenworth County where it is not desired by the applicant to build internal roads to County Standards. These developments shall be known as “Cluster Development” and they shall be accompanied by a subdivision plat in accordance with the Leavenworth County Zoning and Subdivision Regulations. These developments should be thoughtfully considered and should give forethought to future development.

(BOCC Resolution 2024-15; September 18, 2024)

Section 2. PROCEDURES

1. Cross Access Easements shall accompany a request for a subdivision development which shall be known as “Cluster Development.” The subdivision plat shall be subject to the requirements of the zoning district set forth in the Leavenworth County Zoning and Subdivision Regulations.
 - a. Parcels located within a Cluster Development shall be subject to the zoning district requirements for lot area and lot frontage in which the tract of land is located.
 - b. Parcels which are located within a Cluster Development shall be serviced by a “Cross Access Easement.” A Cross Access Easement shall provide access to each lot within a cluster development, but will in no way be considered a public, county-maintained road.
 - c. Lots within Cluster Developments shall be situated so that all lots are accessed by the cross-access easement. Cross access easements shall be a minimum of 60 feet in width. Cross access easements shall be subject to the Leavenworth County Access Management policy requirements for driveway and roadway spacing when servicing three or more parcels. Developments serving two parcels shall only be required to meet the driveway spacing requirements. (BOCC Resolution 2021-18; June 16, 2021; BOCC Resolution 2024-15; September 18, 2024)
 - d. Cluster Developments with cross access easements shall not be permitted within 660’ of an incorporated city
 - e. Cluster Developments shall be limited to eight (8) lots or less. (BOCC Resolution 2024-15; September 18, 2024)
2. The cross access easement shall be established by separate legal instrument and shall be recorded with the Leavenworth County Register of Deeds. A separate restrictive covenant that encompasses, by legal description, the entire development must be filed in conjunction with the easement. The covenant shall clearly state that maintenance of the cross access easement is the sole responsibility of the developer and/or the future property owners of the properties the CAE provides access to. The covenant shall clearly state the cross access easement is not a public right-of-way and will in no way be maintained by the County.
3. If any portion of the development lies within a FEMA designated regulatory floodplain, or if drainage channel or swales exist on the development that carry runoff from adjacent property, the FEMA designated regulatory floodplain, channel or swale shall be protected by grant of an easement according to the same standards that apply to typical subdivisions. Maintenance of the drainage easement shall be the responsibility of the property owner.

Section 3. ACCESS AND ROAD STANDARDS

1. A cluster development with an access easement shall have direct access to a fully maintained public road.

2. Only one access point shall be allowed for the entire development.
3. When established as part of a cluster development, the road and drainage plans submitted to County Staff shall be prepared and sealed by an engineer licensed in the State of Kansas. The developer shall provide documentation from the designing engineer stating the Cross Access Easement was built in accordance with the submitted design plans to the County upon completion of the Cross-Access Easement. Building permits shall not be issued until such document has been received. (BOCC Resolution 2021-18; June 16, 2021)
4. There will be no consideration by the County to assume responsibility of the cross access easement until the cross access easement is built to the current County standard in place at the time the request is made to accept the roadway. Any improvements or upgrades will be the sole responsibility of the developer and/or the owners of the properties being accessed by the CAE.
5. Cluster Developments with private drives terminating via cul-de-sac must design the cul-de-sac with a 50 foot radius. (BOCC Resolution 2024-15; September 18, 2024)
6. Cluster Developments with private drives terminating via hammer head or similar turnaround device must design the turnaround feet that meets engineering design standard. (BOCC Resolution 2024-15; September 18, 2024)

Section 4. AMENDMENTS TO THE DEVELOPMENT

1. Any further division for development purposes is prohibited until an amended Replat is approved by the Governing Body and recorded with the Register of Deeds.

ARTICLE 45 – REPLATS

Section 10. SUBMISSION AND APPROVAL

A re-plat of an existing subdivision shall follow the same procedures as a new plat; provided that a re-plat which creates no more than four lots and which does not change or alter any existing road right-of-way, may be submitted for approval in the same manner as a minor subdivision plat.

Prior to making changes to a filed, recorded and approved subdivision plat, the appropriate replat procedures shall be followed as stated in Article 40. Such changes may include but are not limited to addition of lots, increase/decrease in lot size, boundary line adjustment, any change in easements, etc.

ARTICLE 50 – MINIMUM SUBDIVISION DESIGN STANDARDS AND GENERAL REQUIREMENTS

Section 10. MINIMUM SUBDIVISION DESIGN STANDARDS

Each class of subdivision may require a variance in types of requirements. Care should be taken to utilize the correct requirements.

1. Acreage Subdivisions. Whenever a tract is divided into large lots each containing one or more acres and there are indications that such lots will eventually be re-subdivided into smaller urban sized lots, consideration must be given to the highways, streets, utility easements, and lot arrangement of the original subdivision so that additional streets can be opened which will permit a logical arrangement of smaller lots. Easements providing for future opening and extension of such streets may, at the discretion of the Planning Commission, be made a requirement of the plat.

The preferred subdivision design will be to plat the ultimate lot size and then group lots as indicated in the following example. Such groupings must be sufficient to meet sewage disposal or water supply, or any other code or Comprehensive Plan requirement adopted for the unincorporated portion of the County.

(BOCC Resolution 2023-20; August 2, 2023)

Section 20. UTILITY REQUIREMENTS

In all classes of subdivisions, the required area of the lots will be determined by the method of treatment or disposal of wastewater. The determination of whether or not an approved public sanitary sewer system and an approved water system are available in sufficient size and capacity to serve the subdivision shall be made in the following manner.

1. All applications shall be submitted with a written report from the water department or district in which the subdivision is located on the availability of water to the proposed subdivision. The report from a rural water district shall be signed by the Board of Directors and its engineer. The report from a public water supply system shall be signed by its administrative official and engineer.
2. If the water supply is not from a rural water district or a public water supply system, a performance bond or guaranty shall be filed with the applicable rural water district sufficient to secure that the water system will be constructed in accordance with these regulations.
3. A copy of the preliminary plat shall be sent to the County Sewer District Administrator for a written report on the availability of an approved public sanitary sewer system.
4. Private sewage disposal systems will be allowed in subdivisions where all the lots are greater than 1 acre subject to the following procedure. The plat shall be reviewed by the Planning Department for compliance with the Leavenworth County Sanitary Code. A licensed sanitarian or engineer shall provide evidence that the soils within the platted area will safely handle private wastewater disposal systems or a notation stating that engineered septic systems may be required due to soil conditions.

(BOCC Resolution 2023-20; August 2, 2023)

Section 30. OTHER REQUIREMENTS

The following particular requirements are hereby made of each of the classes of subdivisions:

1. Class “A” Subdivisions:

All class “A” Subdivisions shall be served by an approved public sewage system and an approved public water system and shall be subject to Section 40 Minimum Design Standards. The subdivider may request a waiver of the requirement for an approved public sewage system pursuant to Article 30, Section 30.4 of these regulations.

2. Class “C” Subdivisions:

All class “C” Subdivisions shall be served by an approved public sewage system and an approved public water system, or a private water well if the requirements of the sanitary code are met, and shall be subject to Section 40 Minimum Design Standards. The subdivider may request a waiver of the requirement for an approved public sewage system pursuant to Article 50, Section 30.3. of these regulations.

3. Waiver of Requirement for Approved Sanitary Sewage System.

- a. A subdivider may request that the Planning Commission consider the granting of a waiver to the requirement that a subdivision be served by an approved sanitary sewage system, and be served by individual private sewage disposal systems.
- b. A request for a waiver may be granted in such case, upon a finding by the Planning Commission that all of the following conditions have been met:
 - 1) That the reason or reasons given for the waiver is not created by an action or actions of the property owner or the subdivider;
 - 2) That the strict application of this requirement for which a waiver is sought would constitute unnecessary hardship upon the owner or subdivider. Unnecessary hardship shall not mean that the cost of providing for private sewage disposal systems is less costly than for a public sewage system unless the cost/benefit ratio exceeds 2:1. Unnecessary hardship shall specifically exclude the reason or reasons given for the waiver which are determined to be for the convenience of the owner or subdivider;
 - 3) That the granting of the waiver will not adversely affect the rights of adjacent property owners or residents;
 - 4) That the waiver requested will not adversely affect the public health or safety;
 - 5) That the waiver requested will not be opposed to the general spirit and intent of the subdivision regulations, zoning regulations and sanitary code.

(BOCC Resolution 2023-20; August 2, 2023)

Section 40. MINIMUM DESIGN STANDARDS (Subdivisions of all classes)

1. Blocks:

- a. Length: Intersection streets, which determine block lengths, shall be provided at such intervals as to serve cross traffic and to meet existing streets in the neighborhood. In residential districts, where no existing adjacent plats are recorded, the blocks shall not exceed one thousand two hundred (1,200) feet in length, except that in outlying Class “C” subdivisions a greater length may be permitted on review by the Planning Director where topography or other conditions justify a departure from this maximum. In blocks longer than seven hundred fifty (750) feet, pedestrian ways and/or easements through the block may be required by the Planning Commission near the center of the block. Such pedestrian ways or easements shall have a minimum width of ten (10) feet. Blocks for business uses should normally not exceed six hundred (600) feet in length.
- b. Width: In residential subdivisions, the block width shall normally be sufficient to allow two (2) tiers of lots of normally not less than two hundred (200) feet nor more than 350 feet in depth. Class “C” subdivisions on review by the Planning Director may, where conditions justify, depart from the maximum. Blocks intended for business use shall be of such width and depth as may be considered most suitable for the prospective use.

2. Streets, Alleys and Public Ways:

- a. Relationship to Adjoining Street System: The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing streets in adjoining subdivisions (or their projection where adjoining property is not subdivided), insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. Alleys are not normally permitted, but where required, alleys and streets shall be arranged to permit owners of adjoining unsubdivided property to extend streets into the unsubdivided property. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated.
- b. Street Names: Streets that are obviously in alignment with existing streets shall bear the names of the existing streets, but in any case, are subject to the final approval of the Governing Body.
- c. Arterial Streets: Arterial or major street alignments shall conform with the Comprehensive Plan.
- d. Collector Streets: Collector streets shall be designed to carry the residential traffic to the major streets and, in general, conform to the Comprehensive Plan.
- e. Minor Streets: Minor streets shall be so designed as to discourage through or nonlocal traffic.
- f. Cul-de-sacs and Dead-end Streets: Except in cases where the unusual topographic conditions may make it advisable to modify these provisions, the following shall apply: (BOCC Resolution 2019-23; September 4, 2019)

- 1) The radius of a cul-de-sac shall be as stated above and depends on the type of road. The minimum radius for any road for vehicular turnaround shall be forty (40) feet and the minimum radius for right-of-way shall be fifty (50) feet.
 - 2) In the case of temporary dead-end roads, which are stub streets designed to provide future connection with adjoining unsubdivided areas, the Planning Board may require a temporary easement for a turnaround of a nature indicated above.
 - 3) When a subdivision is replatted or the existing road ends and is to be extended, the existing cul-de-sac shall be eliminated and removed and the road brought up to the standards specified in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.
- g. Buffer Strips: This includes treatment of railroad right-of-way and limited access highways. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or limited access highway, or where lots back onto a public street, the subdivision shall provide the following treatment:

In residential districts a buffer strip at least fifty (50) feet in depth, in addition to the normal required lot depth shall be provided adjacent to the railroad right-of-way and limited access highway. This strip shall be a part of the platted lots, and the planted materials must be approved by the Planning Commission and shall have the following restriction lettered on the face of the plat:

“This strip reserved for the planting of trees or shrubs by the owner or developer; the building of structures is prohibited.”

In commercial and industrial districts, provisions shall be made on each side of the railroad right-of-way or limited access highway for buffer strips approximately parallel to such right-of-way or highway at a distance suitable for the appropriate commercial or industrial use of the land. In no instance shall this be less than one hundred and fifty (150) feet.

Streets parallel to the railroad right-of-way or limited access highway shall, when intersecting a major street, highway or collector street, be located at a minimum distance of two-hundred fifty (250) feet from said right-of-way or highway. Such distance, where desirable and practical, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients. Location of minor streets immediately adjacent and parallel to railroad right-of-way shall be avoided.

- h. Limited Access: Wherever the proposed subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential properties, limitations of access, and the separation of through and local traffic shall be provided by the reversed frontage with screen plantings, provided by the developer, contained in a non-access reservation along the rear property lines; or by provision of a frontage road.

There shall be no reserve strips for controlling the access to streets except where control of such strips is definitely placed under conditions approved by the Planning Commission.

- i. Intersections: Streets shall intersect each other at as nearly right angles as permitted by topography or other limiting factors of good design but never less than sixty (60) degrees. The number of streets converging at one intersection shall be reduced to two, with no more than four approaches to an intersection without the specific approval of the County Engineer.

Minor streets need not continue across major or collector streets; but if the center lines of such minor streets approach the major streets from the opposite sides thereof within one hundred and fifty (150) feet, they must be aligned or the separation increased to a minimum of one hundred and fifty (150) feet.

See Drawings No. 8 and 9 in Appendix.

- j. Dead End Roads: Where a road does not extend to the boundary of the subdivision, and its continuation is not required by the Planning Commission for access of adjoining property, its terminus should normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A circular dead-end street shall be built in accordance with County construction standards and specifications.

See Drawings No. 8 and 9 in Appendix.

- k. Half-Streets: Dedication of half-streets will be discouraged and may not be approved, except where it is essential to the reasonable development of the subdivision and is in conformity with the Comprehensive Plan and other requirements of these regulations.
- l. Alleys: Alleys shall be provided in commercial and industrial districts, except where other definite and assured provisions are made for service access to off-street loading and unloading areas and to off-street parking areas, consistent with and adequate for the uses proposed. Dead-end alleys shall be avoided.
- m. Minimum Requirements: For all streets or roads shall be prepared in accordance with design criteria specified in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.

3. Lots

- a. The minimum lot width shall conform to the appropriate requirements of the Leavenworth County Zoning Regulations and the Sanitary Code.
- b. The minimum lot depth shall conform to the appropriate requirements of the Leavenworth County Zoning Regulations and the Sanitary Code.
- c. The minimum lot area shall conform to the appropriate requirements of the Leavenworth County Zoning Regulations and the Sanitary Code.
- d. All side lot lines shall bear perpendicular from the center of the street or radially from a curved street. Once outside of the building setback line, side lines can include up to two bearing changes, provided they are within 45 degrees of previous line segment. Rear lot lines are encouraged to be parallel to the front lot line.
(BOCC Resolution 2023-20; August 2, 2023)

- e. Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will give better street alignment and lot arrangement.
 - f. Every lot shall abut on a street other than an alley.
 - g. Building or setback lines shall be shown on the Preliminary Plat and the Final Plat for all lots in the subdivision and shall not be less than the setback required by these regulations.
 - h. The subdivision or re-subdivision of a tract or lot shall not be permitted where said subdivision or re-subdivision places an existing permanent structure in violation of these regulations.
 - i. Within subdivisions, the lot-depth to lot-width ratios shall not exceed three and a half to one (3.5:1) or be less than one to one (1:1) for lots less than ten (10) acres. The lot-depth to lot-width ratios for lots above ten (10) acres and less than forty acres (40) acres shall not exceed four to one (4:1) or be less than one to one (1:1). Lots greater than forty (40) acres shall have no lot-depth to lot-width ratio.
(BOCC Resolution 2009-42, August 27, 2009)
4. Easements and Setbacks
- a. Where alleys are not provided, permanent easements of not less than ten (10) feet in width shall be provided on all rear lot lines, where necessary, for utility poles, wires and conduits, sanitary sewers, gas, water and heat mains, and other public utilities. These easements shall provide for a continuous right-of-way at least twenty (20) feet in width.
 - b. Where a lot/tract or group of lots/tracts contain or about any portion of an existing high-pressure oil line or existing high-pressure natural gas line, a fifty (50) foot wide building setback shall be provided on each side of said oil line or gas line. No building or structure as defined by these regulations shall be located within said setback.

5. Storm Drainage

Adequate provisions shall be made for the disposal of storm water subject to the approval of the County Engineer and the Planning Commission. The construction shall be supervised by a licensed contractor, with final approval by the County Engineer.

Culverts shall be corrugated galvanized steel or aluminum meeting the following requirements:

<u>Pipe Diameter</u> (inches)	<u>Minimum Gauge of Pipe</u>	
	<u>Steel</u>	<u>Aluminum</u>
less than 36"	16	16
36"	14	14
42"	14	14
48"	14	12
54"	14	12
60"	12	10
66"	12	10
72"	10	8

6. Lagoons (BOCC Resolution 2018-24; December 4, 2018)

Shared Lagoons shall not be allowed in Subdivision

Section 50. SENSITIVE LAND DEVELOPMENT

The Planning Commission will review any proposal for development of areas considered to be sensitive lands in the Comprehensive Guide Plan with concern for all potential on and off-site impacts. It shall be the obligation of the owner/developer to provide sufficient data to the Planning Commission to show that the negative impacts such as flooding, erosion, removal of woodlands, etc. can be eliminated or limited to an acceptable level. Notwithstanding any of the provisions of these Regulations, the following requirements shall constitute the Minimum Standards of Design, and improvements in specific areas of the proposed subdivision containing hills or steep slope conditions (grades or slopes in excess of ten (10) percent. Any variation from Article 50 must be fully substantiated by satisfactory engineering justification before deviations will be approved by the Planning Commission. The subdivider shall follow all requirements contained herein for filing Preliminary and Final Plats.

1. Lot Size and Arrangement:

- a. Any portion of a proposed residential subdivision containing hillsides or steep slopes shall be platted on the basis of lot sizes in the Chart "Lot Area on Sloping Ground" in the appendix. (Drawing No. 10)
- b. The Planning Commission may permit a deviation in the front yard setback areas in order to permit garages and driveways to be placed at street level. Where excessively steep slope lots are to be used as building sites, the subdivider shall show on the plat the location of all buildings or structures proposed. No structure or building shall be permitted to project into a street right-of-way and developer will provide a minimum of twenty-five (25) feet set back from the back of curb.

2. Streets:

Minimum requirements for all streets or roads shall be prepared in accordance with design criteria specified in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition as approved by the Board of County Commissioners.

3. Grading Plan:

Contour lines of five (5) foot intervals shall be shown on the plat where the average slopes exceed six (6) percent. Where slopes in excess of fifteen (15) percent occur, the Preliminary Plat shall indicate the general location and magnitude of all cuts and fills. A grading plan shall be submitted with the Preliminary Plat showing how the proposed grading will affect the drainage of the surrounding area and the nature of the improvements which are proposed, if the average slope of the hillside subdivision is in excess of twenty-five (25) percent.

4. Cuts and Fills

- a. Cuts, excavation, grading and filling, where same materially changes the site and its relationship to the surrounding property, shall not be permitted if such

excavation, grading or filling results in slopes exceeding County standards for abutting lots or between adjoining tracts of land, except where adequate engineering facilities are constructed to prevent slides and erosion.

- b. Where a cut or fill area is outside the normal right-of-way of the street, an easement shall be provided of sufficient width and area to permit the required side slopes, drainage channels, warping and rounding of cross-sections to be constructed and maintained.
- c. Structures or buildings when located near cuts or fills shall have a setback line of not less than ten (10) feet from the crest of the fills up to twenty-five (25) feet in height and the distance will be increased proportionately for higher fills. On cuts, a building or structure shall have a setback line of not less than twenty (20) feet distance from the base of the slope.
- d. In any fill area, satisfactory compaction of fill is mandatory. Compaction of a lesser density, as determined by the Planning Commission may be permitted in those areas where no building or structure is to be placed.

5. Storm Water Drainage System

The improvement plans for an adequate storm water drainage system including all necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, and other necessary structures and improvements which are required for the proper drainage of all surface waters shall be provided. This system must prevent the infiltration of water in areas of cuts and fills thereby causing the land to slip or collapse. Adequate provision and maintenance must be made for on-lot drainage channels and control of erosion on slope areas for either cuts or fills.

6. Water Supply System

Where applicable, the improvement plans for the water supply system installation shall be approved by local officials and the Governing Body prior to the submission of the Final Plat.

7. Sewage Disposal System

The improvement plans for the sewage disposal system installation shall be approved by local officials and the Governing Body prior to the submission of the Final Plat.

8. Utility Easements

Utility easements will be as required.

9. Utility Connections

Connection between storm water drainage systems and sewage disposal systems will not be permitted.

10. Fire Hydrants

- a. Fire hydrants shall be provided by the developer and such fire hydrants shall be located on six (6) inch water lines in residential areas and eight (8) inch water lines

in commercial areas. Fire hydrants shall be placed at or near street intersections and at intermediate points so that there shall be no more than five hundred (500) feet between hydrants in residential areas and three hundred (300) feet in commercial areas. Fire hydrants shall conform to American Water Works Association (AWWA) C502 and shall be traffic models with breakaway flanges. They shall have one 4 and ½ inch NST connection and two 2 and ½ inch NST connections, and shall be furnished with auxiliary gate valves.

- b. Fire hydrants shall be color coded as identified thru NFPA 291 Marking of Fire Hydrants as follows:
 - Red top Rated capacity of less than 500 gpm (gallons per minute)
 - Orange top Rated capacity of 500 - 999 gpm
 - Green top Rated capacity of 1,000 – 1,400 gpm
 - Light blue top Rated capacity of 1,500 gpm or more

- c. For subdivisions with lots of 2.5 acres, or greater, adequate easement shall be dedicated so as to allow and provide for the installation of fire hydrants and necessary water lines and appurtenances. Upon written notice by the water service provider that existing water service is adequate to allow for the installation of fire hydrants, the installation of hydrants and necessary water lines and appurtenances shall be required as part of the approval of the subdivision plat. In the event that existing water service is not adequate to allow for the installation of fire hydrants and necessary water lines and appurtenances, as so stated by the water service provider, the Planning Commission shall provide for fire hydrants as follows:
 - 1) If the water service provider shall state, in writing, that it plans to provide such necessary water service to the proposed subdivision area so as to allow for the installation of fire hydrants and necessary water lines and appurtenances not later than 6 years from the time of the consideration of the plat, the Planning Commission shall require the installation of fire hydrants prior to the time when adequate water service to the subdivision area exists, provided that the water service provider does not object to such installation.

 - 2) If the water service provider objects to the installation of fire hydrants prior to the time that adequate water service to the subdivision area is available, and service to the area is planned not later than 6 years from the time of the consideration of the plat, the planning commission shall require that sufficient financial assurance be given so as to provide for the installation of fire hydrants at such time that adequate water service is made available.

Notwithstanding any other provision of these regulations, should financial assurance be given for the installation of fire hydrants as part of the consideration of any subdivision plat, and water service adequate to allow for the installation of fire hydrants not be made available within 6 years of the giving of such assurance, as so determined by the water service provided, such assurance shall be deemed to have been released and if appropriate a refund of any such assurance shall be made to the party giving the assurance.

Section 60. DEDICATION OR RESERVATION OF PUBLIC SITES & OPEN SPACES

In subdividing land, due consideration shall be given by the subdivider to the dedication or reservation of sites for school, parks, playgrounds, or other public recreational areas or open spaces. Any areas so dedicated or reserved shall conform with the recommendations in the

approved Comprehensive Plan and to the recommendations of the Board of Education. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that they may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency. A written statement from the Board of Education shall be submitted by the subdivider indicating whether or not a school site in the proposed subdivision is desired.

ARTICLE 55 – IMPROVEMENTS AND IMPROVEMENT PLANS

Section 10. IMPROVEMENTS

The subdivider shall install and construct all of the following improvements in accordance with specifications as required by the County Engineer.

IUGA (Initial Urban Growth Area)

1. An area comprised of the surrounding 660 feet of incorporated city limits.
 - a. All improvements must be built to the standards of the City. Any exceptions must be approved by both the City and County Planning Commissions.

(BOCC Resolution 2020-012; April 1, 2020)

Section 15. SCHEDULE FOR IMPROVEMENTS

All improvements must be in place prior to the issuance of building permits on lots within the subdivision; provided however, that the staging of street improvements is permitted if accomplished in accordance with Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition approved by the County Commissioners.

Section 20. STANDARDS

1. Streets and Alleys: All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the County Board after receiving the report and recommendation of the County Engineer. The construction shall be supervised by a contractor with final approval by the County Engineer.
2. Roadways: All new subdivision roads in Leavenworth County shall be designed and constructed in accordance with the latest edition of the Leavenworth County Department of Public Works Road Construction and Storm Water Drainage Standards.
(BOCC Resolution 2008-01; February 21, 2008)
3. Water Lines: Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot in accordance with the Water Board's standard procedure and supervision. If public water is not available, then a local water source shall be provided and a letter from the State Board of Health stating the water is fit for human consumption shall be submitted to the Planning Commission before plat approval.
4. Sewers:
 - a. Where a sanitary sewer system is required or provided, the subdivider shall construct or cause to be constructed such sanitary sewer system and provide for the connection of such sanitary sewer to each lot within the subdivision.

Design of the sanitary sewer system shall be in accordance with the specifications set forth by the Kansas Department of Health and Environment and Leavenworth County.

Sanitary sewer systems shall be approved by the Kansas Department of Health and Environment, and the construction shall be supervised by a contractor with final approval by the County Engineer.

- b. Adequate provision shall be made for the disposal of storm water subject to approval of the County Engineer and the County Board. The construction shall be supervised by a licensed engineer, with final approval by the County Engineer.
5. Sidewalks: Shall normally be of concrete, four (4) feet wide and four (4) inches thick, on compacted earth and with wire reinforcement mesh embedded or as otherwise approved by the County Engineer.

Section 30. IMPROVEMENT PLANS

One complete set of prints of the project street or road plans shall be submitted to the office of the County Engineer for review. Complete set of prints submitted on Preliminary Plats and Final Plats meeting the requirements stated in Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition approved by the Board of County Commissioners.

ARTICLE 56 – EXCEPTIONS

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography or other non-self-inflicted conditions; or that these conditions would result in inhibiting the achievement of the objectives of these regulations; the Planning Commission may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured; provided, that such exception, modification or waiver will not have the effect of nullifying the intent and purpose of these regulations or interfering with carrying out the Comprehensive Plan.

In recommending such exception, the Planning Commission shall find the following:

1. That there are special circumstances or conditions affecting the property.
2. That the exception is necessary for the reasonable and acceptable development of the property in question.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to adjacent property.

(BOCC Resolution 2023-20; August 2, 2023)

ARTICLE 57 – RENEWABLE ENERGY CONVERSION SYSTEMS

(BOCC Resolution 2021-41; September 1, 2021)

Section 1. PURPOSE

The placement, permitting, and use of Renewable Energy Conversion Systems are subject to the requirements of this Article.

Section 2. GENERAL REQUIREMENTS

The following requirements shall be applicable to all Renewable Energy Conversion Systems, unless superseded by the following Sections:

1. *General Regulations*

- a. *Underground Lines.* On-site communication lines and power collection lines are to be installed underground. Above ground utility or power lines may be used only in public rights-of-way, easements or other legally dedicated land permitting such uses, or when conditions on-site are found to make installation of such lines or facilities impractical or infeasible, such as existing underground pipelines, utilities or high groundwater.
- b. *Fencing.* The facility shall be enclosed by perimeter fencing at least 8 feet tall to restrict unauthorized access. No outdoor storage of any materials or equipment is permitted.
- c. *Signage.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other adjacent structure associated with a Renewable Energy Facility visible from any public street or adjacent property shall be prohibited.
- d. *Lighting.* No lighting over 15 feet in height shall be installed on a renewable energy facility unless approved as part of the Special Use Permit review process and is required by local, state or federal requirements. No light source greater than one foot-candle shall be directed off-site. Security or safety lighting and accessory structures shall be limited to the minimum necessary and full cutoff lighting (e.g., dark sky compliant) may be required when determined necessary to mitigate visual impacts. Lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
- e. *Outside Agency Approval.* The applicant shall provide a list of all Local, State and Federal agencies requiring approval and a copy of such approval, including all required studies, reports and certifications. In the event that a State or Federal Agency has not yet approved a required study, report or certification, then the approval of the special use permit shall be subject to receipt of a copy of such approval, unless good cause is shown to the satisfaction of the Director of Planning and Zoning.
- f. *Socioeconomic & Environmental Impact.* The applicant shall provide an evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility.
- g. *Interference.* The renewable energy facility operation shall not interfere with radio, television, computer, or other electronic operations on abutting or nearby properties.
- h. *Compliance with Code.* Renewable energy facility installation shall conform to the National Electric Code, as updated from time to time.

2. *Permitting*
 - a. *Special Use Permit.*
 - 1) A pre-application meeting shall be required for all renewable energy facility applications.
 - 2) A Special Use Permit shall be required for before the start of any construction of any renewable energy conversion system.
 - 3) Upon final approval of the special use permit, construction shall begin within two years from the date of final approval; otherwise, the special use approval shall be deemed to be null and void unless an extension to begin construction is administratively approved by the County. The Director of Planning and Zoning is authorized to administratively grant a one-time, up to one-year extension for construction to begin. Extensions for more than one year require a public hearing and approval by the Leavenworth County Planning Commission.
 - b. *Building Permit*
 - 1) A building permit is required prior to construction of renewable energy facility.
3. *Site Plans.* For all renewable energy facilities, a site plan shall be submitted in compliance with the requirements provided by:
 - a. Article 27 – Site Plan Approval;
 - b. Any plans that are identified relative to a specific request for a Renewable Energy Conversion System may be included within the information required for consideration of the Special Use Permit; and
 - c. Any additional information required by Article 57.
4. *Environmental plans.*
 - a. The applicant shall provide information that addresses: stormwater drainage, soil erosion, sediment control, and will detail how same will be addressed, prevented or enhanced by grading, re-vegetation or other standard construction practices in accordance with the reclamation recommendations of the Leavenworth County Conservation District. Damage to existing vegetation shall be minimized. Land disturbance shall be minimized. Disturbed areas shall be reseeded in accordance with the reclamation recommendations of the Leavenworth County Conservation District. Weed control shall be maintained as directed by the Leavenworth County Noxious Weed Department.
 - b. The applicant shall submit an Environmental Assessment to EPA standards that addresses the project’s impact, if any, on: wildlife habitat; bird migration; the projects potential to cause bird and bat strikes or death; officially listed flora and fauna; and flood zones.
5. *Transfer of Ownership.*
 - a. Whenever the renewable energy facility and/or property upon which the renewable energy facility is sited are transferred to new ownership, all requirements and responsibilities pertaining to the renewable energy facility are transferred to the new ownership.
 - b. If the Special Use Permit is to be transferred from the renewable energy facility owner/operator to a different renewable energy facility owner/operator, said transfer must first be approved by the Board of County Commissioners. The first party shall inform the second party of all requirements of the Special Use Permit. The second party, or new holder, of the Special Use Permit shall meet all requirements of the Special Use Permit. The County Commissioners may direct the Planning Director, the Public Works Director, and/or a designated to field inspect the

renewable energy facility to determine current compliance with required conditions. A transfer fee of \$1,000.00 shall be paid to the County to compensate for work related to the transfer.

6. *Insurance.*

- a. Applicant shall indemnify and hold County harmless from and against any and all claims, demands, suits, and losses to the extent arising out of, relating to or resulting from or in connection with the negligent action or omission of applicant or its contractors or assigns during the development, construction or operation of applicant's wind energy project located within Leavenworth County, Kansas. Notwithstanding the foregoing, in no event shall the applicant, its contractors or assigns (or any of their respective affiliates, members, shareholders, officers, directors, agents or employees) be liable for consequential, incidental, indirect, special, exemplary or punitive damages.
- b. During the construction phase of the project, applicant or its main contractor shall, at their own expense, maintain the following insurance policies:
 - 1) Commercial General Liability Insurance
 - 2) Commercial Automobile Liability Insurance
 - 3) Umbrella Excess Liability Insurance
 - 4) Workers' Compensation and Employer's Liability Insurance
- c. Additional insurance during the renewable energy facility operational period beyond property owners' or homeowners' coverage shall not be required.

7. *Development Agreement.*

- a. A Development Agreement between the developer and/or applicant and the County shall be written and accepted by the Board of County Commissioners before the Special Use Permit can be granted.

8. *Abandonment, Decommissioning, and Reclamation Plan.*

The applicant shall enter into a Decommissioning Agreement with the Board of County Commissioners upon the approval of the special use permit and before any construction begins for a renewable energy facility. Compliance with the plan shall, at all times, be a condition of the special use permit whether or not explicitly listed in any document reflecting the agreement. Decommissioning of the renewable energy facility must occur in the event the facility does not generate electricity for nine (9) consecutive months, unless the Board approves a request to maintain the facility.

- a. *Abandonment.*
 - 1) A renewable energy facility shall be considered to be abandoned in the event the facility does not generate electricity for nine (9) consecutive months.
 - 2) The Director of Planning and Zoning shall issue a Notice of Abandonment to the owner/operator of the facility. The owner/operator shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date. The Director of Planning and Zoning may withdraw the Notice of Abandonment and notify the owner/operator that the notice has been withdrawn if the owner/operator provides sufficient information to demonstrate that the facility has not been abandoned which may include documentation or certification by the owner/operator of the local electric utility.

- b. Decommissioning & Reclamation Plan
 - 1) The plan shall describe the manner and cost in which the all facility improvements will be dismantled and removed from the site within 12 months of the abandonment or the end of the useful life of the renewable energy facility or of such improvement that shall require the removal of all above-ground components of the renewable energy facility.
 - 2) The plan must ensure the site will be restored to a useful, nonhazardous condition without delay including:
 - i. Regrading and seeding of the land after the removal of equipment; and
 - ii. Revegetation of restored soil areas with crops or native seed mixes, excluding any invasive species.
 - 3) Concrete and other materials used in the construction of the site must be removed.
 - 4) Following a continuous nine (9) month period in which no electricity is generated, or if substantial action on the project is discontinued for a period of nine (9) months, the permit will have one year to complete decommissioning of the facility. Decommissioning shall be completed in accordance with the approved decommissioning plan. The land owner or tenant must notify the county when the project is discontinued.
 - 5) The plan shall include estimated decommissioning costs in current dollars and the method for ensuring that will be available for decommissioning and restoration. The applicant shall provide the basis for estimates of net costs for decommissioning the site (decommissioning costs less salvage value). The cost basis shall include a mechanism for calculating adjusted costs over the life of the project.

9. *Bond.*

The applicant shall obtain and deliver to the County either a bond or a similar financial instrument or establish an escrow account to ensure proper decommission and restoration of the site.

- a. Any bond or escrow account shall be calculated to be equal to the cost specified in the Decommissioning Agreement or at a rate of \$40,000 per acre of disturbed soil, whichever is greater.

Section 3. SOLAR ENERGY CONVERSION SYSTEM REGULATIONS

1. *Standards*

The following standards apply to all Solar Energy Conversion Systems (SECS):

- a. *Height.* The SECS shall not exceed thirty-five feet (35') in height; provided, however, said height restriction shall not apply to substation facilities or transmission lines.
- b. *Setback.* All SECS structures shall be setback from the project boundary lines and public rights-of-way at least forty (40) feet. Additional setbacks may be required to mitigate site specific issues or to provide for access, road or commercial corridors.
- c. *Screening.* The SECS should be located to make maximum use of existing terrain, vegetation and structures to screen the Project from offsite views. To the greatest extent possible, SECS should be sited such that non-shading vegetation and/or existing structures are located between the facility and public and private viewpoints. Landscaping and/or screening may be required to help screen the SECS, at the discretion of the Director of Planning and Zoning.
- d. *Fire Risk.* The applicant shall identify the potential fire risk associated with the project, including both prescribed burning and nonprescribed burning.

- e. *Glare.* No SECS shall be placed such that concentrated solar glare casts onto adjacent properties or roadways.
2. *Application and Required Documents*
- The applicant shall provide the following supplemental information with their Special Use Permit Application:
- a. Information shall be provided relative to the solar technology to be used (i.e. polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.); approximate number of solar modules/ panels; system mounting (i.e. fixed-tilt on flat roof, fixed-tilt groundmount, 1-axis tracking groundmount, etc.); the maximum height of the array from the ground or roof surface; the maximum height of any new utility poles; and power capacity of the system, in both DC and AC Watts where applicable; total acreage of array and acreage of total project; manner in which the project will connect (i.e. net meter to existing distribution line, to new distribution line, to transmission line); and, whether a new substation will be constructed. (If so, provide location and size).
 - b. If a SECS is proposed to be placed within one (1) mile of any airport or airstrip as shown on the Airport and Airstrip Map incorporated herein by reference, the applicant shall provide acknowledgement of location approval from the Federal Aviation Administration prior to construction.
 - c. The applicant shall provide a Solar Glare Hazard Analysis utilizing the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), or its equivalent, to evaluate the solar flare aviation hazard and potential impact on neighbors.
 - 1) If solar glare is predicted, the applicant shall provide mitigation measures to address the impacts of solar glare. Mitigation measures may include and are not limited to textured glass, anti-reflective coatings, screening, distance, and angling of solar PV modules in a manner that reduces glare to surrounding land uses of non-participating property owners.
 - d. The applicant or developer shall meet with the appropriate department of public works, and/or Kansas Department of Transportation to determine what roads may be used as transportation routes for construction and maintenance, and shall provide a map of the route(s) to be used in Leavenworth County. No building or construction permit shall be issued until the applicant submits proof that appropriate permits and any required guarantees dealing with road damage or maintenance can be provided.
- c. *Vesting of rights.*
- a. Construction for a SECS will be considered to have begun once the first array of solar panels has begun to be installed.

Section 4. WIND ENERGY CONVERSION SYSTEM REGULATIONS

1. *Standards*

The following standards apply to all Wind Energy Conversion Systems (WECS):

- a. *Sound.* Audible noise due to WECS operations shall not exceed 55 dBA or 10 decibels greater than ambient noise levels, measured at the nearest dwelling or otherwise occupied structure. Sound levels may be exceeded during short-term events such as utility outages and/or severe wind storms.

- b. *Lighting*. No illumination of the turbine or tower shall be allowed unless required by the FAA.
 - c. *Access*. All WECS shall be designed as to avoid tampering or trespassing.
 - i. *Freestanding Tower*. Climbing apparatus below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.
 - ii. *Lattice or Guyed Towers*. The bottom tower section must be secured such that it cannot readily be climbed.
 - iii. *Fencing*: All ground mounted equipment shall be fenced or secured in a manner as to avoid trespassing.
 - d. *FAA Regulations*. No WECS shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
 - e. *Communication Interference*. No WECS shall interfere with any microwave, television, radio, telecommunications or navigation systems.
 - f. *Visual Impact*. Reasonable measures shall be identified and undertaken to mitigate specific adverse visual impacts such as reflections, shadow flicker, blade glint and any other impact on neighboring properties.
2. *Noncommercial Wind Energy Conversion Systems (NWECS)*
- a. *Standards*.
 - i. *Setbacks*. All NWECS shall meet the following setbacks:
 - a. Property lines – 1.5 times the total height.
 - b. Public Utility Lines – 1.5 times the total height.
 - c. Structures – 1.5 times the total height.
 - ii. *Height*. The maximum height permitted for a NWECS shall be 50 feet as measured from the hub height.
 - iii. *Rotor Blades*. All rotor blades must be a minimum of 15 feet above ground level.
 - iv. *Ice Throw*. All NWECS shall provide documentation of potential ice throw from said structure and the siting of all NWECS shall be in a manner in which said Ice Throw will not negatively impact a neighboring property, any structure, public or private right-of-way or utility easement.
3. *Commercial Wind Energy Conversion Systems (CWECS)*
- a. *Standards*
 - i. *Setbacks*. All CWECS shall meet the following setbacks:
 - a. Property Lines – 1,500 feet.
 - b. Public Utility Lines – 1.5 times the total tower height.
 - c. Structures – 1.5 times the total tower height.

- ii. *Height.* The maximum height permitted for CWECS shall be 200 feet as measured from the total tower height.
- iii. *Rotor Blades.* At the lowest point of the rotor blades shall be a minimum of 50 feet above ground level as measured from the base of the tower.
- iv. *Sensitive Land and Species Requirements.* #1. Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations. All CWECS shall maintain a distance of 3 miles from any land determined to be Sensitive Land.
- v. *Public Airport and Private Airstrips.* All CWECS shall be a minimum of 2 nautical miles, calculated as 12,160 feet, from any public airport or private airstrip approach of a runway and a minimum of 1.5 nautical miles, calculated as 9,120 feet, from any sides of a runway. A private airport/airstrip owner may waive the setback requirement.
- vi. *City Boundaries.* All CWECS shall be a minimum of 1 mile from any incorporated city boundary at the time of application.
- vii. *Lubricant and Hazardous Material Storage and Disposal.* All lubricants and/or hazardous materials to be located on the premises in connection with the CWECS facility shall be kept and transported in accordance with all state and federal regulations.
- viii. *Ice Throw.* No CWECS shall be constructed or installed in manner in which ice throw from an in-motion rotor blade can hit or destroy an inhabited structure.
- ix. *River Bluffs and Bodies of Water.* All CWECS shall be a minimum of 1.5 times the total height from any river bluff 15 feet or taller or body of water protected by County, State or Federal agencies.
- x. *Access Road.* Applicant shall construct the smallest number of turbine access roads as reasonably feasible. All access road entrances shall comply with Article 41 Access Management. All access road locations shall be agreed upon in writing between the applicant and property owner. Where an access road crosses a stream or drainage way identified as a Special Flood Hazard Area, the applicant shall obtain a floodplain development permit from the county.

b. *Documents, Plans, Studies, Reports, Other Permits.*

The information listed below shall be submitted with the special use permit application and used to evaluate compliance with the Zoning and Subdivision Regulations. The Planning Commission or Board of County Commissioners may require additional information not listed below or conduct separate studies for the purpose of evaluating the proposed special use permit.

- i. A copy of all signed lease agreements for property designated in the Special Use Permit. Sensitive financial or confidential information may be redacted.

- ii. An expected economic impact report to the County which assumes the proposed project is approved and constructed as proposed on the special use permit application. The report shall be prepared by an independent third-party company or four-year college institution.
- iii. An acoustic study prepared by an independent third-party company. The study shall include maps and charts that indicate the anticipated sound level expected at each principal building and explain the methodology used to compute the anticipated sound levels.
- iv. A visual impact study prepared by an independent third-party company. The study shall include maps and charts that indicate the anticipated amount of shadow flicker, reflections, blade glint or any other visual impact expected at each inhabited structure and explains the methodology used to compute the anticipated visual impact. The study shall show the anticipated number of hours per year an inhabited structure will receive shadow flicker, the time of day and time of year.
- v. Documentation from the Kansas Department of Wildlife, Parks and Tourism (KDWPT) or its successor indicating the agency has reviewed the proposed CWECS.
- vi. All setback, noise or shadow flicker waivers are to be executed by all owners of an affected parcel. All such waivers shall be notarized and submitted with the special use permit application.
- vii. A report shall be conducted by a third-party company on existing environment and sensitive land concerns and filed with the special use permit application.
- viii. An ice throw analysis and map prepared by a third-party company shall be required with the special use permit application. The study shall analyze the conditions which may cause ice to be thrown off an in-motion turbine blade and toward an inhabited structure within the project boundary. The study should explain the methodology used in evaluating the risk of damage to all inhabited structures. Also included in the study should be the manufacturer's setback distances related to in-motion ice throws and the type of ice monitoring sensors and devices installed in each turbine and the potential maximum distance ice could be thrown from an in-motion turbine blade.
- ix. A soil erosion, sediment control and stormwater runoff plan shall be prepared by a third-party company addressing what type of erosion control measures will be implemented during each phase of the project. If required, the applicant shall obtain an erosion control permit for the project from the Kansas Department of Health and Environment (KDHE) or its successor. The plan shall address the following concerns:
 - x. Grading;
 - xi. Construction and drainage of access roads and turbine pads;
 - xii. Necessary soil information;
 - xiii. Design features to maintain downstream water quality;
 - xiv. Re-vegetation of disturbed areas to ensure slope stability;
 - xv. Restoration of the site after temporary project activities have ended;
 - xvi. Creation of a new wetland area that is equal to or greater than any wetland area that is filled in or destroyed;
 - xvii. Disposal or storage of excavated materials;
 - xviii. Protecting exposed soil;

- xix. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized;
- xx. Maintenance of erosion control measures throughout the life of the project.
- xxi. An emergency event response plan shall be provided which outlines the potential fire risk associated with the project, including both prescribed burning and non-prescribed burning (natural or accidental). The plan shall also include descriptions of measures that will be employed in the case of destruction of facilities and equipment, natural disaster or any other event that may require emergency personnel response.
- xxii. A Road Maintenance Agreement with Leavenworth County shall be included designating all public roads used for transportation routes for construction and maintenance of the CWECS.
- xxiii. Oversized/Overweight permit

ARTICLE 60 – MISCELLANEOUS PROVISIONS

Section 10. BUILDING AND ZONING PERMITS

After the date of the adoption of these subdivision regulations by the Planning Commission and Governing Body, no building permit or zoning permit shall be issued for any structure that is located upon a lot in an area that has not been subdivided, in an approved process or by a County department. This shall not apply to subdivisions or lots of record that were platted prior to the adoption of this subdivision regulation. (BOCC Resolution 2024-15; September 18, 2024)

Applications for building permits must be approved or rejected within seven (7) days of their submittal. Appeals on the rejection of a building permit application by the Administrative Officer may be made to the Governing Body and shall be made in writing within ten (10) days of such rejection.

Section 20. DEVELOPMENT PLANS

Development Plans shall be required as a submittal of a zoning amendment application when the request is for a residential zoning district with a maximum lot size of 2.5 acres, a commercial or industrial zoning district or as requested by the Planning & Zoning Director.

Development Plans shall be submitted via one (1) paper copies and one (1) acceptable digital copy. The Development Plan shall contain but not limited to the following information:

1. North arrow and scale
2. With regard to the subject property only:
 - a. Existing topography with contours at five-foot intervals, and delineating any land areas within the 100-year flood plain;
 - b. Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public streets and easements;
 - c. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan; and
 - d. General extent and character of any proposed landscaping.
3. With regard to areas within 1000 feet of the subject property:
 - a. Any public street which are of record;
 - b. Any drives which exist or which are proposed to the degree that they appear on plans on file with the County;
 - c. Any building which exists or which are proposed to the degree that their location and size are shown on plans on file with the County. Single- and Two-family residential buildings may be shown in approximate location and general size and shape; and
 - d. The location and size of any drainage structures, such as culverts, paved or earthen ditches or storm water sewer and inlets.
4. Preliminary sketches depicting the general style, size and exterior construction materials of the buildings proposed. Where several building types are proposed on the plan, a separate sketch shall be prepared for each type. These sketches shall include elevation drawings, but detailed drawings and perspectives are not required.
5. A schedule shall be included indicating total floor area, land area, parking spaces and other quantities relative to the submitted plan in order that compliance with requirements of this section can be met.
6. Name and address of landowner.
7. Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plan

8. Date of preparation of the plan
 9. The following information shall be submitted in support of the application for the development plan approval:
 - a. All studies as may reasonably be required
 - b. Assurances of adequate public facilities, as may be required.
- (BOCC Resolution 2024-15; September 18, 2024)

Section 30. Repealed.

(BOCC Resolution 2023-20; August 2, 2023)

ARTICLE 70 – REPEALED

(BOCC Resolution 2023-20; August 2, 2023)

ARTICLE 80 – REPEALED

(BOCC Resolution 2023-20; August 2, 2023)

ARTICLE 82 – VESTING

1. **SINGLE-FAMILY RESIDENTIAL DEVELOPMENT.** For the purpose of single-family residential developments, development rights in such land shall vest upon recording of a plat of such land. If construction is not commenced on such land within five (5) years of recording a plat, the development rights in such shall expire.
2. **OTHER DEVELOPMENT PURPOSES.** For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the County and construction has begun and a substantial amount of work has been completed under a validly issued permit.

ARTICLE 83 – SMALL PLAT SUBDIVISIONS

Section 10. GENERAL REQUIREMENTS

Whenever a subdivision or resubdivision consists of eight (8) or fewer lots and is zoned as a rural or residential district, the Planning Department may waive the separate submission requirements for the Preliminary and Final Plats to expedite the subdivision review process if, in the judgment of the Planning Department, separate submission will not serve the public interest and will not conflict with the intent of these regulations. The subdivider shall follow these procedures for submission of small plat subdivisions:

1. The subdivider shall discuss the plat with the Planning Department and County Engineer at a scheduled development conference;
2. The County Engineer will review the topographic information provided by the consulting engineer to determine that the area is such that no detailed drainage study or drainage improvements are needed;
3. The proposed subdivision shall not have topography, street access, sewage disposal or design concerns that would make the normal platting process the most appropriate way to review and consider the proposed subdivision;
4. Twenty (20) copies of said plat shall be submitted to the Planning Department at least twenty-one (21) days prior to a regularly scheduled Planning Commission meeting;
5. The plat shall be accompanied by the application fee as established by Board Order 1985-8 dated May 13, 1985 (Or as amended) and completed application forms; and
6. The plat shall follow the procedures set forth in Articles 35 and 40 for the submission and review of Preliminary and Final Plats.

Section 20. ELIGIBILITY

With regard to the criteria 1 through 6 above, the Zoning Administrator may determine that the normal platting process shall be followed. The Zoning Administrator shall make a determination of subdivision application eligibility for the simultaneous platting process within seven (7) days of the development conference.

Section 30. COMPLIANCE WITH SUBDIVISION REGULATIONS

The applicant shall acknowledge in writing with the application that the simultaneous plat application shall not be exempt from any requirements of these regulations as a result of the simultaneous plat application, that the application is being submitted in an attempt to expedite the plat review process, but that more expedient processing is not guaranteed and that some steps may have to be repeated as a result of modifications which may be required as a result of the plat review process.

ARTICLE 85 – LOT SPLITS, TRACT SPLITS & BOUNDARY LINE ADJUSTMENTS

Section 10. GENERAL

The intent of this section is to provide for the issuance of building permits on lots or tracts of record divided into not more than two tracts or lots without having to plat or re-plat said lot. The Zoning Administrator may issue building permits for such lots or tracts in accordance with the following regulations.

Section 20. APPLICATION PROCEDURE

Requests for lot or tract split approval shall be made to the Zoning Administrator by the owner of the land. The application shall include: Two (2) copies, one (1) digital and one (1) physical, of a scale drawing; (2) legal description of the parent lot or tract and the legal descriptions of the newly divided tracts or lots; (3) the location of all structures and other existing features on or adjacent to the lots or tracts together with the precise nature, location, and dimensions. Features to include but are not limited to roads, buildings, private septic systems, fences, ponds, lakes, utilities, hydrants, sewer locations, and the limits of the FEMA floodplain boundary as shown on the latest FEMA FIRM maps; and (4) name, signature and seal of the licensed registered land surveyor who prepared the drawing.

(BOCC Resolution 2023-20; August 2, 2023)

Section 30. REQUIREMENTS FOR LOT SPLITS

All applications for a lot split shall comply with the following:

- a. A lot split shall only be permitted for a platted lot.
- b. Said lot shall not have been split, divided or otherwise altered from the original platted configuration since August 26, 1998; except for the dedication of additional right-of-way for public roads and streets.
- c. All applications shall be accompanied by a Certificate of Survey that depicts the original platted lot and the proposed subsequent division of said platted lot. The Certificate of Survey shall be in compliance with the Kansas Minimum Standards for Boundary Surveys.
- d. All split lots shall comply with the Leavenworth County Zoning and Subdivision Regulations, Leavenworth County Sanitary Code and any other applicable regulations.
- e. Prior to the approval of a lot split, any additional right-of-way shall be dedicated, by separate document, to the County as required in accordance with the Leavenworth County Road Standards.
- f. A platted lot shall be permitted one (1) division into no more than two (2) subsequent lots. Any further division shall require replatting.

Section 31. REQUIREMENTS FOR TRACT SPLITS

All applications for a tract split shall comply with the following:

- a. A tract split request shall only be permitted for a parcel forty (40) acres in size or greater, or be an aliquot part of a section that is at least a quarter (1/4) quarter (1/4) section.
- b. Said tract shall not have been split divided or otherwise altered from the configuration as established on the recorded deed dated no later than August 26, 1998; except for the dedication of additional right-of-way for public roads and streets.
- c. All applications shall be accompanied by a Certificate of Survey that depicts the original tract and the proposed subsequent division of said tract. The Certificate of Survey shall be in compliance with the Kansas Minimum Standards for Boundary Surveys.
- d. All split tracts shall comply with the Leavenworth County Zoning and Subdivision Regulations, Leavenworth County Sanitary Code and any other applicable regulations.
- e. Prior to the approval of a tract split, any additional right-of-way shall be dedicated, by separate document, to the County as required in accordance with the Leavenworth County Road Standards.
- f. A tract shall be permitted one (1) division into no more than two (2) subsequent parcels. Any further division shall require platting.

Section 32. PLATTING REQUIRED IN LIEU OF A LOT OR TRACT SPLIT

An applicant shall not be allowed to apply for a Lot or Tract Split and must apply for approval of a plat if any of the following conditions apply:

- a. A new street, alley, or road is proposed.
- b. A street, alley, road, setback, access control, or easement is proposed to be vacated.
- c. Such action will result in a significant increase in service requirements (e.g., utility demand, additional school(s), traffic control, streets or right-of-way, etc.); or interfere with maintain existing service levels (e.g., additional curb cuts, repaving, etc.)
- d. The lot or tract has been previously split since August 26, 1998.

Section 33. ADMINISTRATIVE EXCEPTIONS

A lot or tract split shall only be granted for tracts or parcels that meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, and will not create a non-compliant (substandard) tract or parcel. The following exceptions shall be allowed: (BOCC Resolution 2017-57; September 28, 2017)

1. Parcels containing structures closer than 105' from the centerline of the road that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the following criteria are met:
 - a. The structure shall be a minimum of 10' from the proposed, future, right-of-way dedication as determined by the County Engineer.

- b. In the event the structure is destroyed more than 50%, reconstruction shall be subject to current Zoning & Subdivision Regulations, Sanitary Code and any other applicable regulations.
2. Parcels containing accessory structures closer than 15' from the side and/or rear property line that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the structure will meet all other current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon completion of the lot or tract split.
 3. Parcels containing dwelling units closer than 15' from the side property line and/or closer than 40' from the rear property line that were built prior to September 27, 1971 shall be eligible for a lot or tract split provided the structure will meet all other current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon completion of the lot or tract split.
- (BOCC Resolution 2023-20; August 2, 2023)

Section 34. REQUIREMENTS FOR BOUNDARY LINE ADJUSTMENTS

The adjustment of one (1) or more common boundaries between existing un-platted tracts or parcels, which will not create additional tracts or parcels. A Boundary Line Adjustment shall only be granted for tracts or parcels which will meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, and will not create a non-compliant (substandard) tract or parcel. The following exceptions shall be allowed: (BOCC Resolution 2017-13; March 23, 2017)

1. Parcels containing structures closer than 105' from the centerline of the road that were built prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the following criteria are met:
 - a. The structure shall be a minimum of 10' from the proposed, future, right-of-way dedication as determined by the County Engineer.
 - b. In the event the structure is destroyed more than 50%, reconstruction shall be subject to current Zoning & Subdivision Regulations, Sanitary Code and any other applicable regulations.
 2. Parcels containing accessory structures closer than 15' from the side and/or rear property line that were build prior to September 27, 1971 shall be eligible for a Boundary Line Adjustment provided the structure will meet the most current applicable Zoning and Subdivision Regulations, Sanitary Code and other applicable regulations upon adjustment of the boundary line.
- (BOCC Resolution 2023-20; August 2, 2023)

Section 35. PLANNING COMMISSION EXCEPTIONS

When a lot split, tract split or boundary line adjustment exceeds the authority of administrative action, the Planning Commission may grant an exception from the Leavenworth County Zoning & Subdivision Regulations as outlines in Article 56 – Exceptions. The tracts and parcels shall only be granted for tracts or parcels that meet the requirements of the Zoning and Subdivision Regulations, Sanitary Code, and other applicable regulations, unless the Planning Commission has granted an exception.

If an exception is requested, the request shall be made in writing no less than 30 days prior to the anticipated meeting. If approved the Planning Commission chair shall endorse the lot split, tract split or boundary line adjustment.

(BOCC Resolution 2023-20; August 2, 2023)

Section 40. REVIEW BY COUNTY STAFF

1. The County Planning Director and County Engineer shall, within fifteen (15) days of application, in writing, either approve or deny those applications for Lot/Tract Split based upon their conformance to County Regulations. Their acknowledged endorsement must appear in the following format:

This lot/tract split, as described and shown above, has been submitted to and approved by the following County Staff persons this ____ day of _____, 20____.

Planning Director (Name/Title)

County Engineer (Name/Title)

STATE OF KANSAS)
) SS
COUNTY OF LEAVENWORTH)

Be it remembered that on this ____ day of _____ 20 ____, before me, a notary public in and for said County and State, came _____, to me personally known to be the same persons who executed the forgoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

(SEAL) Notary Public: _____

My Commission Expires: _____

2. The County Planning Director shall, within fifteen (15) days of application, in writing, either approve or deny those applications for Boundary Line Adjustment based upon their conformance to County Regulations. Their acknowledged endorsement must appear in the following format:

This boundary line adjustment, as described and shown above, has been submitted to and approved by the following County Staff persons this ____ day of _____, 20____.

Planning Director (Name/Title)

(BOCC Resolution 2023-20; August 2, 2023)

Section 50. RECORDING OF TRACT/LOT SPLITS

1. All lot/tract splits must be filed with the Leavenworth County Register of Deeds.

2. Filing Fee. The filing fee as set forth by separate resolution shall accompany the application for all lot or tract splits.

Section 60. BUILDING PERMIT

No building permit shall be issued for any site, which contains a division of a platted lot or tract of record, unless such division has been ratified in the manner provided by these regulations.

ARTICLE 86 – RESERVED

ARTICLE 90 – VALIDITY

If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid by any court of competent jurisdiction, such invalidity shall not affect, impair or invalidate the remainder of this Resolution.

ARTICLE 100 – ENFORCEMENT AND PROCEDURE

Section 1. ADMINISTRATIVE OFFICER

The Director of Planning and Zoning for Leavenworth County shall be the Administrative Officer and shall enforce the provisions of this resolution.

Section 2. PENALTY

Any violation of any provision of this resolution shall be deemed to be a misdemeanor and punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

In addition to the above provisions of this Article, any violation of any provision(s) of this resolution are hereby declared to be a nuisance, and the Administrative Officer is hereby authorized to institute proceedings to enforce the provisions of this resolution and to abate nuisances maintained in violation thereof.

ARTICLE 120 – EFFECTIVE DATE

Any change in these regulations after the above dates are indicated by parenthesis after the portion of the regulations that were changed and became effective on the day after their adoption.

Articles 1 through 120 as presented in this document are adopted by the Board of County Commissioners of Leavenworth County, Kansas, on this 24th day of July 2006 by Resolution No. 2006-32 and become effective on the 1st day of August 2006.

Board of County Commissioners
Leavenworth, County, Kansas

Gerald D. Oroke, Chairman

Donald Navinsky, Member

Clyde G. Graeber, Member

ATTEST:

Linda A. Scheer, County Clerk