

AUGUST 1, 2006

Updated May 13, 2020

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
Section 2 Special Use Permits- Applications
- 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
Section 2 Definitions
 - 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
Section 4.4 Intensity of Uses
 - d. Article 19- Table of Uses
 - e. Article 29- Construction Permits, Plans Specifications and Vesting of
Development Rights
Section 1 Construction Permits, Plans, Specifications
- 11) BOCC Resolution 2010-21; July 29, 2010
 - a. Article 22 – Special Use Permits and Temporary Use Permits
Section 10 – Temporary Uses
- 12) BOCC Resolution 2015-35; September 24, 2015
 - a. Article – Special Use Permits and Temporary Use Permits
Section – 10 Temporary Uses
 - b. Article 19 – Table of Uses – Propane Storage – Bulk
 - c. Article 3 – Definitions
- 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
 - a. Article 3 – Definitions
Section 2 – Definitions; Boundary Line Adjustment
- 15) BOCC Resolution 2017-57; September 28, 2017
 - a. Article 85 – Lot and Tract Splits
Section 30 – Requirements for Lot Splits - exceptions
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- 16) BOCC Resolution 2017-58; September 28, 2017
 - a. Article 19- Table of Uses – Custom Cabinetry
- 17) BOCC Resolution 2018-7; March 6, 2018
 - a. Article 19 – Table of Uses – Home Remodeling and Light Construction
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- 18) BOCC Resolution 2018-9; April 3, 2018
 - a. Article 42.10 – Family Homestead Exemption
- 19) BOCC Resolution 2018-19; July 31, 2018
 - a. Article 3 – Definitions – Kennel
- 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
 - a. Article 19 – Table of Uses, “Sign Shop”
- 23) BOCC Resolution 2019-23; September 4, 2019
 - a. Article 22 – Special Use Permits and Temporary Use Permits
Section 3 – Procedures
Section 10 – Temporary Uses
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 - b. Article 31 – Amendments

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- c. Article 50 – Minimum Subdivision Design Standards and General Requirements
 - Section 40.f – Cul-de-sacs
- 24) BOCC Resolution 2020-05; January 8, 2020
 - 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, “IUGA” & “SUGA”
 - b. Article 4 – Growth Management Communities
 - Section 2, “Initial Urban Growth Area” & “Secondary Urban Growth Area”
 - c. Article 35 – Preliminary Plan Procedure & Contents
 - Section 10 – Classification of Subdivision
 - Section 30 – Preliminary Plat Procedure
 - Section 40 – Preliminary Plat Content
 - d. Article 40 – Final Plat Procedure, Content, & Action by the Planning Commission
 - Section 10 – Final Plat Procedure
 - e. Article 55 – Improvements & Improvement Plans
 - Section 10 – Improvements
- 27) BOCC Resolution 2020-13; April 1st 2020
 - a. Article 19 – Table of Uses

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 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.

Boundary Line Adjustment: Boundary Line Adjustment: 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.
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 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.
4. Parcels containing structures closer than 105' from the centerline of the road which 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.

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)

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: A permitted accessory use in Rural Residential Zoning that shall be subject to the following:

A. Restrictions and Limitations:

1. 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.
2. No display or storage of equipment or material outside of a building or structure shall be permitted.
3. 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.
4. 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.
5. Employees or other assistants shall be limited to immediate members of the family residing on the premises and two (2) other people.
6. No equipment or machine 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.
7. 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.
8. Vehicular or parking demand shall not exceed twelve (12) two-way vehicular or parking of greater than four (4) customer vehicles at any one time during any 24-hour period.
9. 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 except on an incidental, occasional and infrequent basis. Members of the general public shall not include persons in the home by prior individualized invitation.
10. 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 twelve (12) business related visitations per day which shall constitute twelve (12) arrivals and twelve (12) 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.

11. The keeping of stock and trade on premises shall be permitted so long as the majority of commerce is done via mail service.
12. Home occupation shall comply with all local, state, and federal rules and regulations that may be applicable.

B. Particular Home Occupations Permitted: 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:

1. Teaching or instruction provided not more than three (3) students are taught at any one time and not more than twelve (12) students per day.
2. Preschools or day-care centers for not more than twelve (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.
3. Professional office for accountants, architects, bookkeepers, engineers, lawyers, and similar professions.
4. Offices for Realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
5. Home crafts and hobbies such as model making, rug weaving, and the like articles produced or constructed as a hobby activity shall not be sold on the premises except on an occasional and infrequent basis.
6. Tailoring, alterations, and seamstresses.
7. Beauty shops.
8. Medical offices such as physicians, dentists, chiropractors' offices.
9. Repair of items such as small appliances; personal electronic devices such as radios, televisions, stereos, personal computers or calculators provided that the use fully conforms with the performance requirements for home occupations.

C. Particular Home Occupations Prohibited:

1. Retail sales and services 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
2. Equipment rental.
3. Automobile and other motor vehicle repair services.
4. Tourist homes including bed and breakfast facilities.

D. Home Occupations shall require a permit from the Leavenworth County Planning and Zoning Department.

1. Permit fee shall be subject to the fee schedule as determined by the Board of County Commissioners

2. Permits shall remain valid unless the conditions of the home occupation permit as set forth in these regulations have not been met.
(BOCC Resolution 2020-09; March 4, 2020)

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.

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.)

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 Street or Road: A non-dedicated way, other than driveways, that forms the principal vehicular access to two or more properties. Private streets or roads are prohibited in the unincorporated area of Leavenworth County, except in individual cases as approved by the Board of County Commissioners when an existing land-locked residence is to be served. Any private road providing access to more than one residence (including farmsteads) shall provide an easement, which shall conform to the required County right-of-way standards, before any building permit will be approved. In no event will more than three residences (including farmsteads) be permitted on any private road. In every case, before the County will consider a request to assume maintenance of such road, by dedication or otherwise, the property must be platted and the road must previously be brought to the County road standards for subdivisions.

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: Any lot line that is not a front lot line or a side lot line.

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)

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).

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 intersects the front lot line. A side lot line shall include any linked line segments or arcs that have a bearing that is within 45 degrees of a line drawn perpendicular to the front lot line.

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.

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 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)

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 19 – TABLE OF USES
(BOCC Resolution 2020-13; April 1, 2020)

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	S	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 sales, storage & Repair	S			A	A	A	A	A		A	A	A
picnic groves and fishing lakes	S	S	S	S	S	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

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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
-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	
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				S	S	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
Custom Cabinetry – Structure 7,500 Square Feet or Less (BOCC Resolution 2017-58; Sept 28,2017)	S		S	A	A	A	A	A		A	A	A
Custom Cabinetry – Structure 7,501 Square Feet or Greater (BOCC Resolution 2017-58; Sept 28,2017)	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 or retail sales	S		S	A	A	A	A	A		A	A	A
Electrical Substations	S	S	S	S	S	A	A	A	S	S	S	S
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
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

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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
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												
-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

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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
-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
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

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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
-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
-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

August 1, 2006 Zoning & Subdivision Regulations for Leavenworth County, Kansas

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
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
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
Public Utilities: Electric Substation	S						A	A				
Public/Private utility substation including, but not limited to: cable, electric, fiber optics, natural gas, oil or petroleum products, telephone, and water tower	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
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 2018'-7; March 6,2018)	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

August 1, 2006 Zoning & Subdivision Regulations for Leavenworth County, Kansas

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
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 (as defined in Article 3 Definitions)	S	S	A	A	A	A	A	A	S	A	A	A
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												

August 1, 2006 Zoning & Subdivision Regulations for Leavenworth County, Kansas

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
-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
-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 the approval of a Special Use Permit or a Temporary Use Permit by the Board of County Commissioners. A maximum of two special use permits shall be allowed per parcel.

(BOCC Resolution 2009-41; August 27, 2009)

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. If ownership of the property is transferred, the new owner(s) must notify the Leavenworth County Planning & Zoning Department within 60 days, showing proof of ownership in the form of a deed or notarized affidavit. If no such notification is made, the Permit shall automatically become void.

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, twenty (20) copies of 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.

(BOCC Resolution 2011-45, December 1, 2011)

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 for a specified period of time. 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. ANNUAL REVIEW

An annual review of the approved Special Use Permits shall be carried out by the Planning Department. The results of the review, along with any recommendations, shall be presented to the by the Planning Commission and the Board of County Commissioners by the 1st of March of each year.

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.

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 2019-XX. (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.

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.

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. Tipping: 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

Section 1. PURPOSE

Signs perform important functions that are essential for public safety and general welfare, including communicating messages, providing information about goods and services, and orienting and directing people. The purpose of these sign regulations is to implement the following necessary and proper objectives:

1. To protect the general public from damage and injury, which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To insure the visual quality of signs and preserve and promote the aesthetic quality of Leavenworth County by reducing visual clutter.
4. To control the magnitude, placement and number of signs in the County, recognizing that signs in the County generally tend to be highly visible because of low-density development patterns and few, if any, development features or other signs which compete visually for attention, thereby necessitating controls to protect the visual integrity of the unincorporated portion of the County.

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.

Section 3. PERMIT REQUIREMENTS AND PROCEDURES

A Permit is required unless exempted as stated in Section 5. A separate sign permit shall be obtained from the Planning & Zoning Department.

1. *Application for Permit:* Applications for a permit shall be made in writing upon forms provided by the Planning & Zoning Department which may request the following information, among others:
 - 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. Two sets of 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. 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 shall be included with the sign plans.

- d. A copy of the deed showing ownership of the land.
 - e. 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.
2. *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. *Site Plan Review Fee:* Each applicant shall pay to the County a Site Plan Review Fee, as established by resolution of the Board, in order to determine the applicability of the sign.
 - c. *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.
 - d. *Permit Revocation:* If the Planning & Zoning Department or such persons designate 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 Planning & Zoning Department 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 4. GENERAL SIGN STANDARDS

1. Signs must be outside the public right-of-way: No sign other than traffic control signs shall be erected, constructed, or maintained within, over or on the right-of-way of any street, avenue, highway or alley within the County.
2. Signs shall not create traffic hazards: No signs shall be erected at or near the intersection of any street(s) or driveway(s) in such a manner as to obstruct free and clear vision of motorists using such street(s) or driveway(s) or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No sign which obstructs the view of motorists using any street intersection shall be allowed within the visual sight triangle of an intersection.
3. Maintenance shall be required: All signs and all components, including 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 shall be kept free from debris, weeds, trash or other such condition by the owner. If signs are not maintained as described, the Planning & Zoning Department or an authorized representative shall have the right to order the repair or removal of any sign which is defective, damaged or deteriorated or has defects which may include holes, cracks, rotted, loose or missing materials or parts of the sign, or missing or faded print on sign copy. Such orders may be appealed to the Board of Zoning Appeals.
4. No signs shall be attached to trees, utility poles, or any other unapproved supporting structure.
5. 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.
6. All permanent signs and sign structures shall be designed and constructed to comply with all the regulations adopted by the County. All electrically illuminated signs shall be designed and constructed to conform with all applicable codes. All signs and sign structures shall be also designed and constructed to comply with the design standards set forth in this Article.

Section 5. SIGNS PERMITTED IN ALL DISTRICTS

The following signs shall be permitted in all districts and shall not require a sign permit, unless otherwise noted. The signs must be in conformance with all other regulations and ordinances of the County and shall not be animated or illuminated except by reflected or hidden non-flashing illumination.

1. *Accessory flags or emblems*: Such signs must be of civic, philanthropic, political, educational, religious, charitable, public, governmental or non-profit organizations, except when displayed in connection with commercial promotion. No flag shall exceed fifty (50) square feet in area.

2. *Public Hearing Signs:* Signs giving notice of public hearings concerning the premises on which such signs are located.
3. *Address Numbers:* Address numbers shall not exceed four (4) square feet.
4. *Bulletin boards / Poster Panel Signs:* These signs when placed on the exterior of a building are limited to church, school, public and semi-public uses as well as, theaters and auditoriums upon approval by the Planning Commission. Such signs shall not exceed sixteen (16) square feet in area.
5. *Traffic Control Signs:* Such signs must be applicable to the Manual on Uniform Traffic Controlling Devices (MUTCD).
6. *Directional or Informational Signs of a public or quasi-public nature:* Such signs shall not exceed four (4) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height if freestanding.
7. *Garage Sales or Auctions:* Signs shall not exceed two (2) square feet, with two (2) faces per sign, and may be posted a maximum of two (2) days prior to the beginning of a sale and removed within two (2) days following the end of the sale.
8. *Memorial signs or tablets,* containing the names of buildings and date of erection and/or other pertinent information, when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached flush with the wall surface.
9. *Nameplate Signs:* Such signs shall not exceed four (4) square feet in area.
10. *Political signs:* Such signs shall not exceed sixteen square feet in area and shall be restricted to posting six (6) weeks prior to the beginning of the campaign/election and removed no later and two weeks following the election. No political signs may be placed in the public right-of-way and all signs posted on private property must have the permission of the owner or occupant of said property.
11. *Window and Interior Signs:* Such signs mounted on interior building surfaces, such as signs mounted on the inside of windows and doors. No sign shall occupy more than 75% of the window area.
12. *Construction and Subdivision Signs:* One (1) temporary freestanding, non-illuminated sign shall be permitted on any site on which development or construction activities are taking place if approved during the platting process. Residential subdivision signs shall not exceed fifty (50) square feet in area per sign face, with two (2) faces permitted. Such sign may not be erected until the Final Plat for the subdivision has been approved by the Board of County Commissioners and filed with the Register of Deeds. Project construction signs for nonresidential developments shall not exceed sixty-four (64) square feet in area per sign face. The signs may have two (2) sign faces.
13. *Real Estate Signs:* Temporary signs indicating that the property on which the sign is located is for sale, rent or lease. Only one such sign shall be permitted to face on each street adjacent to the property. Such signs may be single-or double-faced and are limited in size to five (5) square feet or less on property in residential zones, and thirty-five (35) square feet or less on property in commercial zones.

14. *Temporary Event Signs:* Temporary special events, such as sidewalk sales, civic club events, school activities, fundraisers, etc., shall be permitted to have temporary signs or banners without a permit.
15. *Transit Signs:* Signs identifying transit stops, facilities, times and bus routes.
16. *Utility Signs:* Signs placed by utility companies as part of the normal operation and maintenance of facilities such as public telephones and underground services.
17. *Vehicle Signs:* Painted signs or decals affixed to the body of any vehicle, unless parked for the primary purpose of displaying the sign.

Section 6. SIGNS PERMITTED IN RESIDENTIAL DISTRICTS

The following signs shall be permitted in residential districts R, R-1, R-2, R-3, and R-4:

1. *Individual Property Signs:* One (1) individual property sign shall be allowed per Rural Residential property and shall be a maximum of fifty (50) square feet in area.
2. *Subdivision Entry Sign:* Each residential subdivision shall be permitted permanent monument type neighborhood entry sign on each side of an entrance street of the subdivision. The entry signs may include a sign not to exceed fifty (50) square feet in area. Such signs shall be restricted to the subdivision name. Illumination of such signs may only be from an indirect light source. If approved during the platting process, no permit shall be required.
3. *Wall Signs:*
 - a. Residential Structures: One (1) non-illuminated wall sign per building, not more than one (1) square foot in area, mounted on the building, indicating a permitted home occupation.
 - b. Public or Semi-Public Buildings: One (1) non-illuminated wall sign per building. Wall signs shall not exceed ten (10) percent of the wall upon which it is placed or fifty (50) square feet, whichever is less.
4. *Identification Signs:* One (1) identification or monument sign shall be permitted for a multifamily complex. If the complex fronts on two (2) streets, one (1) identification sign shall be allowed on each frontage.
5. *Special Event Signs:*
 - a. A maximum of two (2) temporary signs may be displayed at any time in addition to signs permitted in this Article. All such signs shall be yard signs and the total surface area of each sign face shall not exceed four (4) square feet per face, with a maximum of two (2) sign faces per sign.
 - b. Special Real Estate Signs: Special real estate events shall be allowed the use of pennants or flags under when it is in conjunction with area-wide tour events or it is the opening of a new subdivision or the new phase of an existing subdivision. In this instance, pennants and business flags shall only be permitted for one (1), fifteen-(15)-day period every six (6) months. Signs for one other special event

similar to above and limited to one (1), fifteen-(15)-day period per year such as open house or model house shall be allowed.

Section 7. SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS

The following signs shall be permitted in commercial districts B-1, B-2, B-3, I-1, I-2, and I-3:

1. *Monument Signs:*
 - a. One (1) monument sign shall be permitted for each freestanding building housing one (1) tenant.
 - b. In addition to the signs permitted above, each complex shall be permitted one (1) monument (identification) sign with the names of tenants.
 - c. Complexes or single business sites on property more than ten (10) acres and more than one (1) street frontage or more than one thousand (1,000) linear feet of street frontage shall be permitted a second monument sign.
 - d. When a complex is located on a site more than ten (10) acres in area, one (1) of the two (2) permitted monument signs may be increased to a maximum height of ten (10) feet and a maximum face area of seventy-five (75) square feet unless approved by the Planning Commission during the sign plan review.
2. *Time and Temperature:* Such a sign shall be permitted as part of a monument sign. The sign display shall include only the time and/or temperature and shall not include any advertising except the name of the complex or business that owns the sign. When used as an attachment to another sign, area is excluded from overall sign area calculations. The maximum area allowed is ten (10) square feet. Height maximum is fifteen (15) inches. It shall be compatible in design and materials with other signs on the site and with the structure on which it is placed.
3. *Wall Signs:* Each business or establishment shall be permitted not more than three (3) wall signs, limited to one (1) per wall. The area of the wall sign shall not exceed ten (10) percent of the area of the wall, upon which it is mounted, with the maximum sign area per wall not to exceed fifty (50) square feet in B-1 and one hundred (100) square feet, whichever is less.
4. *Projecting Bracket Signs:* One (1) projecting sign shall be permitted, in lieu of one (1) permitted wall sign, monument sign, or pole sign. In business districts where more than one business is in the same connected or general location, one (1) projecting building sign per separate business/storefront shall be allowed in addition to a grouped pole or monument sign. Sign shall be not larger than 12 square feet in area.
5. *Under Canopy Signs:* In complexes with three (3) or more tenants, under canopy signs shall be permitted in addition to the signage described above. One (1) such sign shall be permitted per business. Under canopy signs shall not exceed two (2) square feet in area.
6. *Menu Boards:*

- a. Each drive-up, drive-through, or drive-in restaurant shall be permitted signage in addition to that described above. The additional signage shall be limited to one (1) freestanding or wall-mounted menu board per lane. The menu board shall not exceed six (6) feet in height or thirty-two (32) square feet in total surface area. Total surface area shall include the face of the menu board, the trim, the base, and other appurtenances. Whenever a menu board is visible from a public street, additional landscaping shall be used to screen the menu board from view from the street.
 - b. A restaurant may have a menu board located at each order station. Such menu board at each order station shall not exceed four (4) square feet in surface area per face.
7. *Freestanding Canopy Signs:* Signs may be placed on freestanding canopies provided they meet the requirements of wall signs for buildings. Only the front of the canopy upon which the sign is placed shall be used for determining the size of the sign.
8. *Temporary Event Signs:*
- a. One (1) sign per street frontage or building.
 - b. The maximum size shall be no larger than that permitted for permanent wall signs.
 - c. Signs shall be permitted to be displayed a maximum of either one (1), sixty-(60)-day period per year or two (2) thirty-(30)-day periods per calendar year.
 - d. Pennants, banners, flags, balloons, inflatable figures, or other similar objects shall be permitted to be displayed a maximum of four (4), thirty-(30)-day periods per calendar year. In no case shall a thirty-(30)-day period be carried over from month-to-month consequently.

Section 8. OVERSIZED SIGNS

Oversized Wall Signs and Large Screen Video Signs and Scoreboards shall be allowed with the restrictions in this section.

****Additional billboards shall not be allowed within the County limits.**

1. *Oversized Wall Signs:* Such signs shall be located in areas such as along fences at the fairgrounds or other sports fields in the county, and including murals covering large areas of a building's surface.
 - a. *Sports Arenas/Athletic Fields:* Signs shall be allowed along the fencing of other sports fields and athletic complexes.
 - 1) All signs must face inward toward playing fields and have limited visibility from surrounding properties.
 - 2) Such signs shall not extend above the upper edge of the fence or a maximum of eight (8) feet in height, whichever is least.
 - 3) Lighting may be provided according to the conditions in the policy guidelines.

2. *Large Screen Video Signs and Scoreboards:*

- a. This type of sign shall be intended for sports complexes or other public facilities. The screen or scoreboard shall be directed principally toward the site, not off-site.
- b. No more than one large screen or scoreboard shall be permitted per development/site.

All applications for an oversized sign must be reviewed and approved by the Planning Commission according to the following criteria:

1. Sign is in character with the surrounding area and will not negatively impact surrounding properties.
2. Sign shall not interfere with pedestrian or vehicular safety as determined by the County Engineer.
3. Sign shall be maintained in a safe and aesthetically pleasant condition.
4. Sign does not detract from the pedestrian quality of the surrounding area.
5. Sign shall not contribute to an over-abundance of signs on one property or in an area.
6. To guarantee removal of the sign should it be abandoned or become in a state of disrepair, the owner shall post a bond equal to the cost of removal of the sign.

Section 9. PROHIBITED SIGNS AND DEVICES

It shall be a violation of these regulations to erect, install, place or maintain the following signs:

1. *Attention Getting Devices:* Pennants, streamers, spinners, balloons, inflatable signs, search lights, beacons, flashing lights or messages and other similar attention-getting devices, unless authorized in conjunction with a temporary special use permit.
2. *Banner signs are prohibited unless:*
 - a. Approved in conjunction with a temporary special use permit; or
 - b. Approved with a sign permit as a temporary sign pending manufacture and installation of an approved permanent sign; or
 - c. Approved by the Public Works Director over designated rights-of-way.
3. *Backlit Translucent Awning Signs:* Any sign located on an awning that is translucent or semi-transparent and illuminated from a light source under or within the awning.
4. *Highly Reflective and Fluorescent Signs:* Signs made wholly or partially of highly reflective material and fluorescent or day-glow painted signs.
5. *Signs on Utility Poles or Traffic Control Devices:* Signs attached or placed adjacent to any utility pole, traffic sign post, traffic signal or any other official traffic-control device.

6. *Signs on Street Trees:* Any sign posted on a street tree.
7. *Signs that Block Ingress or Egress:* Any sign, such as a sandwich-board sign, placed or maintained so as to interfere with free ingress to or egress from any door, window or fire escape, or parking lot.
8. *Simulated Traffic Signs:* Any sign which simulates or imitates in size, color, lettering or design any traffic sign or signal, the light of an emergency vehicle, or which hides from view any traffic or street sign or signal or device, or which makes use of words, symbols or characters in such a manner as to interfere with, mislead, or confuse pedestrian or vehicular traffic.
9. *Vehicle Signs:* Signs attached or painted to vehicles and parked in a position and location with the primary purpose of displaying the sign.
10. *Signs Located in Public Right-Of-Way:* Such signs shall not be permitted unless required by *governmental authority*.
11. *Signs Placed in the Sight Triangle of Any Roadway Corner:* This sight triangle is to be defined as the area achieved by measuring thirty (30) feet in both directions from the point of intersection, and connecting these two lines diagonally.
12. *Signs emitting audible sounds (except menu boards), odors, or visible matter.*
13. *Inappropriate Signs:* Any sign or advertising structure with words, scenes or graphics which are obscene, indecent and prurient.
14. *Portable signs or signs mounted on a platform, trailer, or motor vehicle:* Such prohibition shall not extend to trucks or other legitimate carriers and delivery vehicles that may be parked on said premises in the course of their normal operations.
15. *Roof Signs*
16. *Abandoned Signs*
17. *Yard signs, except as permitted temporary signs.*
18. *The following signs or sign elements are prohibited unless specifically reviewed and approved by the Planning Commission:*
 - a. Internally illuminated awnings.
 - b. Changeable copy signs or electronic graphic signs greater than 3 square feet in area.
 - c. Outdoor Advertising Displays and Off-Site Signs.
 - d. Painted Wall Signs.
19. *Any sign which is not otherwise included under types of signs permitted in this Section.*

Section 10. NONCONFORMING SIGNS

Nonconforming signs are declared by this Article to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this Article, but not to encourage their survival.

1. *Alterations of Nonconforming Signs:* No nonconforming sign or advertising structure shall be expanded, relocated or restored unless said sign or advertising structure is brought into conformance with the provisions of this section or any other applicable County code requirement.
2. *Replacement, Restoration or Reconstruction:* In the event that any existing nonconforming sign, as provided for in this section, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the sign, or fifty (50) percent of the square footage of the sign copy area, said sign shall not be replaced, restored or reconstructed unless it is brought into full compliance with the provisions of this Zoning Ordinance. Any nonconforming sign which remains damaged or in disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of thirty (30) days following the date of damage without the issuance of a valid sign permit, shall not be replaced, restored or reconstructed unless it is brought into full compliance with all applicable codes and ordinances.
3. *Repairs and Maintenance:* Routine repairs and maintenance of nonconforming signs necessary to maintain health and safety may be permitted. Said repairs and maintenance shall include such activities as painting and the replacement of a damaged or deteriorated sign face. The cost of said repairs and maintenance shall not exceed fifty (50) percent of the value of the sign which is to be repaired or maintained. Said value shall be that which is current at the time of the repair or maintenance. Prior to said repair and maintenance taking place, the Code Enforcement Officer shall be consulted to determine if a sign permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid sign permit as required by this ordinance.
4. *Termination of Nonconforming Signs:* Upon the discontinuance of a use, to which any nonconforming sign or advertising structure is accessory to, the tenant or property owner shall remove all nonconforming signs, supports and structures upon the building or property upon which said use was located.

Section 11. DEFINITIONS

The following definitions are to be added to Article 3 of the Zoning & Subdivision Regulations:

Abandoned Sign: A sign which no longer advertises or identifies a business, lessee, owner, product, activity, message or location that is available to the public.

Animated Sign: A sign that has movement or the appearance of movement of either the sign content or components, which is produced either mechanically or electronically.

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.

Awning/Canopy/Marquee Sign: A sign painted, stamped, perforated, stitched, mounted or otherwise applied on the valance of an awning or canopy.

Banner Sign: A sign painted or printed on cloth and hung over a street, entrance, etc.

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.

Bulletin or Poster Panel Sign: A sign that indicates the name of the organization, institution, or business on whose premises it is located and which contains the name or names or persons connected with it, and announcements of persons, events or activities occurring on the premises. Such sign may also present a greeting or similar message.

Canopy:

- a. Building Canopy: A roof-like structure attached to a building covering the entrance, exit, walkway, or loading dock, not including the building roof line extension.
- b. Freestanding Canopy: A self-supported, detached roof-like structure, such as a structure covering gas fueling stations.

Changeable Copy Sign: A sign that is designed so that characters, letters, or illustrations can be changed or rearranged (either manually or automatically) without altering the face or the surface of the sign.

Community Information Signs: A sign located within a planned community, that serves to direct people to a residential subdivision, public building, or community facility such as, but not limited to, a recreational area, nature trail, golf course, information area, etc.

Directory Sign: A single-faced, non-illuminated wall sign that displays only the name and occupation of the person or persons occupying space in the building.

Directional Sign: A sign that indicates the distance, direction, or activity on the premises, such as "exit," "one-way," "drive-in," "auto service," etc.

Double-faced Sign: A sign with two faces or panels, neither of which is visible at the same time, and are directly back-to-back.

Electronic Graphic Sign: Any sign on which the copy changes automatically via a lamp-bank, liquid crystal display, television screen, or by any other mechanical, digital, or electronic means.

Flag: Any fabric or other flexible material containing distinctive colors, patterns, or symbols, used as an emblem of a government, political subdivision, or other entity.

Flashing Sign: A sign that gives the effect, either directly or indirectly, of intermittent movement, or changes to give two or more visual effects.

Freestanding Sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

Garage Sale or Auction Sign: A sign, placed upon a residential lot, that conveys information about a garage sale.

Identification Sign: A sign giving the name and address of a structure, business development, or establishment. Such signs may be a wholly or partly devoted to a readily recognized symbol.

Illuminated Sign: A sign illuminated in any manner by an artificial light source.

Indirectly Illuminated Sign: A sign which is illuminated by a shielded light source.

Internally Illuminated Sign: A sign illuminated by an internal light source diffused through a translucent material.

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

Lights: The following lights are not allowed on a sign, as a sign, or in conjunction with a sign within the County:

1. Search Light: A projected beam of light.
2. Twirling or flashing lights: Lights that flash or twirl either erratically or rhythmically for the purpose of drawing attention to an object or event.

Memorial Signs: A sign designed to preserve the memory of a person or event.

Menu Boards: A board on which a food menu is written.

Monument Sign: A freestanding sign mounted on the ground and having a solid appearance and a low profile, normally consisting of a face and base. The width and length of the supporting base shall be no less than the sign face.

Name Plate: See Directory Sign.

Non-conforming Sign: A sign that was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

Off-Site Sign: Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is placed.

Oversized Wall Sign: See Wall Sign, Oversized.

Painted Wall Sign: A sign that is applied with paint or colored substances directly on the face of a wall.

Pole Sign: A sign, placed so that the bottom edge of the sign face is six feet or more above the average surrounding grade, and supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Portable Sign: A sign which is not permanently affixed to the ground, building or other structure, which may be mounted on wheels, and can easily be transported from place to place, but does include permitted temporary signs. Portable signs may be with or without electrical power.

Private Sale or Event Sign: A temporary sign advertising private sales of personal property such as garage sales, rummage sales, etc., or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

Project Construction Sign: A sign erected on the premises on which development is taking place during the period of such development. Such sign may indicate the names of architects, engineers, landscape architects, contractors, or similar individuals, and the owners, financial supporters, sponsors or similar individuals or firms having a role or interest with respect to the structure or project.

Projecting Bracket Sign: A sign that is wholly or partly dependent upon a building for support and which projects away from the building face. The sign shall not extend more than three (3) feet from the face of the building.

Real Estate Sign: A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

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 identification, description, illustration, message, symbol, logo, or device used to inform or attract attention to an object, product, place, activity, person, institution, organization or business, with the exception of an official notice, flag, pennant, emblem or insignia of any official political unit--nation, state, etc. A sign shall not include a similar structure or device located within a building except illuminated signs within a window.

Sign Alteration: The replacement, enlargement, rewording, and reduction, reshaping, or repainting using different colors, of a sign to serve an establishment or business.

Sign Area: The calculated area of the sign as measured by establishing a rectangle 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. Such a rectangle shall be established as follows: the bottom shall be a line parallel to the ground plane at the lowest point of any element of the sign message, the top shall be a line parallel to the ground plane at the highest point of any element of the sign message, the sides shall be a line perpendicular to the ground plane at the furthest extents of any element of the sign message.

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

Sign Face: The area within a line including the outer extremities of all letters, figures, characters and logos; or within a line including the outer extremities of the framework or background.

Sign Height: The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

Sign Maintenance: The normal care and minor repair that is necessary to retain a safe, attractive sign and supporting structures. Repainting with the same colors, or repairing copy or logo shall be considered maintenance if the name, product, service, place, activity, person, etc., depicted remains the same.

Sign Structure: The base, supports, uprights, braces, framework, and face of a sign.

Subdivision Sign: A sign used to identify the name of a tract of land subdivided into lots called a subdivision.

Temporary Event: An activity having a specific duration or the end of which is related to a specific action, usually lasting for a period of a few weeks or a few months at a time.

Temporary events include such activities as:

1. The offering of a property or premises for sale or lease.
2. The construction of a building or development project, or the rehabilitation, remodeling or renovation of a building.
3. Each political campaign, referendum or ballot proposition put to the voters as part of county, state or federal governance.
4. Special, temporary event that requires attention-getting devices.

Temporary Event Sign: A temporary sign or banner for special events such as sidewalk sales, civic club events, school activities, garage sales, etc., not including attention attracting devices such as flags or pennants, balloons, search lights, twirling signs, inflatable figures, etc.

Time and/or Temperature Sign: A sign displaying time and/or temperature information with no additional advertising or comments other than the name of the company which owns the sign.

Wall Sign: A sign painted on the outside of a building or structure, or attached to, and erected parallel to the face of a building, and supported throughout its length by such building.

Wall Sign, Oversized: A mural applied on a wall of a building determined to be a sign and shall be included in the calculations of allowable sign area. A mural that contains a brand name, product name, letters of the alphabet spelling or abbreviating the name of a product, company profession, or business, or any logo, trademark, trade name, or other commercial message shall be considered a sign.

Window Sign: A sign that is applied on or behind a windowpane or located in such a manner within a building that it can be seen from the exterior of the structure.

Yard Sign: A sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

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 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

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 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 Guide Plan for Leavenworth County establishes three 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, B, 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 2020-012; April 1, 2020)

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. Availability of an approved public sewer system and public water system.
4. Comprehensive Plan requirements for major streets, land use, parks, easements, schools and public open spaces.
5. Zoning requirements for the property being subdivided and adjacent properties.
6. Potential problems resulting from the conceptual design of the subdivision as determined from the pre-application sketch.
7. 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.

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) digital, of a preliminary plat, to be used for review purposes, at least forty-five (45) days before the Planning Commission meets. After review by Staff, please submit fifteen copies for submittal to the Planning Commission.
(BOCC Resolution 2020-012; April 1, 2020)
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 cause said preliminary plat to be advertised as an agenda item in the official county newspaper.
4. The Planning Director shall forthwith refer two (2) copies to the County Engineer.
5. 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.
6. 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. The County Surveyor shall carefully examine the exterior boundaries of the preliminary 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.
- c. Each department head shall, submit his/her findings to the Planning Department on a timely basis.
7. A hearing on the proposed plat will be held before the Planning Commission at its next regularly scheduled meeting.
8. Following receipt of required or requested reports, the Planning Commission will review the preliminary plat (see Section 50 of this Article).
9. One (1) copy of the approved preliminary plat shall be returned to the subdivider along with the approved notification, 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.
10. 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.
11. 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.

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 stating their approval of the type of sewage system to be used or their recommendations.
17. Written and signed statements from the appropriate officials of the availability of gas, electricity and water to the proposed subdivision.
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 road plans and stormwater drainage calculations shall be prepared in accordance with Leavenworth County's Road Construction and Storm Water Drainage Standards, 1994 Edition, or latest edition approved by the Board of County Commissioners.

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. (BOCC Resolution 2020-012; April 1, 2020)
 - b. A letter from the County Engineer stating the engineering specifics and final improvement plans for the final plat meet the county regulations and are substantially in accord with the preliminary plat as previously approved by the Planning Commission. Letter should also state that a copy of the certified, approved plans, profiles, cross-sections (if required) and specifications for the project are on file with the County Engineer.
 - c. A performance guaranty or bond, if required (see definition) in an amount and with sureties approved by the County Engineer.
 - d. 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.
 - e. A copy of the policy verifying title, easements and liens. These documents should be dated no more than forty-five (45) days prior to the application date. (BOCC Resolution 2020-012; April 1, 2020)
2. When the final plat has been passed upon by the Planning Commission, the original and two (2) copies, 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. 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 mylar original for their use and one paper copy for the County Appraiser's office. After the plat has been recorded, the developer/owner shall return one paper copy with the original signatures and a minimum of eight (8) paper copies to the Planning & Zoning office. Planning & Zoning shall retain the copy with the original signatures and one paper copy for their files and distribute the remaining copies as follows:

County Engineer	County Surveyor	Power Company	Gas Service
Cable Company	Telephone Company	Water Board/District	

4. Approval by the Board of County Commissioners shall constitute final approval of the subdivision of the area and upon receipt of two (2) original and two (2) paper copies by the subdivider from the Planning Commission office with the appropriate and necessary signatures, the subdivider shall cause such plat (the mylar originals and paper copies) 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.

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 angles.
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 exterior Boundary Corners must be set in concrete. All block 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 plat meets the requirements of K.S.A. 58-2005. The face of this 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.

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)

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 Roads shown in Figure 1.

Section 2. DEFINITIONS

1. Development – Any division of the land.
2. Required driveway spacing – Minimum spacing required between driveways. To be determined by the Road Classification and vehicles per day (VPD) – See Table 1.

Table 1. Public Road Access Management Standards	
Road Classification	Required Driveway Spacing (Feet)
Arterial Roads	
Major (>1,000 VPD)	660
Minor (<1,000 VPD)	300
Collector	
Major (>1,000 VPD)	300
Minor (<1,000 VPD)	200
Local Road	125
Minimum lot size shall be determined by Zoning and Subdivision Regulations	

Section 3. ACCESS MANAGEMENT

Driveway spacing shall be determined by the classification of the road per the Access Management Policy. There are four (4) road classifications which shall be applied to development. These classifications are: Major Arterial, Minor Arterial, Major Collector, and Minor Collector. Access points shall be allowed as follows:

1. Arterial Roads:
 - a. Roads with more than 1,000 VPD – Access is granted every 660 feet.

- b. Roads with fewer than 1,000 VPD – Access is granted every 300 feet.
2. Collector Roads
 - a. Roads with more than 1,000 VPD – Access is granted every 300 feet.
 - b. Roads with fewer than 1,000 VPD – Access is granted every 200 feet.
3. Local Roads
 - a. Required driveway spacing is 125 feet.
 - b. Required road frontage shall be determined by Zoning District.

Section 4. 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 5. 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 6. EXCEPTIONS

The following exceptions shall apply:

1. Parcels of land which are located within the County Road One Special Development District and/or future development districts shall be exempt from the policies and regulations within the Access Management Policy.

Section 7. REIMBURSEMENT OF DEVELOPMENT IMPACT FEE (DIF) AND ROAD IMPROVEMENT FEE (RIF)

If a developer chooses to improve an existing County road to County Standards, they will be reimbursed by the following process:

1. If any development directly abutting said improved road occurs within five (5) years, the developer shall pay a DIF & RIF to the County.
2. The County will reimburse the original developer the funds collected from development abutting and adjacent to the said improved road not to exceed one half the original cost to improve the road.
3. Any difference between the Current DIF & RIF and the amount reimbursed will be allocated for road improvements within the township.

Section 8. GRANDFATHERING EXCEPTIONS TO THE ACCESS MANAGEMENT POLICY REGULATIONS

Section 9. GENERAL

The following exceptions to the Access Management Policy apply to all properties that are currently zoned rural residential which have less than the required road frontage set forth in the adopted Access Management Policy.

1. BUILDING AND REBUILDING
 - a. Regulation: A proposed development affected by the Access Management Policy shall contain a minimum amount of road frontage.
 - b. Exceptions:

- c. A home existing before the adoption of the Access Management Policy may be rebuilt after a fire/natural disaster if the property has less than the required amount of road frontage provided the requirements within the County regulations applicable at the time of application are met.
- d. Additions may be built onto the homes of a property with less than the required road frontage provided the requirements within the County regulations applicable at the time of application are met.
- e. An accessory building may be built onto the homes of a property with less than the required road frontage provided the requirements within the County regulations applicable at the time of application are met.
- f. An accessory dwelling unit may be added to the property with less than the required road frontage provided the requirements within the County regulations applicable at the time of application are met. Accessory dwellings are allowed for certain agricultural and family situations.

Section 10. ACCESS

Regulation: A proposed development affected by the Access Management Policy shall contain a minimum amount of road frontage.

Exceptions:

- 1. Parcels which existed before the adoption of the Access Management Policy shall be granted an access. The access point shall be determined by the County Engineer with respect to the safest and most advantageous location.

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

Exceptions:

- 1. Parcels which existed before the adoption of the Access Management Policy shall be granted an access. The access point shall be determined by the County Engineer with respect to the safest and most advantageous location.

Section 11. SPECIAL USE PERMIT AND TEMPORARY USE PERMIT

Regulation: A proposed development affected by the Access Management Policy shall contain a minimum amount of road frontage.

Exception: Special Use Permits may be granted for parcels affected by the Access Management Policy which has less than the required road upon review and approval by the Planning Commission and Board of County Commission. Temporary Use Permits may be granted upon review and approval by the Board of County Commission.

Section 12. 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.

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 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.

Acreage Subdivision
Preliminary Drawing
(See Drawing No. 5 in Appendix)

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. A copy of the preliminary plat shall be sent to the water department or district in which the subdivision is located for a written report on the availability of an approved public water system. 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 County Engineer 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 2.5 acres 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.

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 30.4 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 waiver requested arises from such conditions which are unique to the property in question and which is not ordinarily found in subdivisions within the unincorporated areas of the County;
 - 2) That the reason or reasons given for the waiver is not created by an action or actions of the property owner or the subdivider;
 - 3) 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;
 - 4) That the granting of the waiver will not adversely affect the rights of adjacent property owners or residents;
 - 5) That the waiver requested will not adversely affect the public health or safety;
 - 6) That the waiver requested will not be opposed to the general spirit and intent of the subdivision regulations, zoning regulations and sanitary code.

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 ninety (90) degrees from the street right-of-way line on a straight street or from the tangent of a curved street, except where unusual conditions require a minor variance.

- 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>	
	Steel	Aluminum
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 variance, 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 variance or exception, the Planning Commission 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 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, unless approved in the manner as provided for in these subdivision regulations. This shall not apply to subdivisions or lots of record that were platted prior to the adoption of this subdivision regulation.

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. RECORDING

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.

Section 30. CERTIFICATIONS REQUIRED ON THE FINAL PLAT

When the Final Plat is approved, certifications shall be made on the Final Plat, signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted. The original and two (2) copies of the plat submitted shall carry the signatures of the owner or owners or corporation and shall be duly notarized by a Notary Public.

A registered land surveyor shall sign and place his/her seal on the Final Plat certifying that the physical and mathematical details on the plat are correct.

Certification of official approval of the Final Plat shall provide for the date and signature of the following:

1. Chairman and Secretary of the Planning Commission.
2. County Commission to be signed by the Chairman and attested by the County Clerk.
3. Space for the recording of the instrument and the name of the Register of Deeds.

**ARTICLE 70 – SUPPLEMENTARY DOCUMENTS TO ACCOMPANY THE
FINAL PLAT**

1. Two (2) prints 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.
2. Certificate stating that all taxes and encumbrances have been paid shall be submitted with the Final Plat.
3. If private restrictions are to be filed affecting the subdivision or any part thereof, two copies shall be submitted to the Planning Commission with the Final Plat.
4. Twelve (12) copies of said plat shall be submitted to the Planning Department at least thirty (30) days prior to the regularly scheduled Planning Commission meeting.

ARTICLE 80 – SUBMISSION OF RECORDED PLATS

1. Two (2) reproducible copies of the recorded plat shall be provided by the subdivider and shall be submitted to the Secretary of the Planning Commission.

Distribution of prints shall be as follows:

Planning Commission	Telephone Company
County Engineer	Electrical Company
County Clerk	Gas Company
Zoning Administrator	Superintendent of Water and Sewer Districts
Building Official	

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 AND TRACT SPLITS

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: (1) six copies 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 2011-36; August 25, 2011)

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. 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:

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