



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, APRIL 14, 2020 7:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting

Meetings are televised everyday on Channel 2 at 7 p.m. and midnight and available for viewing on YouTube and Facebook Live

****Due to the restriction of social distancing and prohibition of gathering of 10 or more people to mitigate the spread of COVID-19, the City Commission meeting will not be open to the public. In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed live on Channel 2 and via Facebook Live.***

Citizen may submit questions for the City Commission to be read during public comment unless they are related to an agenda item. Questions on agenda items will be read during discussion on that topic.

Submit your question to cwilliamson@firstcity.org no later than 6:00 pm on April 14th.

Call to Order – Pledge of Allegiance Followed by Silent Meditation

- 1. Proclamations (pg. 3)
 - a. National Library Week April 19-25, 2020
 - b. National Child Abuse Prevention Month
 - c. Fair Housing Month
 - d. National Public Safety Telecommunicator’s Week April 12-18, 2020
 - e. Arbor Day April 24, 2020

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

- 2. Minutes from March 24, 2020 Regular Meeting **Action:** Motion (pg. 8)

NEW BUSINESS:

Public Comment: * emails received by the public for public comment on non-agenda items will be read at this time.

General Items:

- 3. Mayor’s Appointments – Leavenworth Preservation Commission **Action:** Motion (pg. 13)
- 4. Public Hearing for Fire Damaged Structure 1109 Spruce Street (Postponement) **Action:** Motion (pg. 14)
- 5. Consider Cereal Malt Beverage License – 300 N 4th Street **Action:** Motion (pg. 15)
- 6. Approve Bureau of Justice Assistance (BJA) 2020 Coronavirus Emergency Supplemental Fund Grant **Action:** Motion (pg. 16)
- 7. Acceptance of Dedicated Land for Public Use-West Glen 3rd Plat **Action:** Motion (pg. 18)
- 8. Acceptance of Dedicated Land for Public Use-Moonlight Lake Plat **Action:** Motion (pg. 21)
- 9. Dangerous Structures Review and Assessment **Action:** Consensus (pg. 24)

Resolutions:

- 10. Resolution B-2246 One-Time Amendment to Resolution B-1185 **Action:** Motion (pg. 51)

Bids, Contracts and Agreements:

- 11. Consider USD 453 Land Swap Agreement-David Brewer Park/10th Street Park **Action:** Motion (pg. 62)
- 12. Consider Bid for Independence Court Bank Stabilization Project **Action:** Motion (pg. 76)

First Consideration Ordinances:

- 13. First Consideration Ordinance Amending Chapter 20 to Adopt International Fire Code **Action:** Consensus (pg. 79)

Consent Agenda:

Claims for March 21, 2020 through April 10, 2020 in the amount of \$1,964,961.95; Net amount for Payroll #7 effective March 27, 2020, in the amount of \$339,290.61; (Includes Police & Fire Pension in the amount of \$11,839.36) and Payroll #8 effective April 10, 2020 in the amount of \$315,603.69; (no Police & Fire Pension). **Action:** Motion

Other:

Adjournment

Action: Motion

City of Leavenworth, Kansas



Proclamation

WHEREAS, *libraries are not just about what they have for people, but what they do for and with people; and*

WHEREAS, *libraries have long served as trusted and treasured institutions, and library workers and librarians fuel efforts to better their communities, campuses, and schools; and*

WHEREAS, *librarians are leaders in their institutions and organizations, in their communities, in the nation, and in the world; and*

WHEREAS, *librarians continue to lead the way in leveling the playing field for all who seek information and access to technologies; and*

WHEREAS, *libraries and librarians look beyond their traditional roles and provide transformative opportunities for education, employment, entrepreneurship, empowerment, and engagement, as well as new services that connect closely with patrons' needs; and*

WHEREAS, *libraries, librarians, library workers, and supporters across America are celebrating National Library Week.*

NOW, THEREFORE, *I, Myron J. (Mike) Griswold, Mayor of the City of Leavenworth, Kansas hereby proclaim April 19-25, 2020 as:*

National Library Week

I encourage all residents to visit the library this week, explore what's new at your library, and engage with your librarian. Because of you and library leaders, Libraries Transform.

IN WITNESS WHEREOF, *I set my hand and affixed the Great Seal of the City of Leavenworth, Kansas this fourteenth day of April in the year of two-thousand and twenty.*

Myron J. (Mike) Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *our children are our most valuable resources and will shape the future of our communities; and*

WHEREAS, *the majority of child abuse and neglect occurs when people find themselves in stressful situations that are preventable, but without community resources and support, they don't know how to cope; and*

WHEREAS, *child abuse and neglect not only directly harm children, but also increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and risky behavior such as smoking; and*

WHEREAS, *child abuse and neglect is a community problem that can be reduced by making sure each family has the support of prevention programs created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community; and*

WHEREAS, *together we can strengthen and support families in raising their children in a safe, nurturing environment.*

NOW, THEREFORE, *I, Myron J. (Mike) Griswold, Mayor of the City of Leavenworth, Kansas hereby proclaim April 2020 as:*

National Child Abuse Prevention Month

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this fourteenth day of April in the year of two-thousand and twenty.*

Myron J. (Mike) Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *the Congress of the United States passed the Civil Rights Act of 1968, of which Title VIII declared that the law of the land would now guarantee the rights of equal housing opportunity; and*

WHEREAS, *the City of Leavenworth is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all, and today many realty companies and associations support fair housing laws; and*

WHEREAS, *the Fair Housing groups and the U.S. Department of Housing and Urban Development have, over the years, received thousands of complaints of alleged illegal housing discrimination and found too many that have proved upon investigation to be violations of the fair housing laws; and*

WHEREAS, *equal housing opportunity is a condition of life in the City of Leavenworth that can and should be achieved.*

NOW, THEREFORE, *I, Myron J. (Mike) Griswold, Mayor of the City of Leavenworth, Kansas hereby proclaim April 2020 to be:*

Fair Housing Month *Celebrating 52 Years of Fair Housing*

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this fourteenth day of April in the year of two-thousand and twenty.*

Myron J. (Mike) Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

- WHEREAS,** *emergencies can occur at any time that require police, fire, or emergency medical services; and*
- WHEREAS,** *when an emergency occurs, the prompt response of police officers, firefighters, and paramedics is critical to the protection of life and preservation of property; and*
- WHEREAS,** *the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Leavenworth police-fire communications center; and*
- WHEREAS,** *Public Safety Dispatchers are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information, and ensuring their safety; and*
- WHEREAS,** *Public Safety Dispatchers of the Leavenworth Police Department have contributed substantially to the apprehension of criminals, suppression of fires, and treatment of patients; and*
- WHEREAS,** *each dispatcher has exhibited compassion, understanding, and professionalism during the performance of their job in the past year.*

NOW, THEREFORE, *I, Myron J. (Mike) Griswold, Mayor of the City of Leavenworth, Kansas hereby proclaim April 13-17, 2020 as:*

National Public Safety Telecommunicators Week

In honor of the men and women whose diligence and professionalism keep our city and citizens safe.

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this fourteenth day of April in the year of two-thousand and twenty.*

Myron J. (Mike) Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

City of Leavenworth, Kansas



Proclamation

WHEREAS, *in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and*

WHEREAS, *this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and*

WHEREAS, *Arbor Day is now observed throughout the nation and the world; and*

WHEREAS, *trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and*

WHEREAS, *trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and*

WHEREAS, *trees in the City of Leavenworth, Kansas increase property values, enhance the economic vitality of business areas, and beautify our community.*

NOW, THEREFORE, *I, Myron J. (Mike) Griswold, Mayor of the City of Leavenworth, Kansas hereby proclaim April 24, 2020 to be:*

Arbor Day

and I urge all citizens to celebrate Arbor Day, to support efforts to protect our trees and woodlands, to plant trees to gladden the heart and promote the well-being of this and future generations.

IN WITNESS WHEREOF, *I set my hand and have affixed the Great Seal of the City of Leavenworth, Kansas this fourteenth day of April in the year of two-thousand and twenty.*

Myron J. (Mike) Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk



CITY OF LEAVENWORTH
100 N. 5th Street
Leavenworth, Kansas 66048

City Commission Regular Meeting
Commission Chambers
Tuesday, March 24, 2020 7:00 p.m.

Due to the restriction of social distancing and prohibition of gathering of 10 or more people to mitigate the spread of COVID-19, the City Commission meeting is not be open to the public. In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed live on Channel 2 and via Facebook Live. Citizens were offered the opportunity to submit questions for the City Commission to be read during public comment unless they are related to an agenda item. Questions on agenda items will be read during discussion on that topic. Questions were to be submitted to cwilliamson@firstcity.org no later than 6:00 pm on March 24th.

CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Myron J. (Mike) Griswold and Commissioner Camalla Leonhard. The following commission members attended via phone: Mayor Pro-Tem Nancy Bauder, Commissioners Mark Preisinger and Jermaine Wilson.

Others present in the commission chambers: City Manager Paul Kramer, Police Chief Pat Kitchens, and City Clerk Carla Williamson. Staff members participating via phone: Assistant City Manager Taylour Tedder, Public Works Director Mike McDonald, Public Information Officer Melissa Bower and City Attorney David Waters.

Mayor Griswold called the meeting to order and opened the meeting with the pledge of allegiance followed by silent meditation.

PROCLAMATIONS:

The following proclamations were read by the Mayor.

Vietnam Veteran Day March 29, 2020
Military/America Saves Month
"Start by Believing" Sexual Assault Awareness Month
Association of Government Accountant Month

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Leonhard moved to approve the minutes from the March 10, 2020 regular meeting. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

COVID-19 Update:

City Manager Paul Kramer:

- Leavenworth County held a special meeting today at 9:00 a.m. regarding the COVID-19 Health Crisis; There is a lot of information and encourages everyone to watch that meeting on the Leavenworth County website.
- City trash pickup still in place
- Large item pickup still in place
- Trash bag delivery scheduled for March 28 is postponed to May 30 – bags are delivered by the Lions Club
- No trash bag sales at this time due to city hall closed to the public
- Brush dump and recycling center closed
- Riverfront Community Center closed and all activities cancelled through April 23 as ordered by the County Health Department
- Municipal Court on March 26, April 2, 9, 16, 23 and 30 have been cancelled. Anyone with court dates during this time should contact Municipal Court.
- Parks playground equipment is off limits per Leavenworth County Health Department order
- Parks are still open but all must observe social distancing
- Basketball courts open for individuals to use but courts will be monitored closely; no games and if games or groups congregate they will be asked to leave
- Tennis courts open but if groups congregate they will be closed
- Dog Park is closed - concerned about social clustering
- Easter Egg Hunt scheduled for April 4 postponed; no new date set at this time
- Spring Cleanup schedule for April 18 postponed no new date at this time
- Dog Tags renewal has been further extended to May 30
- Senior Rebate renewal requirement waived and automatically renewed for 2020 if already participating
- Library closed - check out e-books and watch the library website for additional information
- Follow City Facebook page and City Website for updated information on COVID-19
- The City is concerned about the City budget and taking actions now

Chief Kitchens Update:

- Leavenworth County Public Health Order took effect 12:01 AM on 3/24/2020
- All Law Enforcement within the county and cities are tasked with enforcing that order
- All Law Enforcement entities in the County met to discuss the expectation
- Some businesses have been ordered to be closed by the order
- On Tuesday March 24th the Leavenworth Police Department conducted an assessment of businesses open and those closed to see if they were in compliance, made note
- On Wednesday March 25th will send officers for a compliance check
- The process will be to discuss and educate businesses about the order with an opportunity to contact the Health Department for a clarification
- Enforcement mode will go into effect the morning of Thursday March 26th
- Will issue citations as needed
- Car tags and Driver's license:
 - Governor Kelly issued an executive order extending renewals of car tags and licenses. The order was distributed to Law Enforcement.
- Travel restrictions:

- To clarify rumors; the police department is not stopping cars or people to check to see if they are in compliance. There are no papers that persons need to verify that they are essential and traveling to work.

Commissioner and Mayor Comments:

The Commissioners thanked the City Manager and Police Chief for the update and for all their efforts

Mayor Griswold:

Read a brief statement regarding city efforts, the County Health Department, and business in the City. Thoughts go out to all health care professionals. Stay at home for them so they can stay at work for us. Next Mayor Facebook Town Hall on Friday March 27, 2020 at 10:00 am.

NEW BUSINESS:

Public Comment: *emails received by the public for public comment on non-agenda items will be read at this time.*----None were received.

General Items:

Revised Port Authority Agreement and Board Appointment – City Manager Paul Kramer reviewed the Leavenworth County Port Authority Agreement previously reviewed at the March 19, 2020 City Commission meeting. At that time, the commission recommended revisions and sent the agreement back to the Leavenworth County Board of County Commissioners to consider the changes. The revised agreement is now presented for consideration and approval.

Commissioner Leonhard moved to approve the Leavenworth County Port Authority agreement with Leavenworth County as presented. Commissioner Bauder seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

The agreement allows the City of Leavenworth to appoint two of the seven board members to the board. Staff recommends the City appoint Rick Schneider to a term expiring March 25, 2023 and Greg Kaaz to a term expiring March 25, 2024.

Commissioner Leonhard moved to approve the appointment of Rick Schneider to a term expiring March 25, 2023 and Greg Kaaz to a term expiring March 25, 2024 to the Leavenworth County Port Authority board. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Increase Dangerous Structure Administrative Fees – City Clerk Carla Williamson presented for consideration a request to increase the administrative fee for demolitions from \$100.00 to \$1,000.00. The current administrative fee charged by the City for facilitating a demolition is \$100.00. This fee does not come close to covering staff time involved in the demolition process. The process to demolish a property involves approximately 10 separate staff members spread over a minimum of 6 months for each structure. This includes various surveys, notices to utility companies, billings and if the owner does not pay the costs, staff goes through the process of assessment to the property taxes, which includes publications and filings. Property owners have told staff that they prefer to let the city do the demolition of their property because

they think that the city gets a better rate. The increase of the administrative fee will act as an additional incentive for property owners to either fix up a property or demolish on their own.

Commissioner Leonhard moved to approve the increase of the administrative fee for demolitions to \$1,000.00. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Public Hearing for Fire Damaged Structure 1109 Spruce Street Postponed – City Manager Paul Kramer announced that the public hearing set for tonight by Resolution B-2241 will be postponed to April 14, 2020. Staff has been in contact with the owner and monitoring the property and repairs are being done on the structure.

Commissioner Leonhard moved to postpone the public hearing on the fire-damaged structure at 1109 Spruce Street as unsafe or dangerous until April 14, 2020. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Cool Hand Like Gravel Grinder Event – City Clerk Carla Williamson announced that after the agenda packet was completed the event coordinator informed the City that they would be postponing this event due to the COVID-19 outbreak in addition to the County Health Department stay at home order. Staff asked the Commission to remove this item from the agenda.

Commissioner Leonhard moved to remove the item from the agenda. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Bids, Contracts and Agreements:

Bids for Police Vehicles – Police Chief Patrick Kitchens presented for consideration the rejections of bids submitted for police vehicles and approve the acquisition of police vehicles from Shawnee Mission Ford using the state contract in the amount of \$182,054.00 for four Ford SUV's. None of the bids received from the in house bid process were acceptable due to failure to include required documents or failure to meet the bid specifications.

Commissioner Leonhard moved to reject the bids submitted for police cars and authorize staff to proceed with the acquisition of four Ford SUV's from Shawnee Mission Ford in the amount of \$182,054.00. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Bid for 9th and Ottawa Street Stormwater Emergency Repairs – City Manager Paul Kramer presented the request for approval of a contract with Rodriguez Mechanical in the amount of \$82,450.00 for the 9th and Ottawa Street stormwater emergency repairs. During the week of March 16, 2020 staff inspected the site and found that a sinkhole they had been monitoring since late 2018 had grown in size and is jeopardizing the roadway and sewer lines. Staff sent out an emergency request for bids to contractors. Staff recommends approval of the low bid from Rodriguez Mechanical in the amount of \$82,450.00.

Commissioner Leonhard moved to approve the low bid from Rodriguez Mechanical in the amount of \$82,450.00 for the 9th and Ottawa Street stormwater emergency repairs. Commissioner Bauder seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Consider Purchase Agreement for Property at 713 S 3rd Street - City Manager Paul Kramer presented for approval a contract to purchase the property at 713 S 3rd Street for \$53,500.00. The property is needed to complete the 2nd & Chestnut Stormwater Repair Project.

Commissioner Leonhard moved to approve the acquisition of that certain real property commonly known as 713 S 3rd Street for a price not to exceed \$53,500.00 (exclusive of title costs or closing fees) from Steven L. Stich a/k/a Stephen L. Stich, and directing the Mayor or City Manager to execute any documents that may be necessary for closing, including but not limited to an assignment/assumption of real estate contract with Shadow Partners, LLC. Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

CONSENT AGENDA:

Commissioner Leonhard moved to approve claims for March 7, 2020 through March 20, 2020 in the amount of \$670,844.11; Net amount for Payroll #6 effective March 13, 2020, in the amount of \$324,322.30; (No Police & Fire Pension). Commissioner Preisinger seconded the motion and the motion was unanimously approved. The Mayor declared the motion carried 5-0.

Other Items from City Manager Kramer:

- March 31st - 5th Tuesday no meeting
- Study Session on April 7 cancelled and those items will be rescheduled
- Goal Setting scheduled for April 8 will be moved to another date undetermined at this time

Adjournment:

Commissioner Leonhard moved to adjourn the meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved. Commissioner Wilson had left the call and did not vote. 4-0

Time Meeting Adjourned 8:21 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC

MAYOR'S APPOINTMENT

April 14, 2020

Mayor Griswold

Motion:

“Move to re-appoint to the Leavenworth Preservation Commission Richard L Gibson and Edward Otto to terms ending April 15, 2023.”

Requires a second and vote by the Governing Body.

**POLICY REPORT
PUBLIC HEARING FOR FIRE DAMAGED STRUCTURE 1109 SPRUCE STREET**

ITEM WILL BE POSTPONED TO THE MAY 12, 2020 MEETING

APRIL 14, 2020

Prepared by:



Carla K. Williamson, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

ISSUES:

Postponement of the public hearing for 1109 Spruce Street.

BACKGROUND:

On January 28, 2020 the City Commission adopted Resolution B-2241 setting the public hearing in the matter of the fire damaged structure located at 1109 Spruce Street. As March 24, 2020.

Due to the outbreak of COVID-19, the Leavenworth County Health Department issued a notice prohibiting large public gatherings. Large public gathering were defined as public gatherings with more than ten (10) people. The health and safety of our citizens are of great concern and for this reason, City Commission meetings were closed to the public and available for viewing only through various options. At the March 24, 2020 meeting, the City Commission approved the postponement of the hearing to April 14, 2020.

The prohibition of large gatherings is still in place by the County and the State. Staff is placing before the Commission the need for a motion to further postpone the public hearing to May 12, 2020.

The owner of the property was contacted by staff and informed of the postponement of the public hearing. The repairs to the structure are ongoing.

ACTION:

Motion to postpone the public hearing on the fire damaged structure at 1109 Spruce Street as unsafe or dangerous until May 12, 2020.

POLICY REPORT
CONSIDER APPROVAL OF A CEREAL MALT BEVERAGE LICENSE FOR
300 N 4th STREET

April 14, 2020

Prepared by:

Reviewed by:

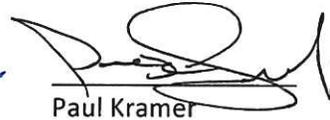
Reviewed by:



Mariah Lietzen
Receivable/License Coordinator



Carla K. Williamson, CMC
City Clerk



Paul Kramer
City Manager

ISSUE:

Consider a request for 2020 Cereal Malt Beverage License by Leavenworth Operations, LLC. (Conoco) located at 300 N 4th Street.

BACKGROUND:

Application for an off-premise Cereal Malt Beverage license was received by the office of the City Clerk from Leavenworth Operations LLC, located at 300 N 4th Street due to new ownership.

The application has been approved by the Police Department. The Fire Department, who also serves as the City Health Inspector, has not inspected the facility due to the suspension of such inspections during the COVID-19 orders to reduce contact. We did speak to Shawn Kell, the Health/Safety Officer and there have been no issues with this establishment with regards to health or sanitation under the previous ownership.

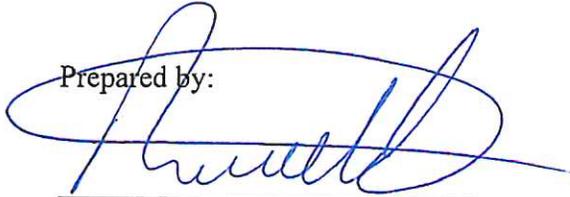
Staff recommends approval of the license. A health and safety inspection of the premise will be completed as soon as it is possible.

ACTION:

Motion to approve or deny the 2020 off premise Cereal Malt Beverage License for Conoco/Leavenworth Operations, LLC, at 300 N 4th Street, Leavenworth, Kansas.

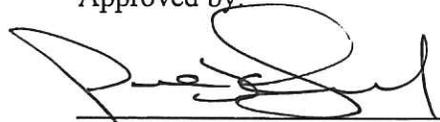
Policy Report No. 04-2020
BJA FY 2020 Coronavirus Emergency Supplemental Funding
April 14, 2020

Prepared by:



Patrick R. Kitchens, Police Chief

Approved by:



Paul Kramer, City Manager

ISSUE:

The Police Department is requesting authority to apply for the Bureau of Justice Assistance FY 2020 Coronavirus Emergency Supplemental Funding grant on behalf of the City of Leavenworth for \$76,918.00.

STAFF RECOMMENDATION:

Staff recommends approval.

BACKGROUND:

On March 31, 2020, the Leavenworth Police Department received communication from the Bureau of Justice Assistance, the City of Leavenworth is allocated \$76,918.00 to assist in preventing, preparing for, and responding to the coronavirus. It is generally designed for expenses associated with overtime, equipment, (including law enforcement and medical personal protective equipment) hiring, supplies, (such as gloves, masks, sanitizer), training, travel expenses, (particularly related to the distribution of resources to the most impacted areas),

The grant is retroactive to January 1, 2020 and will have a two-year cycle.

BUDGET IMPACT:

No City of Leavenworth funds are necessary for this grant application.

COMMISSION ACTION:

Authorize the Police Department to apply for the Bureau of Justice Assistance FY 2020 Coronavirus Emergency Supplemental Funding grant on behalf of the City of Leavenworth for \$76,918.00.

BJA FY 2020 Coronavirus Emergency Supplemental Funding

State	Jurisdiction Name	Government Type	Eligible Allocation
KS	DODGE CITY	Municipal	\$33,425
KS	DOUGLAS COUNTY	County	\$58,008
KS	FINNEY COUNTY	County	\$58,008
KS	FORD COUNTY	County	\$58,008
KS	GARDEN CITY	Municipal	\$45,881
KS	GEARY COUNTY	County	\$58,008
KS	HARVEY COUNTY	County	\$58,008
KS	HUTCHINSON CITY	Municipal	\$71,209
KS	JOHNSON COUNTY	County	\$58,008
KS	JUNCTION CITY	Municipal	\$55,949
KS	LAWRENCE CITY	Municipal	\$97,055
KS	LEAVENWORTH CITY	Municipal	\$76,918
KS	LEAVENWORTH COUNTY	County	\$58,008
KS	NEWTON CITY	Municipal	\$32,696
KS	OLATHE CITY	Municipal	\$67,887
KS	OVERLAND PARK CITY	Municipal	\$121,864
KS	RENO COUNTY	County	\$58,008
KS	RILEY COUNTY	County	\$62,593
KS	SALINA CITY	Municipal	\$62,384
KS	SALINE COUNTY	County	\$58,008
KS	SEDGWICK COUNTY	County	\$58,008
KS	SHAWNEE CITY	Municipal	\$39,237
KS	SHAWNEE COUNTY	County	\$58,008
KS	TOPEKA CITY	Municipal	\$229,400
KS	WICHITA CITY	Municipal	\$1,250,185
KS	WYANDOTTE COUNTY AND KANSAS CITY UNIFIED GOVERNMENT	Municipal	\$318,256
	Local total		\$3,203,026

**POLICY REPORT
LEAVENWORTH CITY COMMISSION
WEST GLEN, 3rd PLAT
FINAL PLAT**

APRIL 14, 2020

SUBJECT:

A request for a final plat of West Glen, 3rd Plat

Prepared By:

Julie Hurley
Director of Planning and
Community Development

Reviewed By:

Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by JMK Partners, LLC, plat prepared by Atlas Surveyors. The applicant is requesting approval of a 4 lot final plat for the West Glen residential development. The property is currently vacant and zoned PUD, Planned Unit Development. The property was originally platted as Tract A as part of the West Glen, 1st Plat, approved by the Planning Commission on September 11, 2017. A request to rezoning the subject property from R1-6, High Density Single Family to PUD, Planned Unit Development was approved in 2018 in order to develop the townhomes that are currently proposed as part of this plat application.

The subject property is 2.32 acres in size, and is currently undeveloped. The site lies to the east of 20th Street, directly south of New Lawrence Road. The plat consists of 4 residential lots with an average size of 20,775 square feet. Each lot will be developed with a townhome consisting of 2 units, for a total of 8 residential units in the development. Also included are associated utility easements and dedication of new public right-of-way, as well as Tract A which is reserved for landscaping and monument signage.

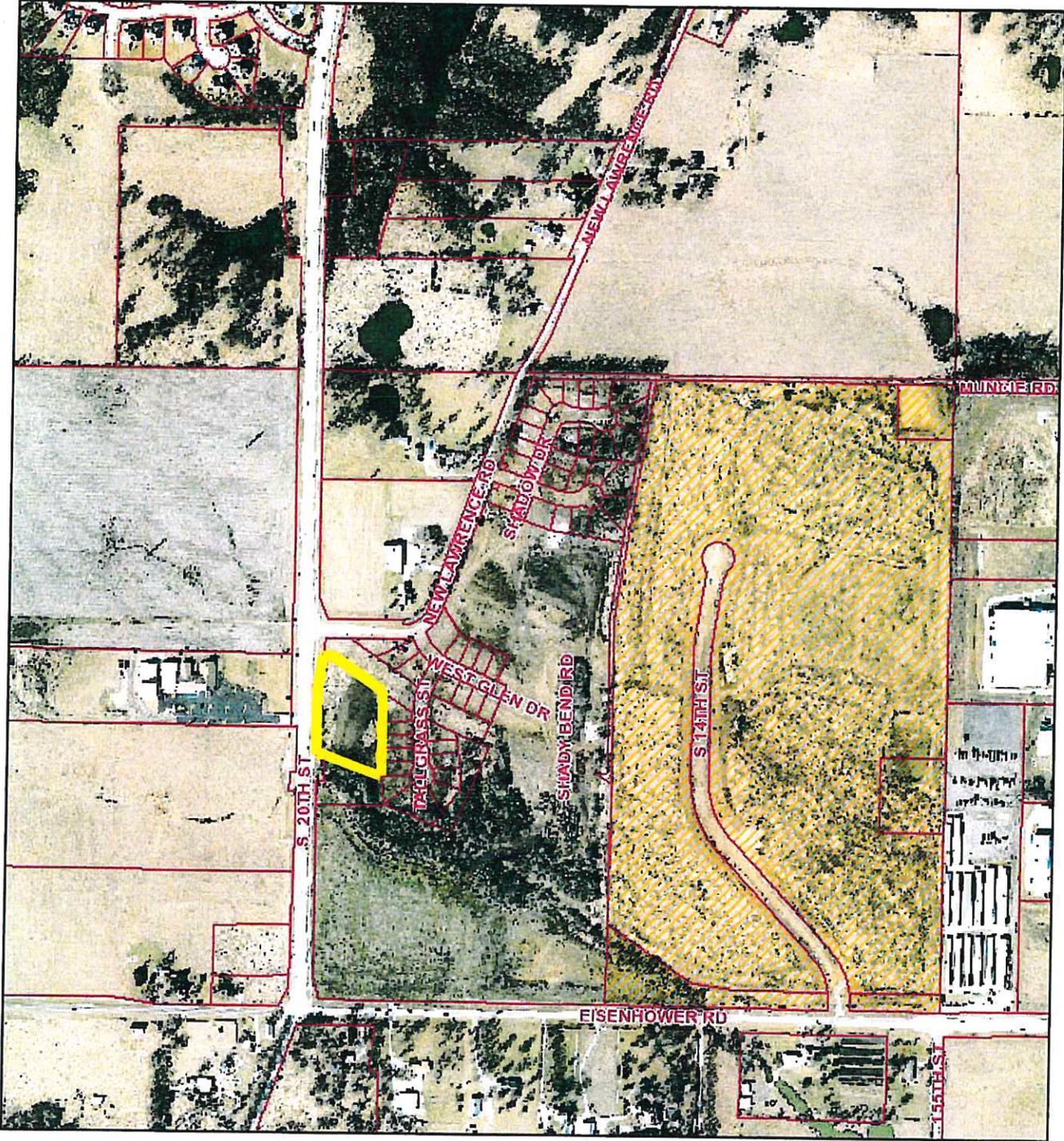
The plat was reviewed at the January 15, 2020 Development Review Committee meeting. All issues identified have been addressed or will be addressed at the time of construction.

The Planning Commission considered this plat at the April 6, 2020 Planning Commission meeting and voted 7-0 to recommend approval of the plat.

ACTION/OPTIONS:

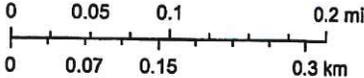
Accept the dedication of land for public purposes as part of the Final Plat

West Glen, 3rd Plat



4/1/2020, 10:55:41 AM

1:9,028



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

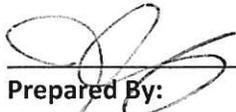
Web AppBuilder for ArcGIS
Esri, HERE | National Weather Service |

**POLICY REPORT
LEAVENWORTH CITY COMMISSION
MOONLIGHT LAKE
FINAL PLAT**

APRIL 14, 2020

SUBJECT:

A request for a final plat of Moonlight Lake



Prepared By:

Julie Hurley
Director of Planning and
Community Development



Reviewed By:

Paul Kramer
City Manager

ANALYSIS:

The subject property is owned by Limestone Land Company, LLC, plat prepared by Hahn Surveying. The applicant is requesting approval of a 9 lot final plat for the Moonlight Lake residential development. The property is currently vacant and zoned R1-25, Low Density Single Family Residential District.

The subject property is 45.54 acres in size, and is currently undeveloped. The site is addressed as 4500 New Lawrence Road, and is situated between New Lawrence Road and 20th Street. The plat consists of 9 residential lots with an average size of 5.1 acres. Also included are associated utility easements.

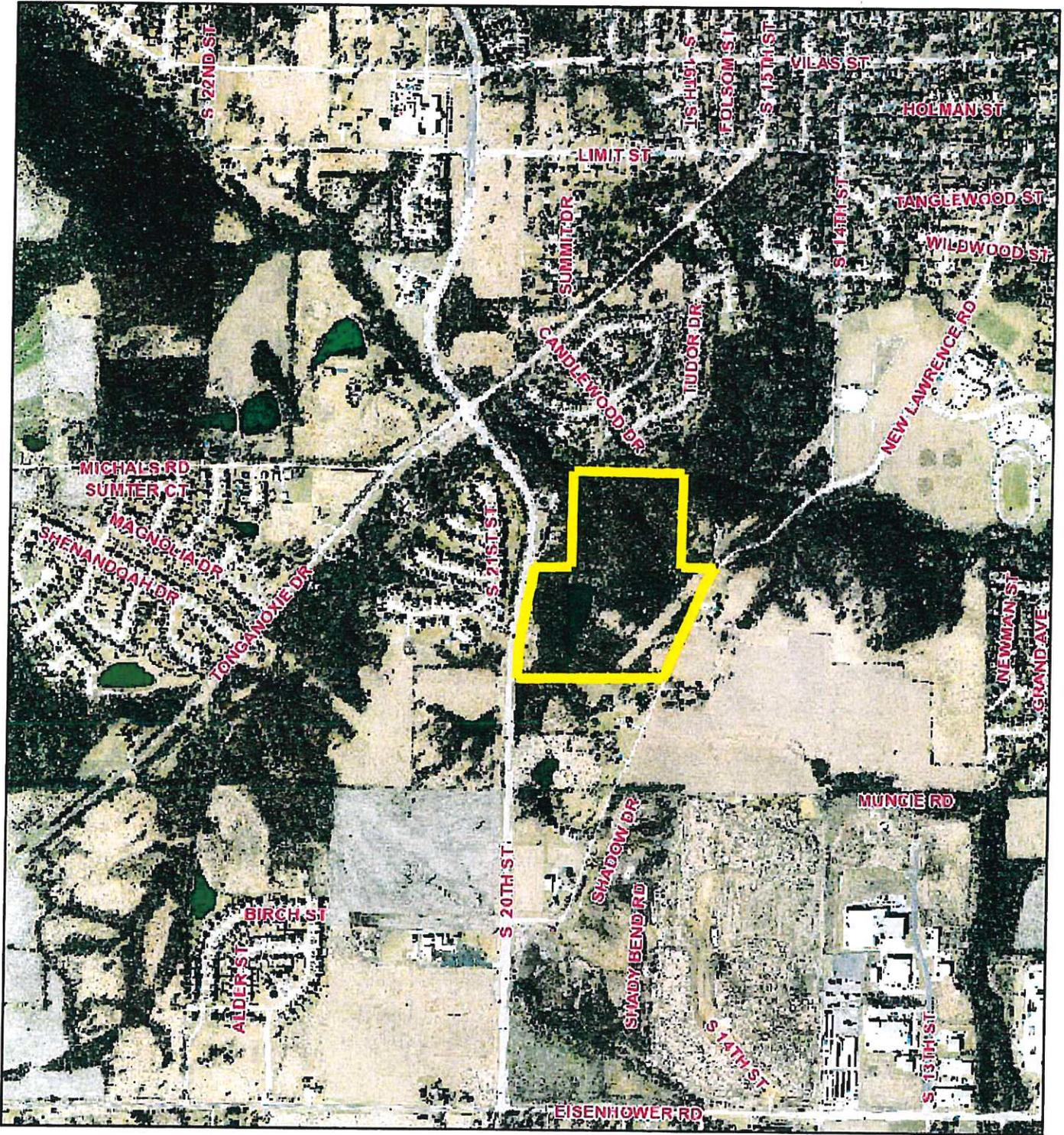
The plat was discussed at the March 5, 2020 Development Review Committee meeting. All issues identified at that time will be addressed prior to construction commencing on any of the lots.

The Planning Commission considered this plat at the April 6, 2020 Planning Commission meeting and voted 6-1 to recommend approval of the plat.

ACTION/OPTIONS:

Accept the dedication of land for public purposes as part of the Final Plat

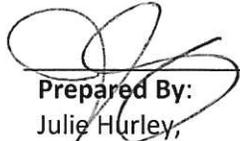
Moonlight Lake



POLICY REPORT

Dangerous Structures Review and Assessment

APRIL 14, 2020



Prepared By:
Julie Hurley,
Director of Planning and
Community Development



Reviewed By:
Paul Kramer,
City Manager

DISCUSSION

Structures that are assessed to be in an unsafe and dangerous physical condition pose a threat to the public health, safety and welfare of the City. To address and abate these structures, the City Commission, through its powers under Chapter 22, Article X (Dangerous Structures) of the Code of Ordinances, has requested that City staff annually develop an inventory of unsafe and dangerous structures for review and potential removal through demolition.

STRUCTURES FOR CONSIDERATION

Staff has compiled a list of structures, which have been evaluated based upon the criterion established for unsafe and dangerous structures. In accordance with KSA 17-4759, structures are deemed unfit for human use or habitation if conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents within the City of Leavenworth, or which have a blighting influence on properties in the area. Such conditions may include, but are not limited to the following:

- Defects increasing the hazards of fire, accident or other calamities
- Lack of adequate ventilation
- Air pollution
- Light or sanitary facilities
- Dilapidation
- Disrepair
- Structural defects
- Uncleanliness
- Overcrowding
- Inadequate ingress and egress
- Dead and dying trees, limbs or other unsightly natural growth or unsightly appearances
- Walls, siding or exterior of a quality and appearance not commensurate with the character of the properties in the neighborhood
- Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof
- Vermin infestation
- Inadequate drainage
- Any other violation of health, fire, building or zoning regulations

The following structures have been evaluated based on the criteria outlined within KSA 17-4759 and are hereby presented for consideration:

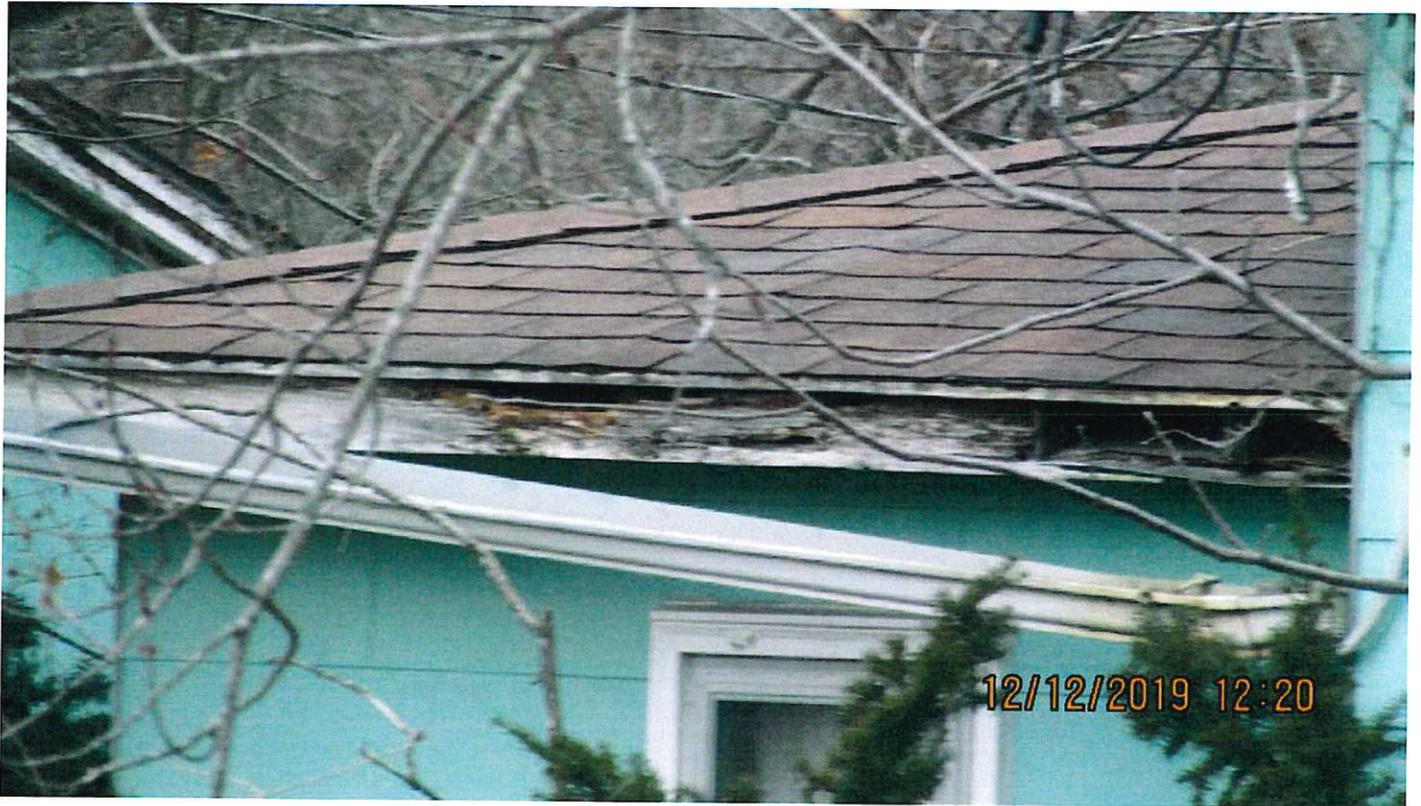
1. 109 Allen– Single family house
2. 407 N. 20th – Single family house
3. 1033 Osage – Detached garage
4. 1152 Randolph – Detached garage
5. 1186 Randolph – Single family house and shed
6. 1320 Spruce – Single family house
7. 315 Sheridan – Single family house
8. 519 Marshall – Single family house
9. 1016 2nd Avenue – Single family house
10. 1612 W. 7th – Single family house
11. 1914 W. 7th – Single family house
12. 306 N. 3rd – Single family house
13. 420 Ottawa – Single family house
14. 504 Miami – Single family house
15. 513 Lawrence Ave – Single family house
16. 515 N. 5th – Single family house
17. 525 Pawnee – Single family house and shed
18. 701 S. 2nd – Single family house
19. 708 Kiowa – Single family house
20. 714 Kiowa – Single family house
21. 718 Dakota – Single family house and detached garage
22. 824 Osage – Single family house and detached garage
23. 836 Pottawatomie – Single family house
24. 934 Ottawa – Single family house
25. 719 N. 9th – Detached garage

Pending consensus by the City Commission to move forward with the list of dangerous structures as presented, staff will prepare a resolution to set a public hearing for the structures. The Resolution is tentatively anticipated to be brought to the Commission for approval at the May 26, 2020 City Commission meeting, with the public hearing anticipated to take place in July. Prior to approval of the Resolution setting the public hearing, staff will prepare a Remediation Agreement for each property and notify property owners, giving property owners the opportunity to make needed repairs.

RECOMMENDED ACTION

Consensus for the list of dangerous structures, as presented, to be formally placed on a list for public hearing, review and consideration for Resolution of demolition.

109 Allen Street



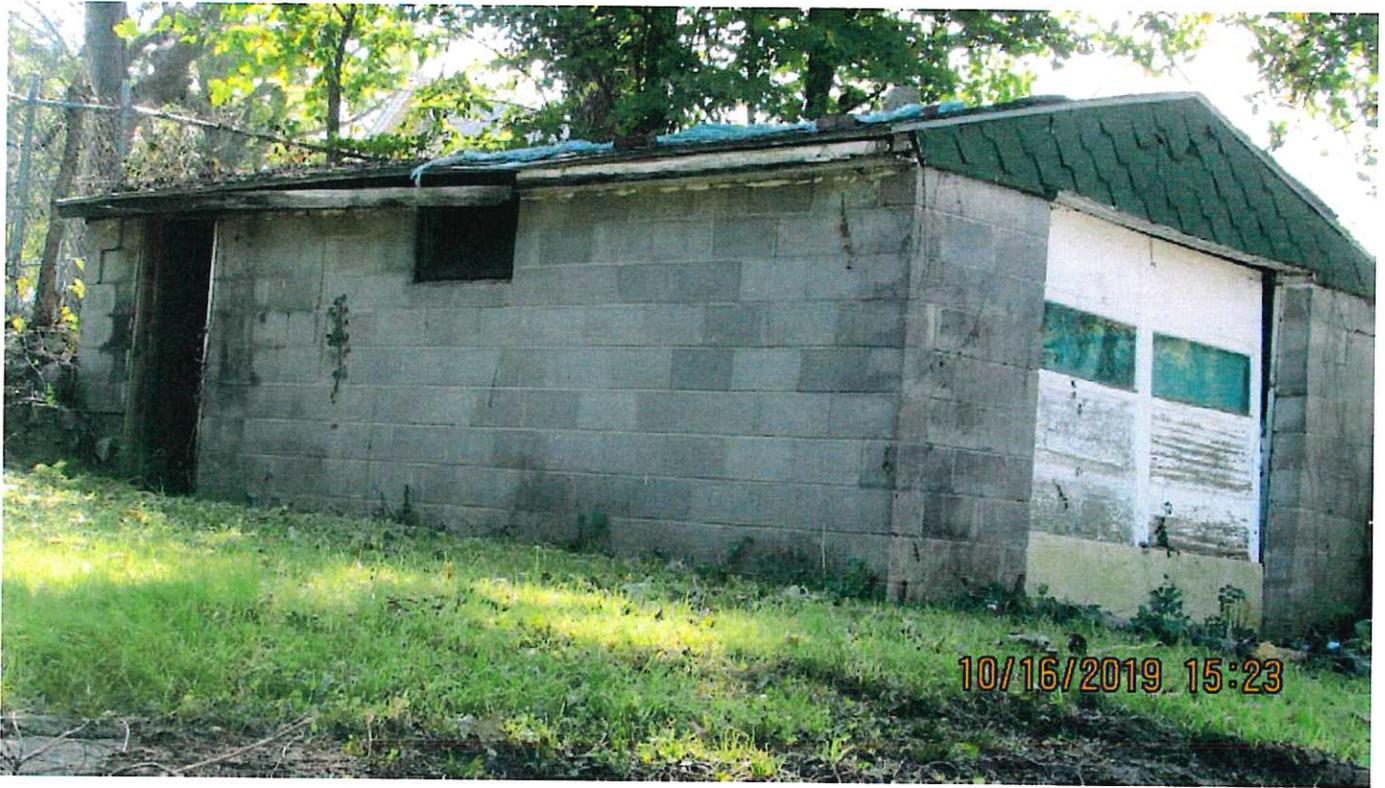
407 N. 20th Street



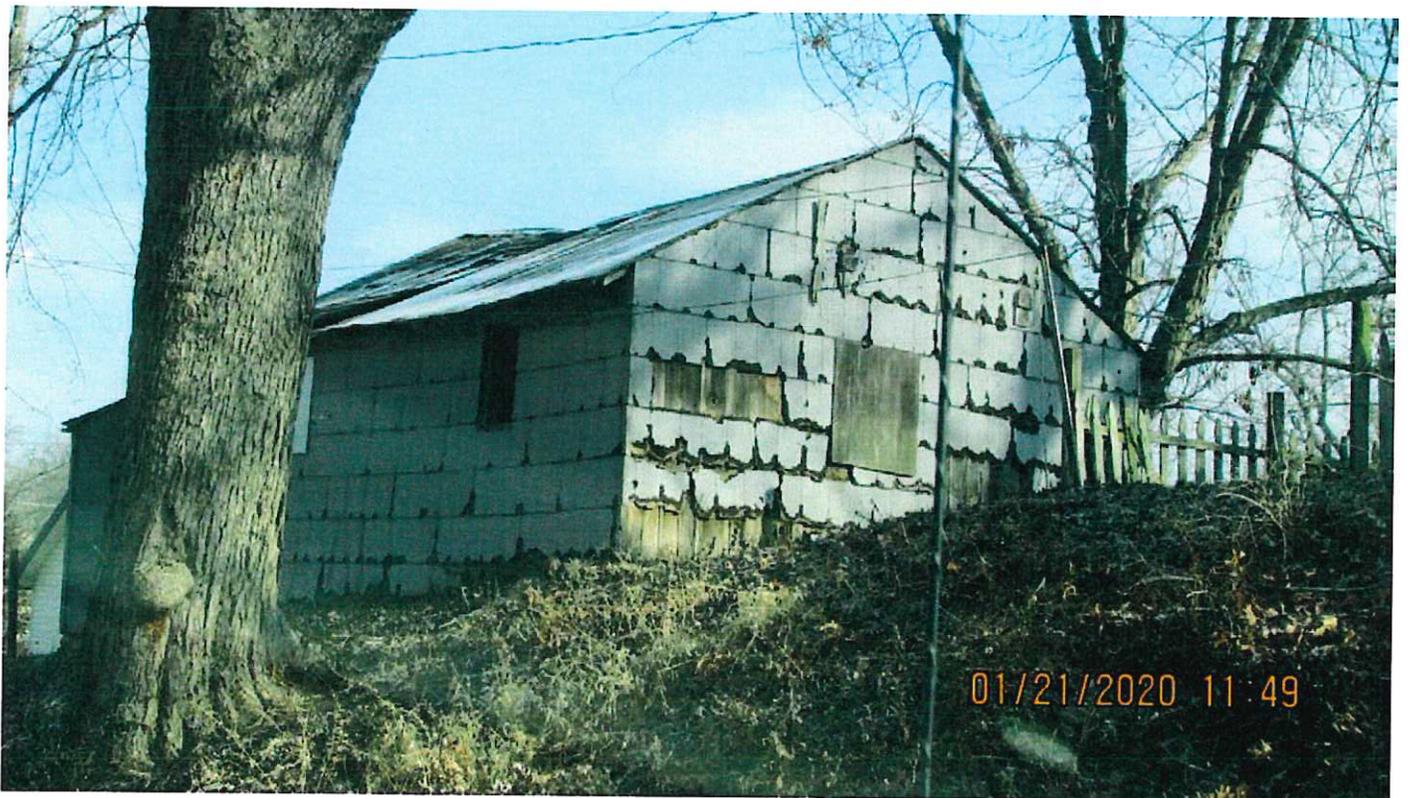
1033 Osage Street (garage only)



1152 Randolph Street (garage only)



1186 Randolph Street



1320 Spruce Street



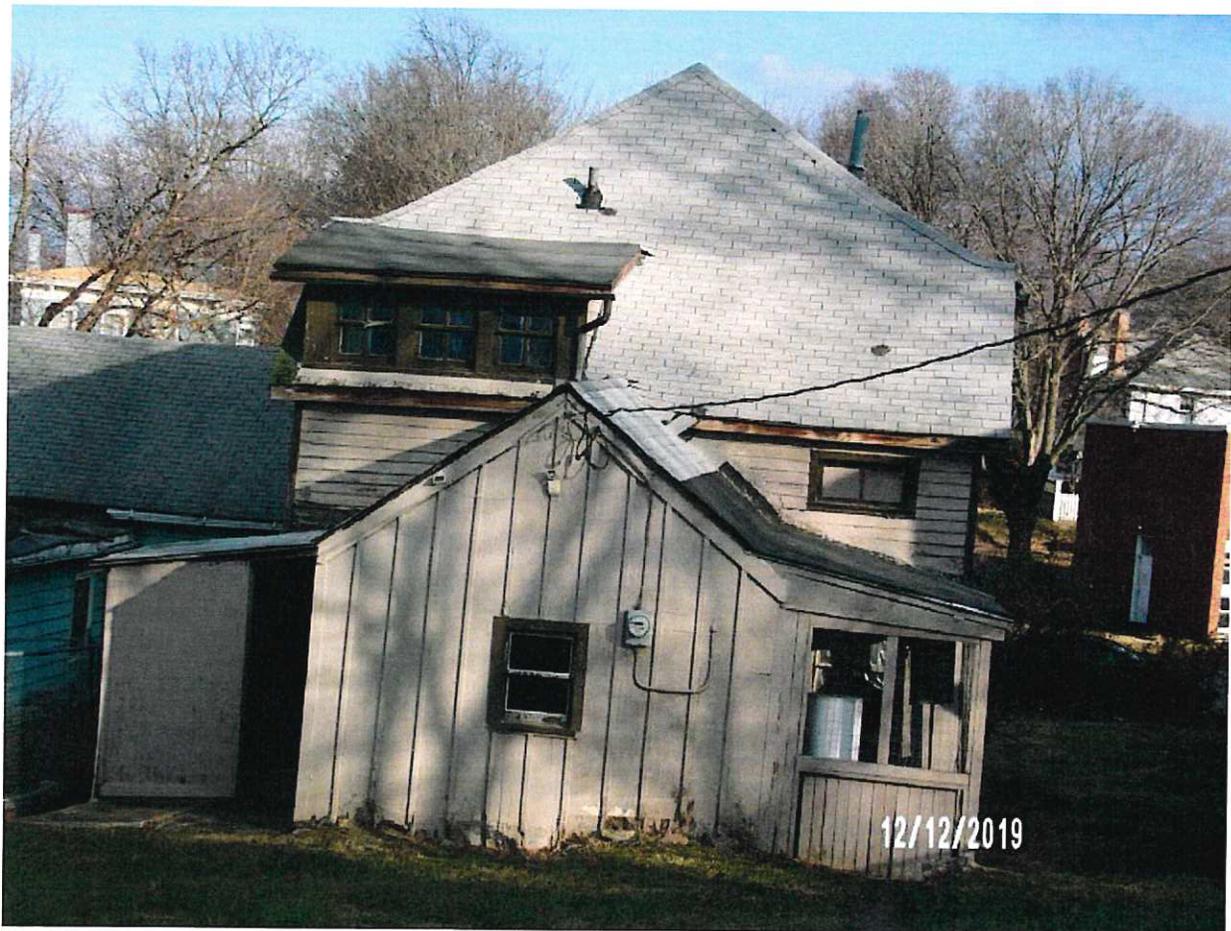
315 Sheridan Street



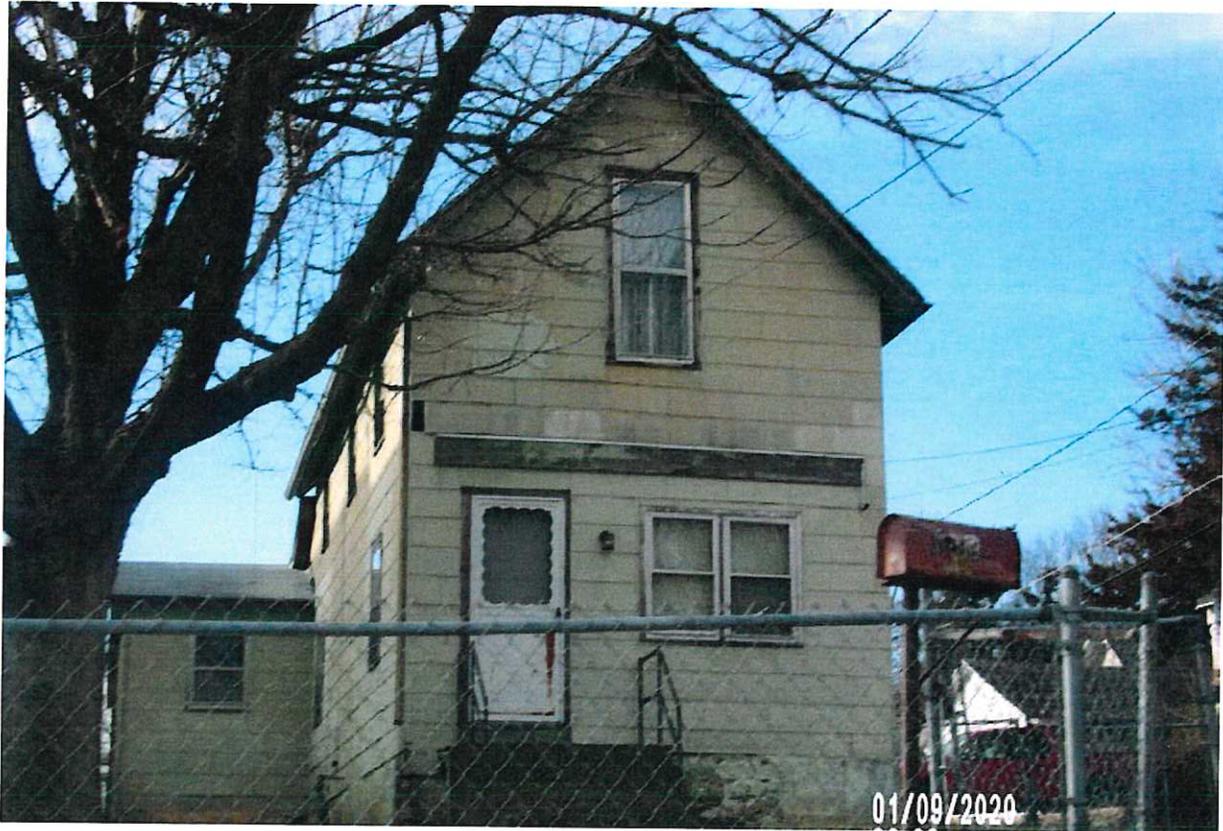
519 Marshall Street



1016 2nd Avenue



1612 W. 7th Street



1914 W. 7th Street



306 N. 3rd Street



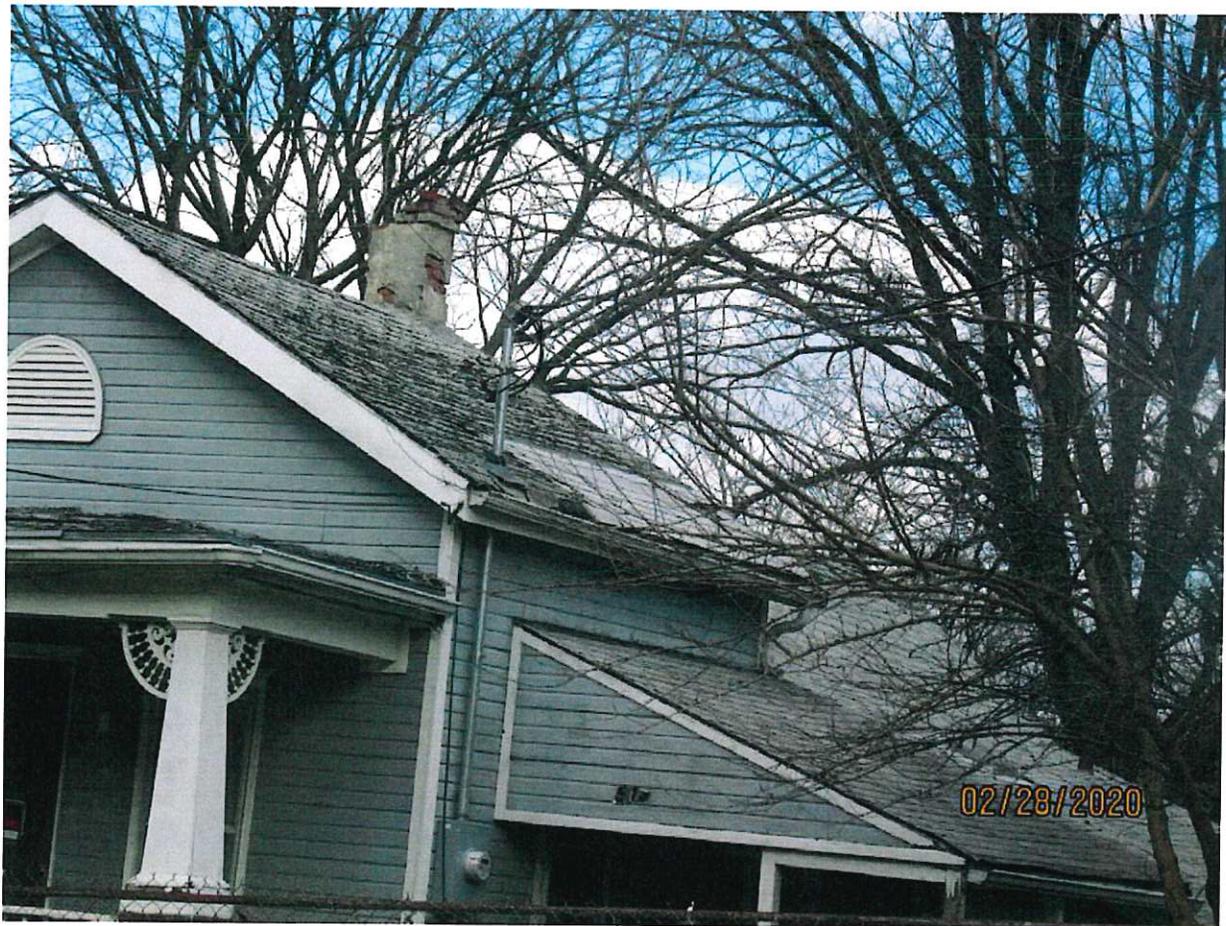
420 Ottawa Street



504 Miami Street



513 Lawrence Avenue



515 N. 5th Street



525 Pawnee Street



701 S. 2nd Street



708 Kiowa Street



714 Kiowa Street



718 Dakota Street



824 Osage Street



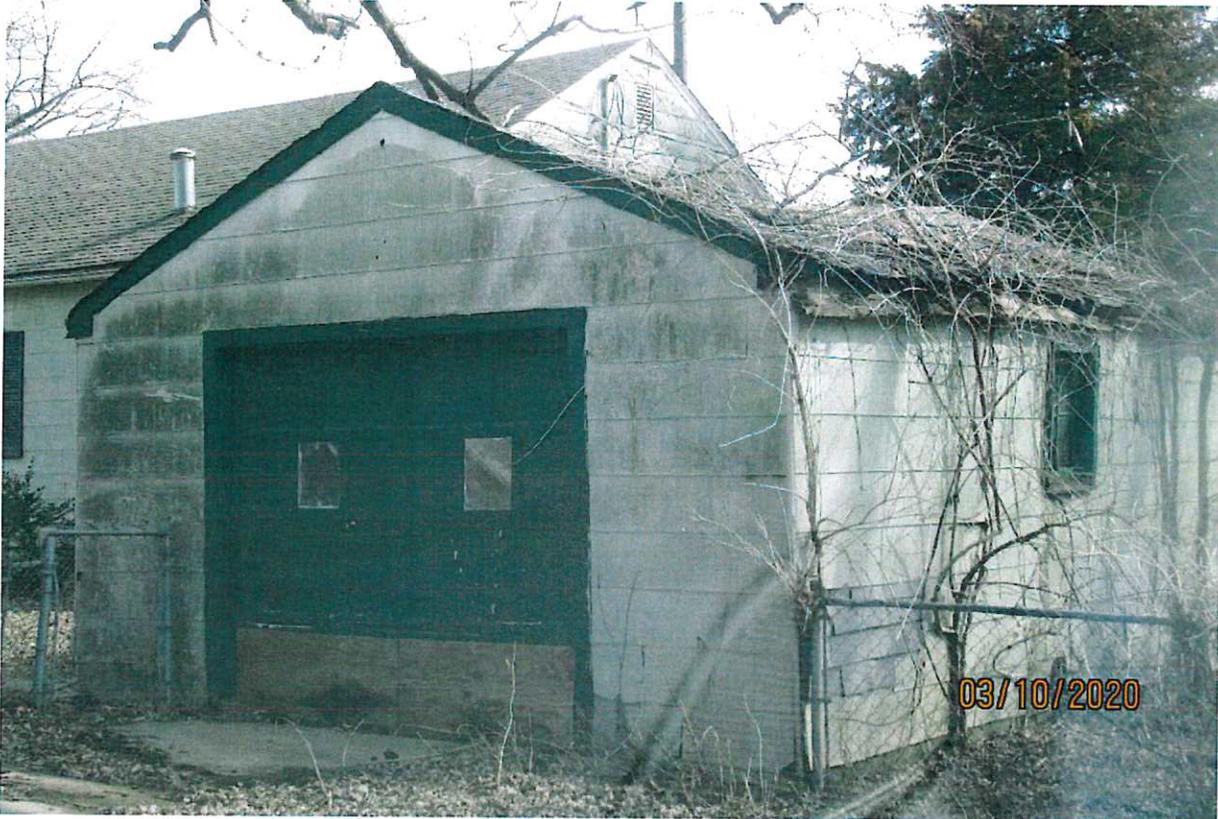
836 Pottawatomie Street



934 Ottawa Street

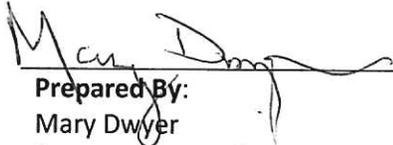


719 N. 9th Street (garage only)



POLICY REPORT
Resolution B-2246
One Time Amendment to
Resolution B-1185 to Provide
Temporary Housing Assistance
In Response to COVID-19

April 14, 2020


Prepared By:
Mary Dwyer
Community Development
Coordinator


Reviewed By:
Paul Kramer,
City Manager

DISCUSSION

The Stay Home Order by Governor Kelly to limit the spread of COVID-19 has affected the incomes of some Leavenworth residents, especially those at or below 150% of the poverty guidelines. Those who are not being paid by their employer during this crisis are struggling to make ends meet. To assist the families at or below 150% of poverty level who have been laid off during this time, the Community Development Department is proposing to take \$35,000 from the Housing Trust Fund account and assign the funds to Catholic Charities of Northeast Kansas (CCNEKS) to assist families with rent, mortgage, or utilities up to \$500 per household. CCNEKS is listed by the City as the first point of contact for housing assistance so funding this agency is in keeping with our current operations. Staff has developed a set of guidelines to be used in administering these funds, a copy of which is attached.

The Housing Trust Fund was created from funds recaptured from CDBG grants or loans where the resident(s) did not fulfill the requirements for the funds as stated in the lien agreements. The Federal government regulations state that an entitlement community (the City) is able to retain the funds and determine use as long as the amount is less than \$25,000 per year. The City determined to set up a Housing Trust Fund with the recaptured monies to assist those outside the HUD guidelines (like a home in the floodplain) and other housing situations. There is currently approximately \$50,000 in the Housing Trust Fund, and it is proposed to leave \$15,000 in the Trust Fund for loans/grants outside the HUD guidelines in addition to the \$35,000 being assigned to CCNEKS.

As part of the CARES Act recently passed by Congress in response to the COVID-19 crisis, the City of Leavenworth was allocated \$201,489 in additional CDBG funds to meet specific needs related to the crisis. Those funds are a separate allotment unrelated to the Housing Trust Fund, and staff is currently working with HUD representatives to develop a strategy for deploying those funds to Leavenworth residents and businesses in need. That allocation will be brought to the Commission for discussion at a later date.

RECOMMENDED ACTION

- Motion to authorize the transfer of \$35,000 from the Housing Trust fund to CCNEKS to be used for families at or below 150% of the poverty guideline who have lost employment during the COVID-19 period from March 18 forward. Any funds remaining after Dec. 15th will be returned to the City.

City of Leavenworth Housing Assistance

In response to the financial burden of COVID-19 regulations on City of Leavenworth families, the City will establish a housing assistance program with Catholic Charities. The program will be funded with \$35,000 in housing trust fund dollars. No taxpayer funds will be used.

Housing Assistance Guidelines

1. Housing funding for renters or homeowners will be prioritized for working families earning less than 150% of poverty who have lost income of one or two heads of household due to the COVID-19 regulations.
2. Households will need to show proof of employment prior to the COVID regulations starting on March 18th and proof of annual income through tax return from 2018 or 2019.
3. Households will need to show proof of income loss via unemployment letter, unemployment check or letter from business manager.
4. Households need to include one or more youth under 17 yrs. old.
5. Households need to reside within the city limits of the City of Leavenworth.
6. Payments will be capped at \$500 per family.

Program Operations

1. The City of Leavenworth will transfer \$35,000 to Catholic Charities of Northeast Kansas (CCNEKS) to fund direct payments to City residents.
2. CCNEKS will accept applications for funds and determine eligibility.
3. CCNEKS will submit to the City's Community Development Coordinator copies of the cancelled check receipts for funds dispersed.
4. CCNEKS will maintain application files for review by City staff.
5. If any funds remain by December 15th, the funds will be returned to the City.

RESOLUTION NO. B-2246

A RESOLUTION APPROVING A ONE-TIME EMERGENCY AMENDMENT TO RESOLUTION B-1185 ALLOWING FOR THE TRANSFER OF FUNDS TO CATHOLIC CHARITIES FOR HOUSING ASSISTANCE DUE TO THE COVID-19 PANDEMIC.

WHEREAS, the City of Leavenworth, Kansas did on April 28, 1992 pass and approve Resolution B-1185. Resolution B-1185 established program procedure to create a Home Owner's Assistance Program and established a Housing Trust Fund; and

WHEREAS, the City of Leavenworth, Kansas shall issuing a one-time emergency amendment to Resolution B-1185 to provide funds from the Housing Trust Fund to be transferred to Catholic Charities of Northeast Kansas in response to the financial burden of COVID-19 on City of Leavenworth families.

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

Section 1. That a one-time transfer of \$35,000.00 shall be made from the Housing Trust Fund established Resolution B-1185 to Catholic Charities of Northeast Kansas (CCNEKS) to fund direct payments to City resident.

Section 2. The following Housing Assistance Guidelines shall be followed:

1. Housing funding for renters or homeowners will be prioritized for working families earning less than 150% of poverty who have lost income of one or two heads of household due to the COVID-19 regulations.
2. Households will need to show proof of employment prior to the COVID regulations starting on March 18th and proof of annual income through tax return from 2018 or 2019.
3. Households will need to show proof of income loss via unemployment letter, unemployment check or letter from business manager.
4. Households need to include one or more youth under 17 yrs. old.
5. Households need to reside within the city limits of the City of Leavenworth.
6. Payments will be capped at \$500 per family.

Section 3. The program shall be operated as follows:

1. Catholic Charities of Northeast Kansas (CCNEKS) will accept applications for funds and determine eligibility.
2. CCNEKS will submit to the City's Community Development Coordinator copies of the cancelled check receipts for funds dispersed.
3. CCNEKS will maintain application files for review by City staff.

4. If any funds remain by December 15th, the funds will be returned to the City.

PASSED AND APPROVED this 14^h day of April 2020.

CITY OF LEAVENWORTH, KANSAS

Myron J. "Mike" Griswold, Mayor

ATTEST:

Carla K. Williamson, CMC, City Clerk

(SEAL)

Resolution B- 1185

HOME OWNER'S ASSISTANCE PROGRAM POLICY
AMENDING RESOLUTION B-1151

This policy establishes program procedures to create a Home Owner's Assistance Program to assist first time home buyers in purchasing homes. It establishes a trust fund, eligibility requirements, application procedures, funding limits, mortgage reduction procedures, city monitoring, the city's relationship with lending institutions, second mortgage agreements, determination of fraud, and the effective date of the program.

BE IT RESOLVED by the Governing Body, City of Leavenworth, Kansas, as follows:

Section 1. Program Established. The Home Owner's Assistance Program is hereby established to assist first time home buyers purchase homes through local, conventional lending institutions. The program shall create a second mortgage of up to 20% of the purchase price of a single family home to enable an otherwise credit worthy household to purchase rather than rent a home. The second mortgage will reduce the cost of the home and will be issued for a ten year term. During this term no interest or payments will be due unless or until the home is sold or unless or until the first mortgage is in default. The prospective home buyer must contribute at least 5% of the purchase price as down payment, subject to adjustment by the primary lending institution for in-kind or other equity, mortgage insurance or owner rehabilitation considerations.

a. Alternative Program Established. As an alternative to the above described second mortgage, the City shall establish a rent-to-own program to enable otherwise credit worthy and qualified families to enter a lease-purchase agreement, with a willing seller and a lending institution, to allow a monthly accumulation of funds for up to two years to create a down payment for the first time home buyer. All terms and conditions of the Homeowner's Assistance Program policy shall apply to this program except as specifically noted.

b. Establishment of Need. Applicants for assistance shall sign an "affidavit of need" which attests that funds for the purpose of satisfying a lending institution's first mortgage requirement are not available to the applicant from any other source. Monthly first mortgage payments shall not exceed 35% of the family's total household income.

Section 2. Housing Trust Fund Established. A housing trust fund, supported by the Community Development Block Grant Program, is established. Future resources may be allocated to the fund from local, state or federal grants as well as from repayments to

the trust fund from repaid second mortgages as a result of property resale.

Fund administration shall be performed by the city finance department which shall keep accounts, ledgers and loan files on each project. The community development department shall notify all lending institutions of the availability and unavailability of program funds and shall perform all other staff functions to administer the fund in compliance with federal program rules and procedures.

Section 3. Eligibility Requirements. The following minimum eligibility criteria are hereby set forth:

a. The household shall have a combined family income less than the moderate income threshold established by family size, as periodically adjusted by the United States Department of Housing and Urban Development (see attachment A for the current income threshold).

b. The household shall be a first time home buyer, or a household which has not been in an ownership/mortgage arrangement for the past five consecutive years from the date of loan application.

c. The household shall contribute at least 5% of the purchase price and shall otherwise meet the financial capacity tests and credit rating approvals of a local lending institution.

d. Priority shall be given to first time Leavenworth home buyers on a first come, first qualified, first served basis who have rented property for five or more years located in Leavenworth. Households which have rented property for less than five years will be considered only if funds are available.

e. Persons entering into a lease purchase agreement described in Section 1.a. shall have neither been a home owner nor part of an owner occupied household for at least three years prior to the date of application.

The director of community development shall keep the finance director informed of all proposed, pending and completed loan transactions in this program.

A monthly report of program progress shall be provided to the Community Development Advisory Board and Governing Body. The report shall provide the name of the recipient and the dollar amount of the second mortgage. This information shall be provided to the public on-demand, however, only the city's involvement may be publicly disclosed.

Section 4. Application Procedures. Any participating Leavenworth lending institution may refer families which otherwise meet financial credit and other imposed qualifications to the community development department, City of Leavenworth, to determine eligibility for a second mortgage. Provided funds are available, the community development department and finance department shall enter into a second mortgage agreement with the home buyer to provide up to 20% of the total purchase price of the home (see Section 3, eligibility). This amount of money will be used to reduce the amount of money to be lent as a first mortgage, thereby reducing principle and interest payments due to the lending institution by the home buyer. The second mortgage agreement shall reference this policy, shall cover all terms and conditions of the second mortgage and shall be filed with the Register of Deeds, Leavenworth County Courthouse (see Section 9). A mortgage lien will be placed against the property for its full amount which will have to be satisfied before any resale of the land can occur.

a. Rent-to-own Application Procedure. A willing first time home buyer and a willing seller may jointly apply to either the City of Leavenworth or to a willing financial institution to create a lease-purchase agreement. The terms of the agreement will be individually tailored by the special circumstance involved in each negotiated sale. The following minimum considerations (expressed by the word "shall") and eligible activities (expressed by the word "may") are considered acceptable for establishing such agreements:

- (1) All four parties shall be signatories to the agreement.
- (2) The term of the lease-purchase agreement shall not exceed two (2) years (24 months).
- (3) A portion of the buyers fair market rent shall be applied to an escrow account established for the purpose of creating a down payment. The amount shall be established in the lease agreement.
- (4) The unit being occupied shall meet minimum Housing Quality Standards established by the City, or shall be rehabilitated to those standards using funds from the City's second mortgage consideration.
- (5) The value of the home may be established by an independent appraiser, acceptable to all four parties, at the time of the transfer of ownership or at such point in time as mutually agreed upon.
- (6) Breach of the agreement by the buyer may result in the owner's recapture of the escrow account. The City shall attach a temporary lien against the project for any

investment requirement prior to the conversion of the contract to a mortgage.

There shall be no further obligation by the financial institution in this instance. The specifics of this breach shall be defined in the agreement.

- (7) Breach of the agreement by the owner may result in repayment, in full, of any proceeds expended by the City to provide for rehabilitation of the unit and/or may result in the buyer's recapture of the escrow account. Any proceeds in the escrow account may be transferred to another housing unit acceptable to the buyer, a new seller, the financial institution and the City but the original term of the purchase agreement shall not be extended. The specifics of this breach shall be defined in the agreement.

The City shall attach a temporary lien against the project for any investment requirement prior to the conversion of the contract to a mortgage.

- (8) Any interest accruing to the escrow account shall be applied to the down payment, loan closing costs or other costs associated with the first and second mortgage agreements at the time of transfer of the property.
- (9) The seller may pay all taxes and provide normal maintenance during the term of and in accord with the lease purchase agreement.

Section 5. Second Mortgage Funding Limits. The second mortgage offered by the city shall not exceed \$12,000 per household. The first mortgage will be established by the lending institution based on the household's ability to repay the mortgage. The second mortgage amount will be released to the city upon resale of the property (see Sections 4 & 6), otherwise, the second mortgage requires no monthly interest or principle payments.

All proceeds in an escrow account established in a rent-to-own program shall be applied to the down payment, closing costs or other costs associated with the first and second mortgage, unless the lease purchase agreement is breached (see Section 4.a.).

Section 6. Second Mortgage Procedures. The city will provide a second mortgage as last resort financing up to 20% of the total price of the structure being purchased. All other financing mechanisms must first have been exhausted by the lending institution. The term of the second mortgage shall be for at least ten years.

Any proceeds from the resale of the property during the ten year term will be deposited to the housing trust fund in order to make new second mortgages available for more first time home buyers.

In the event of default by the first time home buyer, the financial institution shall recover title to the foreclosed property. Upon resale, the first mortgage holder shall provide the city with proceeds over and above the first mortgage (if any) up to the amount of the second mortgage.

Section 7. City Monitoring. The city may conduct an annual walk through inspection of the premises to assure compliance with the terms of the second mortgage agreement.

Section 8. Relationship to Lending Institutions. The city makes no warranty, expressed or implied, that households deemed eligible for the Home Owner Assistance program are credit worthy or capable of the responsibilities associated with home ownership. Financial institutions are expected to take normal precautionary measures to assure the financial soundness of first mortgages associated with the city's program. The city shall offer home maintenance training, shall monitor property purchased through the Housing Trust Fund and shall report any discrepancies to the lending institutions during the term of the second mortgage.

Lending institutions shall exhaust all remedies to qualify families for conventional, non-assisted mortgages before recommending low income families for the City's assistance program.

Those families who, after initial analysis, would not qualify for such programs may be referred to the City for processing a second mortgage agreement, provided, the lending institution is willing to enter the first mortgage.

Section 9. Second Mortgage Agreement. First time home buyers shall enter into a second mortgage agreement adopting this policy by reference and setting forth any special arrangements deemed necessary to perfect the first mortgage at the request of a lending institution and setting forth the mortgage lien provisions to be filed with the Register of Deeds, Leavenworth County Courthouse, Leavenworth, Kansas. All rent-to-own applications will be reviewed in the same manner as candidates for the City's second mortgage program. An additional review and/or approval of the transfer of the lease-purchase agreements to first and second home owner mortgages shall not be required by the Community Development Advisory Board and Governing Body. Monthly reports described in Section 3 shall note the time when such transfer occurs.

Typical mortgage lien provisions may include an escrow account for insurance, taxes and home owner maintenance, may include extraordinary inspection or compliance reviews, may require home owner's to make repairs immediately, may require establishing a portion of the down payment for "sweat equity" or other owner considerations with or without additional financial assistance from the housing trust fund.

Second Mortgage agreements will be reviewed at the regular monthly meeting of the Community Development Advisory Board and recommended for approval and filing by the Governing Body at a subsequent regular city commission meeting.

Section 10. Fraud. The Housing Trust Fund is established with funds derived in whole or in part from the United States Department of Housing and Urban Development. Any fraudulent practice is punishable as a federal offense. Any home owner violating the terms of, or conspiring to use the proceeds of the second mortgage to convert sale agreements to cash or other fraudulent acts shall be punished in accordance with appropriate local, state and federal civil or criminal procedures. The benefits of home ownership, over time, may result in capital gain to the home owner. Provided all mortgages, taxes, liens and other considerations are satisfied, such capital gains shall not be construed to be a violation of this policy.

Section 11. Emergency Rehabilitation Grants.

The Housing Trust Fund may be used to provide emergency rehabilitation grants to help families retain their homes.

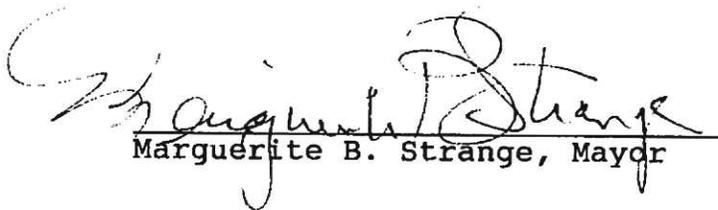
The Director of Community Development shall determine the nature and extent of the emergency and the appropriate remedy. The homeowner shall be responsible for negotiating competitive contracts (two written quotes shall be required) and shall provide any proceeds necessary to complete repair work in excess of the following grant maximums listed for the following defined emergency repairs:

- (1) Furnace and duct work, up to \$3,000.00
- (2) Roof replacement (where fresh ceiling damage is evident), up to \$3,000.00
- (3) Foundation replacement and floor rebracing, up to \$3,000.00
- (4) Bathroom/kitchen sink, stool, tub/shower unit, water/sewer service line failures, up to \$1,500.00
- (5) Exterior porch removal, stoop replacement, up to \$1,000.00
- (6) Electrical hazard removal, new service, panel and circuits, up to \$1,200.00

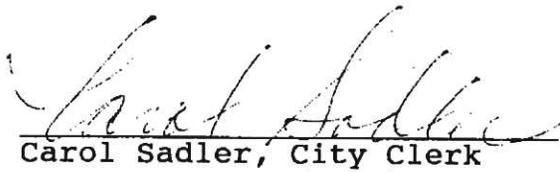
All other applicable second mortgage requirements established in Sections 1 - 11 shall be used to administer this provision of the policy.

Section 12. Effective Date. This resolution shall be effective from and after its lawful passage and adoption.

Passed and approved this 28th day of April, 1992.


Marguerite B. Strange, Mayor

ATTEST:


Carol Sadler, City Clerk

Approved: 4/28/92

Policy Report
Land exchange agreement with USD 453
April 14, 2020

Prepared by:



Paul Kramer
City Manager

Background:

At the Aug. 20, 2019 Study Session, the City Commission reviewed a proposal from the Leavenworth Unified School District 453 (USD 453) related to City property at 10th Avenue Park. The proposal would grant City property at 10th Avenue Park, west of the Warren Middle School football field, to the district for future use as a baseball and softball complex. Discussions at the meeting indicated that if the proposal would be accepted, the City would expect a portion of USD 453 property in return, specifically the City maintained, but USD 453 owned property known as Brewer Park.

The land exchange parameters were then agreed upon, and legal counsel for the City and USD 453 began drafting a land exchange agreement.

Issue:

In the intervening months, Superintendent Mike Roth and I have remained in touch and continued discussions. During the process, the City Commission and the USD 453 School Board have been regularly informed about the status of the proposal. Additionally, I have made continual efforts to provide information to the Leavenworth Soccer Association (LSA). Those efforts have included in-person meetings, and more recently an email exchange with a current board member, which was shared, to the best of my knowledge, with all current board members.

Recently a contract for a land exchange has been finalized, and the survey of the property completed. That agreement is before the Commission for consideration.

Commission Action:

The Commission can approve or move to not accept the contact attached. If the Commission intends to move forward, the approval of the contract will be contingent upon a public protest period as outlined in KSA 12-1301 and adoption by the USD 453 School Board.

Attachments:

- Land exchange agreement

REAL ESTATE EXCHANGE CONTRACT

THIS REAL ESTATE EXCHANGE CONTRACT ("**Contract**") is made as of the last date of signature indicated below (the "**Effective Date**") by and between **Unified School District No. 453, Leavenworth County, State of Kansas** ("**School District**"), and the **City of Leavenworth, Kansas**, a Kansas municipal corporation ("**City**"). School District and City may be referred to herein as a "**Party**" or the "**Parties**".

WITNESSETH:

1. Subject Properties.

(a) School District Property. School District hereby agrees to convey to City, and City hereby agrees to accept from School District, subject to the terms and conditions in this Contract, approximately eight (8) acres of real property commonly known as David Brewer Park in the City of Leavenworth, Kansas, as depicted on Exhibit A attached hereto and made a part hereof, together with all improvements, if any, thereon, all surface rights, and all subsurface and mineral rights thereunder (all hereinafter referred to as the "**School District Property**").

(b) City Property. In consideration for School District's conveyance of the School District Property to City, City agrees to convey to School District, and School District agrees to accept from City, subject to the terms and conditions in this Contract, approximately 11 acres of real property commonly as depicted on Exhibit B attached hereto and made a part hereof, together with all improvements, if any, thereon, all surface rights, and all subsurface and mineral rights thereunder (all hereinafter referred to as the "**City Property**" and, collectively with the School District Property, the "**Properties**", and each separately, a "**Property**", respectively).

2. Closing. Subject to the terms and conditions hereof, the "**Closing Date**" for this transaction shall be sixty (60) days after the Effective Date or such other date mutually agreed upon by the Parties. Possession of each Property shall be delivered to the respective Party at the "**Closing**" on the Closing Date, in the conditions set forth herein. The Title Company (defined below) shall serve as the closing agent and the Parties shall each pay one half of any fees charged by the Title Company for such services.

3. Taxes. School District shall pay all taxes, general and special, and all installments of special assessments (if any) against the School District Property, which are due and have accrued before the Closing Date and City shall assume all of such taxes and assessments, and installments of unpaid special assessments, becoming due and accruing thereafter, except that all general state, county, school and municipal taxes and special assessments and installments of unpaid special assessments (exclusive of rebates, penalties and interest) becoming due and accruing during the calendar year in which closing occurs shall be prorated between School District and City on the basis of said calendar year as of the Closing Date. City shall pay all taxes, general and special, and all installments of special assessments (if any) against the City Property which are due and have accrued before the Closing Date and School District shall assume all of such taxes and assessments, and installments of unpaid special assessments, becoming due and accruing thereafter, except that all general state, county, school and municipal taxes and special assessments and installments of unpaid special assessments (exclusive of rebates, penalties and interest) becoming due and accruing during the calendar year in which closing occurs shall be prorated between City and School District on the basis of said calendar year as of the Closing Date. If the amount of any such tax or assessment to be prorated cannot be then ascertained, proration shall be computed on the basis of the rate(s) for the preceding year applied to the last assessed valuation prior to the Closing Date, without any right to subsequent adjustment once the actual amounts are known.

4. Title Insurance and Boundary Survey/Legal Description.

(a) As of the Closing Date, each Party shall cause to be issued and delivered to the other Party an ALTA owner's policy of title insurance (the "**Title Policy**") conforming to the following specifications:

- (a) The form of the Title Policy will be ALTA Extended Coverage Owner's Policy (2006 unmodified form) or such other owner's form as may be available from the Title Company and reasonably acceptable to the Parties, with any available endorsement that is requested by the Party receiving the Title Policy;
- (b) The Title Policy will be issued by a company agreed to by the Parties (the "**Title Company**");
- (c) The insured will be the respective Party (or its assigns);
- (d) There will be no exceptions to coverage other than the Permitted Exceptions (as defined below);
- (e) The Parties shall use commercially reasonable efforts to satisfy the Title Company as to the proposed values of the Properties for purposes of determining the insurance amount on each Title Policy; and
- (f) Each Party shall be responsible for paying the premium for the Title Policy that it receives.

(b) Within twenty-one (21) days after the Effective Date, at School District's sole cost and expense, School District shall provide to City: (i) a boundary survey of the School District Property prepared by a licensed surveyor, which upon review and agreement of the Parties, shall be used as the legal description for the School District Property for purposes of this Contract. Notwithstanding the foregoing, to the extent the larger parcel of which the School District Property is a part must be subdivided, split, or platted in order to legally transfer and convey fee ownership of the School District Property to City, then School District shall be responsible, at School District's sole cost and expense, for causing any and all action to cause such subdivision, split, or plat to be prepared and approved prior to the Closing. The parties agree that no such subdivision, split, or plat shall be recorded until Closing. If a subdivision, split, or plat is necessary, the Closing Date shall be extended as reasonably necessary to accommodate the completion of the same; provided that no such extension shall exceed ninety (90) days.

(c) Within twenty-one (21) days after the Effective Date, at City's sole cost and expense, City shall provide to School District: (i) a boundary survey of the City Property prepared by a licensed surveyor, which upon review and agreement of the Parties, shall be used as the legal description for the City Property for purposes of this Contract. Notwithstanding the foregoing, to the extent the larger parcel of which the City Property is a part must be subdivided, split, or platted in order to legally transfer and convey fee ownership of the City Property to School District, then City shall be responsible, at City's sole cost and expense, for causing any and all action to cause such subdivision, split, or plat to be prepared and approved prior to the Closing. The parties agree that no such subdivision, split, or plat shall be recorded until Closing. If a subdivision, split, or plat is necessary, the Closing Date shall be extended as reasonably necessary to accommodate the completion of the same; provided that no such extension shall exceed ninety (90) days.

(d) Each Party shall deliver to the other, within fifteen (15) days after the Effective Date, a commitment from the Title Company setting forth the basis upon which the Title Company is willing to insure title to the respective Property, together with legible copies of all documents identified therein as exceptions to title (excluding mortgages, deeds of trust and similar matters to be released at closing) (collectively, the "**Title Commitment**").

(e) If the respective Title Commitment or survey discloses any defects, liens or encumbrances objectionable by the acquiring Party, said Party shall advise the selling Party of the same in writing within ten (10) days after receipt of the Title Commitment and the applicable survey. Matters listed in the Title Commitment and survey and not objected to by either Party within such period and matters later accepted shall constitute "**Permitted Exceptions**". As to any matters to which any Party so objects in a timely manner, the selling Party shall notify same in writing, within five (5) days after receipt of said Party's objection letter, as to which specific matters the selling Party is unable or unwilling to remedy and which specific matters reasonable efforts will be exercised to attempt to remedy. If or to the extent the other Party fails to respond in writing within such five (5) day period, the other Party shall be deemed to have declined to remedy such objections. As to those matters to be remedied, the same shall be confirmed on or before the Closing Date. If either Party is unable or unwilling to remedy all matters objected to by the other Party and to deliver the Title Policy in accordance with the foregoing requirements, the objecting Party shall have the option of either (i) consummating the transaction contemplated hereby and accepting such title as the selling Party is so able or willing to convey, and without any claim or adjustment at Closing, or (ii) terminating this Contract by giving written notice to the other Party within three (3) days after written notice is given (or deemed given) in which instance the obligations of all Parties herein shall be null and void, other than any obligations which this Contract identifies as surviving termination. If either Party fails to give the termination notice under clause (ii) above within such 3-day period, said Party shall be deemed to have elected clause (i) above. Notwithstanding the foregoing, and anything in this Contract to the contrary, School District shall cause to be removed from the School District Property Title Policy (or insure over) any financial lien or other financial encumbrance, and City shall cause to be removed from the City Property Title Policy (or insure over) any financial lien or other financial encumbrance.

(f) Notwithstanding the foregoing, the City Property shall be conveyed to School District subject to a deed restriction (or other appropriate restrictive covenant) that the City Property be used by the School District solely for recreational purposes, which will be one of the Permitted Exceptions.

5. Right of Entry and Acceptable Condition.

(a) Each Party hereby grants to the other, and its contractors and agents, a non-exclusive right and license to enter the respective Property from time to time prior to Closing for purposes of conducting non-invasive review and planning activities, including, without limitation, site reviewing, engineering, surveying, environmental audits, inspections, photographing, and utility locating. To the extent permitted under Kansas law, including but not limited to K.S.A. 72-1146, as amended, each Party shall indemnify and hold the other harmless from and against any and all (i) damage caused to the respective Property or any other property by said Party or its agents or contractors, (ii) loss, damage or injury to any person or property to the extent resulting directly or indirectly from any hazard or other condition created by said Party or its agents or contractors, (iii) injury to said Party or any of its agents or contractors arising out of the exercise of said Party's rights under this Contract, and (iv) expenses incurred by or for said Party, in connection with such planning or other activities. Such indemnification provision shall survive any termination of this Contract.

(b) Each Party shall give the other reasonable advance written notice of its on-site investigation of the respective Property, describing the nature of the review work to be undertaken and the estimated duration of the review. Each Party shall have the right to designate a representative for purposes

of observing the other's on-site due diligence investigation. Each Party shall use its good faith efforts to not unreasonably disturb or disrupt the respective Property and in the event the respective Property is disturbed or altered as a result of such access or work, the responsible Party shall restore the respective Property as close as reasonably possible to its condition prior to such access. Any work performed by the investigating Party, or any of its consultants, agents, contractors or subcontractors, shall be performed by parties with general liability insurance coverage of at least \$1,000,000.00 and in compliance with all applicable laws, regulations and ordinances and in a good, safe and workmanlike manner.

(c) Subject to subsection (d) below, if, within forty-five (45) days after the Effective Date, either Party determines that the Property intended to be acquired by such Party is not reasonably suitable to such Party for its purposes, in such Party's sole discretion, then such Party shall have the right to terminate this Contract by giving written notice to the other Party on or before the expiration of such 45-day period. If a Party chooses to terminate this Contract, the parties hereto shall have no further obligation to the other hereunder except for those matters which specifically survive the expiration or termination of this Contract.

(d) Notwithstanding the foregoing, the Parties acknowledge and agree that the Closing is contingent and dependent upon City's compliance with the provisions of K.S.A. 12-1301, as amended. From and after the Effective Date, City shall give such notices as required by law or other applicable rule, regulation, policy, instruction, or other authority. If a valid protest is timely filed as provided in K.S.A. 12-1301, then the City may, at its option and at any time prior to Closing terminate this Contract.

(e) For the avoidance of doubt, the Parties expressly acknowledge and agree that the Closing is contingent on each Party simultaneously conveying to the other Party its respective Property, and if a party elects not to acquire the respective Property pursuant to a right provided in this Contract and timely exercised, or the City is unable to convey the City Property to the School District pursuant to K.S.A. 12-1301, the Contract shall be terminated as to both Properties and neither Party shall be obligated to convey its Property to the other Party.

(f) The provisions of this Section shall survive any termination of this Contract.

6. Deeds and Closing Documents.

(a) School District shall deliver to City on the Closing Date at the office of the Title Company a special warranty deed, in a form reasonably acceptable to City and the Title Company, properly executed and conveying marketable fee simple title to the School District Property, subject only to the Permitted Exceptions. The School District shall further deliver to the Title Company such standard affidavits and forms as may be required by the Title Company to issue the Title Policy with respect to the School District Property.

(b) City shall deliver to School District on the Closing Date at the office of the Title Company a special warranty deed, in a form reasonably acceptable to School District and the Title Company, properly executed and conveying marketable fee simple title to the City Property, subject only to the Permitted Exceptions. The City shall further deliver to the Title Company such standard affidavits and forms as may be required by the Title Company to issue the Title Policy with respect to the City Property.

7. Condemnation or Casualty Loss; Repairs.

(a) Each Party represents that it has no actual knowledge of any pending or threatened condemnation, eminent domain or equivalent proceeding or action which would affect the respective

Property. If, after the Effective Date and before Closing, any such proceeding or action is commenced or threatened against the respective Property or the owner(s) thereof or the respective Property suffers a casualty loss, the Party owning such Property shall provide the other Party with written notice thereof promptly after receiving knowledge thereof and the other Party shall have the option of (i) enforcing this Contract and receiving, upon Closing, in cash, all proceeds of such action or proceedings (or sale in lieu thereof) or all insurance proceeds and an amount equal to the deductible thereunder, or (ii) terminating this Contract by written notice to the other Party within five (5) days after receiving such written notice.

(b) Pending closing, the Parties shall keep their respective Properties in the substantially same condition as the condition at the time of the Effective Date.

8. Representations. Each Party represents and warrants to the other that:

(a) this Contract has been duly executed and delivered by such Party, and constitutes the valid and binding obligation of such Party, enforceable against it in accordance with the terms hereof;

(b) the execution, delivery and performance of this Contract does not violate or breach the terms of any agreement to which it is a Party or by which it or its Property may be bound;

(c) no real estate commission or finder's fee is payable with respect to the transaction contemplated herein as a result of any agreement or arrangement between the Party making this representation and any third party;

(d) there are no recorded or unrecorded leases, contracts and/or options for purposes of farming, grazing or otherwise pertaining to or affecting the Party's respective Property or any part thereof and there is no party in possession or with a claim of possession of the respective Property or any part thereof, except for that certain lease between the School District and City as to the School District Property, which lease is expected to expire January 2020;

(e) to each Party's actual knowledge, the Party has not received any notice from any governmental agency or authority alleging that the respective Property or any improvements thereon fails to comply with any applicable federal, state or local laws, regulations or orders pertaining to health, safety, sanitation or environmental protection; and

(f) each Party has paid or at or prior to Closing shall pay all engineering, architectural, land planning and any other fees and expenses relating to each Party's respective Property.

So long as this Contract remains in effect, neither Party shall do any of the following, without the written consent of the other:

- (i) Sell, grant, convey or dispose of, or negotiate or contract to sell, grant, convey or dispose of a Party's respective Property or any part thereof;
- (ii) Grant any easement, license or right-of-way in, to or through a Party's respective Property or any part thereof, or any leases with respect to the same; or
- (iii) Create, nor allow to be created, any use restriction or covenant of any kind, character or nature whatsoever with respect to a Party's respective Property.

9. Breach at or prior to Closing.

(a) If City should fail to consummate the transaction contemplated in this Contract for any reason other than a default or misrepresentation by School District under this Contract or the exercise by City of a right to terminate this Contract as provided herein, then School District shall have the right to terminate this Contract by written notice to City and neither party shall have any further obligations to the other, or bring an action for specific performance.

(b) If School District should fail to consummate the transaction contemplated in Section 1 of this Contract for any reason other than a default or misrepresentation by City under this Contract or the exercise by School District of a right to terminate this Contract as provided herein, then City shall have the right to terminate this Contract by written notice to School District and neither party shall have any further obligations to the other, or bring an action for specific performance.

10. Survival. Except as otherwise herein expressly provided, all the promises, representations, warranties and undertakings expressed in this Contract shall be deemed made on and as of the Closing Date, as well as on the date hereof, and shall survive consummation of this Contract and delivery of the deeds to the respective Property shall survive Closing and give either Party a cause of action against the other only to the extent that within six (6) months after Closing the Party making a claim notifies the other in writing specifying the factual basis of that claim in reasonable detail as then known by the Party making such claim and files an action within three (3) months of delivering such notice.

11. AS IS. Except for the express representations and agreements of the Parties under this Contract, each Property is being sold to the respective Party in its "AS IS" physical condition. EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY ACKNOWLEDGES THAT NEITHER PARTY NOR ITS REPRESENTATIVES HAVE MADE, ANY AGREEMENT, COVENANT, REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Each Party hereby further acknowledges that it has made or will make its decision to purchase the respective Property solely in reliance upon the representations and warranties expressly made in this Contract, if any, and upon its own inspection and review of the respective Property.

12. Notices. All notices required or permitted hereunder shall be in writing and shall be deemed made when delivered in person or by delivery service or email transmission or when mailed by certified mail, postage prepaid, return receipt requested, addressed as follows:

If to City:

City of Leavenworth, Kansas
100 N. 5th Street
Leavenworth, Kansas 66048
Attn: City Manager
Email: pkramer@firstcity.org

If to School District:

Leavenworth School District
200 N. 4th Street
Leavenworth, Kansas 66048
Attn: Mike Roth

13. Miscellaneous. This Contract (i) supersedes any letter of intent or prior agreement between City and School District and constitutes the entire agreement between City and School District relating to the subject matter hereof and there are no other terms, conditions, promises, understandings, statements or representations, express or implied, concerning the sale contemplated hereunder, (ii) shall be governed by the laws of Kansas, (iii) shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and (iv) shall not be modified or amended other than by a written instrument executed by both parties hereto.

14. Partial Invalidity. If any provisions of this Contract or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract shall not be affected thereby and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

15. Brokers. School District represents to City, and City represents to School District, that there is no broker, finder, or intermediary of any kind with whom such Party has dealt in connection with this transaction. If any claim is made for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Contract or the transactions contemplated hereby, each Party shall defend, indemnify and hold harmless the other Party from and against any such claim based upon any statement, representation or agreement of such Party, which obligation shall survive Closing.

16. Time of Essence. Time is of the essence with respect to this Contract.

17. Legal Holidays and Business Days. If any date herein set forth for the performance of any obligations by School District or City or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices in Leavenworth, Kansas are generally closed for observance thereof. As used herein, the term "business day" shall mean a day which is not a Saturday, Sunday or legal holiday.

18. Construction of Contract. This Contract shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties. Both School District and City have contributed or had the opportunity to contribute substantially and materially to the preparation of this Contract.

19. Execution in Counterparts; Non-Paper Records. This Contract may be signed or otherwise authenticated in any number of counterparts and by different Parties to this Contract on separate counterparts, each of which, when so authenticated, shall be deemed an original, but all such counterparts shall constitute one and the same Contract. Any signature or other authentication delivered by electronic transmission shall be deemed to be an original signature hereto. Each party who signs or otherwise authenticates this Contract hereby: (1) agrees that the other party may create a duplicate of this Contract by storing an image of it in an electronic or other medium (a "**Non-Paper Record**"); (2) agrees that, after creating the Non-Paper Record, such party may discard or destroy the original in reliance on this Section; (3) agrees that the Non-Paper Record shall be treated as the original for all purposes; and (4) expresses its present intent to adopt and accept the Non-Paper Record as an authenticated record of this Contract. This Contract, when signed or authenticated pursuant to this Section, shall be evidence of the existence of this Contract and may be received in all courts and public spaces as conclusive evidence of the existence of this Contract and that this Contract was duly executed by the parties to this Contract.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed.

SCHOOL DISTRICT:

**UNIFIED SCHOOL DISTRICT NO. 453,
LEAVENWORTH COUNTY, STATE OF
KANSAS**

Dated: _____, 2020

By: _____
Printed Name: _____
President, Board of Education

ATTEST:

By: _____
Printed Name: _____
Clerk, Board of Education

CITY:

CITY OF LEAVENWORTH, KANSAS

Dated: _____, 2020

By: _____
Myron J. "Mike" Griswold, Mayor

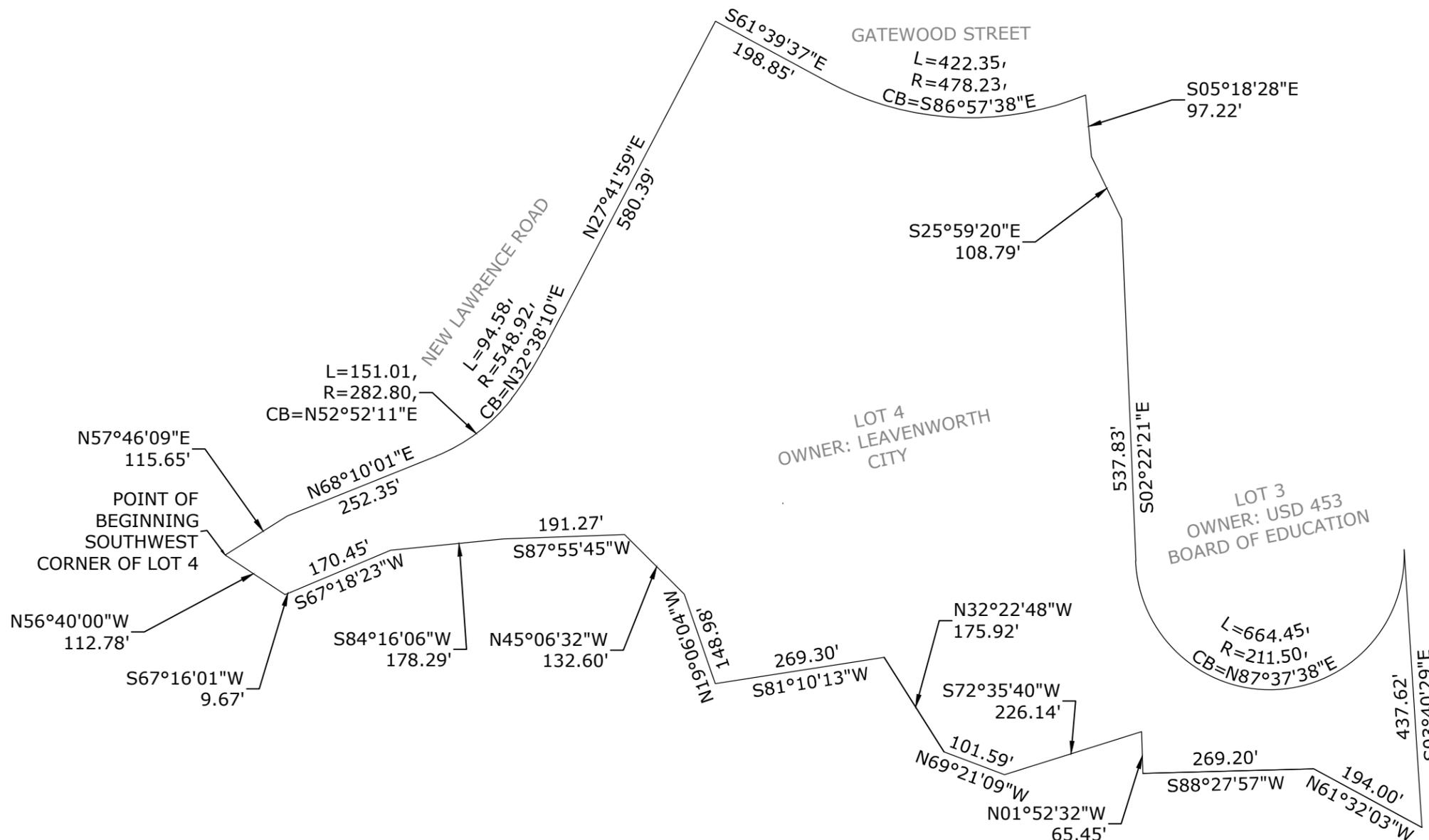
ATTEST:

By: _____
Carla K. Williamson, CMC
City Clerk

EXHIBIT A

DEPICTION OF SCHOOL DISTRICT PROPERTY

EXHIBIT A



NOT TO SCALE

This is to certify on this 8th day of April, 2020, this field survey was completed on the ground by me or under my direct supervision.

A TRACT OF LAND IN LOT 4, FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE N57°46'09"E, ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 115.65 FEET; THENCE N68°10'01"E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 252.35 FEET; THENCE NORTHEASTERLY, CONTINUING ALONG SAID WEST LINE, ON A CURVE TO THE LEFT HAVING A RADIUS OF 282.80 FEET, A CHORD BEARING OF N52°52'11"E, AND AN ARC LENGTH OF 151.01 FEET; THENCE NORTHEASTERLY, CONTINUING ALONG SAID WEST LINE, ON A CURVE TO THE LEFT HAVING A RADIUS OF 548.92 FEET, A CHORD BEARING OF N32°38'10"E, AND AN ARC LENGTH OF 94.58 FEET; THENCE N27°41'59"E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 580.39 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE S61°39'37"E, ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 198.85 FEET; THENCE SOUTHEASTERLY, CONTINUING ALONG SAID NORTH LINE, ON A CURVE TO THE LEFT HAVING A RADIUS OF 478.23 FEET, A CHORD BEARING OF S86°57'38"E, AND AN ARC LENGTH OF 422.35 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE S05°18'28"E, ALONG THE EAST LINE OF SAID LOT 4, A DISTANCE OF 97.22 FEET; THENCE S25°59'20"E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 108.79 FEET; THENCE S02°22'21"E, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 537.83 FEET; THENCE NORTHEASTERLY, CONTINUING ALONG SAID EAST LINE, ON A CURVE TO THE LEFT HAVING A RADIUS OF 211.50 FEET, A CHORD BEARING OF N87°37'38"E, AND AN ARC LENGTH OF 664.45 FEET; THENCE S03°40'29"E, A DISTANCE OF 437.62 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 4; THENCE N61°32'03"W, ALONG THE SOUTH LINE OF SAID LOT 4, A DISTANCE OF 194.00 FEET; THENCE S88°27'57"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 269.20 FEET; THENCE N01°52'32"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 65.45 FEET; THENCE S72°35'40"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 226.14 FEET; THENCE N69°21'09"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 101.59 FEET; THENCE N32°22'48"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 175.92 FEET; THENCE S81°10'13"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 269.30 FEET; THENCE N19°06'04"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 148.98 FEET; THENCE N45°06'32"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 132.60 FEET; THENCE S87°55'45"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 191.27 FEET; THENCE S84°16'06"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 178.29 FEET; THENCE S67°18'23"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 170.45 FEET; THENCE S67°16'01"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 9.67 FEET; THENCE N56°40'00"W, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 112.78 FEET TO THE POINT OF BEGINNING.

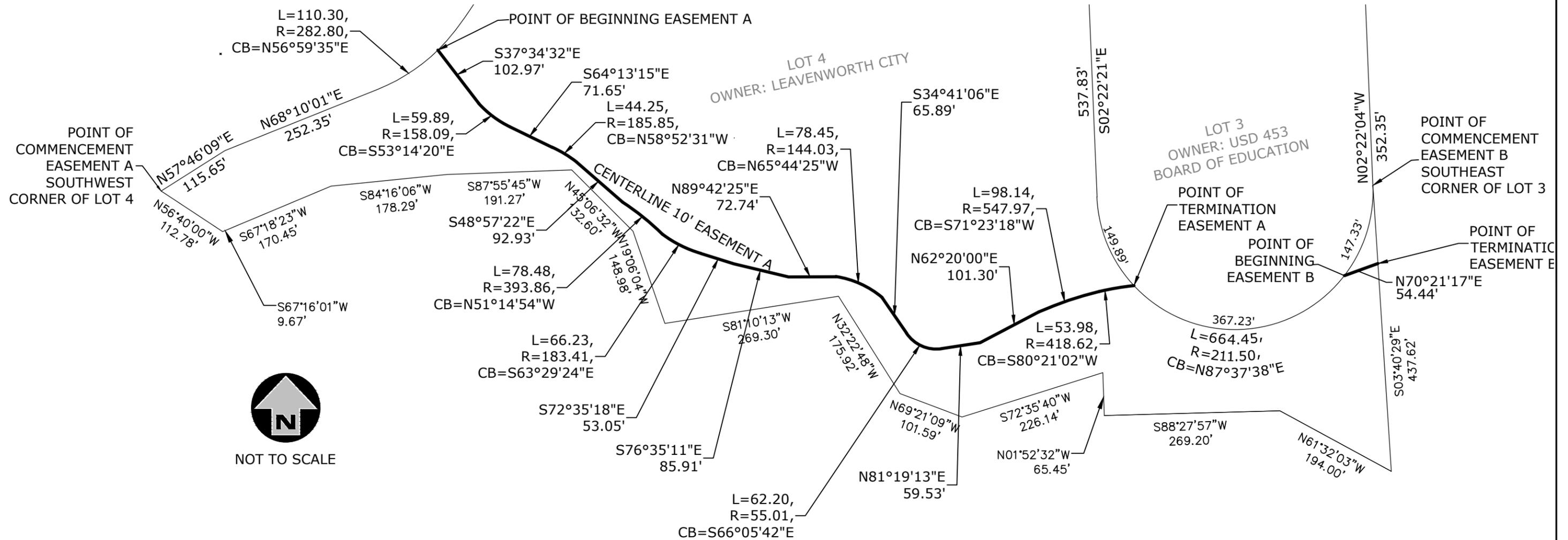
CONTAINS 944,044.43 SQUARE FEET MORE OR LESS OR 21.67 ACRES

4/10/2020

SIGNED:
ROGER B. DILL L.S. 1408

EXHIBIT A
LEAVENWORTH CITY PART OF LOT 4, SOUTHWEST LEAVENWORTH PARK SUBDIVISION
ATLAS SURVEYORS, LLC. Taking care of your needs
207 South 5th Street Leavenworth, Kansas 66048 913.682.8600 913.682.8606 (F)

EXHIBIT A INGRESS/EGRESS EASEMENT



EASEMENT A

A 10 FEET WIDE TRACT OF LAND IN LOT 4, FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, WHOSE CENTERLINE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST RIGHT OF WAY LINE OF NEW LAWRENCE ROAD, ALSO KNOWN TO BE THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH 57°46'09" EAST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 115.65 FEET; THENCE NORTH 68°10'01" EAST, CONTINUING ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 252.35 FEET; THENCE NORTHEASTERLY, CONTINUING ALONG SAID WEST RIGHT OF WAY LINE, ON A CURVE TO THE LEFT WITH A RADIUS OF 282.80 FEET, A CHORD BEARING OF NORTH 56°59'35" EAST AND HAVING AN ARC LENGTH OF 110.30 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE SOUTH 37°34'32" EAST, A DISTANCE OF 102.97 FEET; THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 158.09 FEET, A CHORD BEARING OF SOUTH 53°14'20" EAST, HAVING AN ARC LENGTH OF 59.89 FEET; THENCE SOUTH 64°13'15" EAST, A DISTANCE OF 71.65 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 185.85 FEET, A CHORD BEARING OF SOUTH 58°52'31" EAST, HAVING AN ARC LENGTH OF 44.25 FEET; THENCE SOUTH 48°57'22" EAST, A DISTANCE OF 92.93 FEET; THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 393.86 FEET, HAVING A CHORD BEARING OF SOUTH 51°14'54" EAST, AND AN ARC LENGTH OF 78.48 FEET; THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 183.41 FEET, A CHORD BEARING OF SOUTH 63°29'24" EAST, AND AN ARC LENGTH OF 66.23 FEET; THENCE SOUTH 72°35'18" EAST, A DISTANCE OF 53.05 FEET; THENCE SOUTH 76°35'11" EAST, A DISTANCE OF 85.91 FEET; THENCE NORTH 89°42'25" EAST, A DISTANCE OF 72.74 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 144.03 FEET, A CHORD BEARING OF SOUTH 65°44'25" EAST, AND AN ARC LENGTH OF 78.45 FEET; THENCE SOUTH 34°41'06" EAST, A DISTANCE OF 65.89 FEET; THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 55.01 FEET, A CHORD BEARING OF SOUTH 66°05'42" EAST, AND AN ARC LENGTH OF 62.20 FEET; THENCE NORTH 81°19'13" EAST, A DISTANCE OF 59.53 FEET; THENCE NORTH 62°20'00" EAST, A DISTANCE OF 101.30 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 547.97 FEET, A CHORD BEARING OF NORTH 71°23'18" EAST, AND AN ARC LENGTH OF 98.14 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 418.62 FEET, A CHORD BEARING OF NORTH 80°21'02" EAST, AND AN ARC LENGTH OF 53.98 FEET TO A POINT ON THE WEST LINE OF LOT 3, OF SAID FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION, ALSO KNOWN TO BE THE POINT OF TERMINATION OF THE HEREIN DESCRIBED TRACT.
CONTAINS: 12,475.80 SQUARE FEET MORE OR LESS

EASEMENT B

A 10 FEET WIDE TRACT OF LAND IN LOT 4, FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, WHOSE CENTERLINE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH EAST CORNER OF LOT 3 OF SAID FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION; THENCE ALONG THE EAST LINE OF SAID LOT 3 ON A CURVE TO THE LEFT WITH A RADIUS OF 211.50 FEET AND AN ARC LENGTH OF 147.33 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE NORTH 70°21'17" EAST, A DISTANCE OF 54.44 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3.
CONTAINS: 544.40 SQUARE FEET MORE OR LESS

This is to certify on this 8th day of April, 2020, this field survey was completed on the ground by me or under my direct supervision.

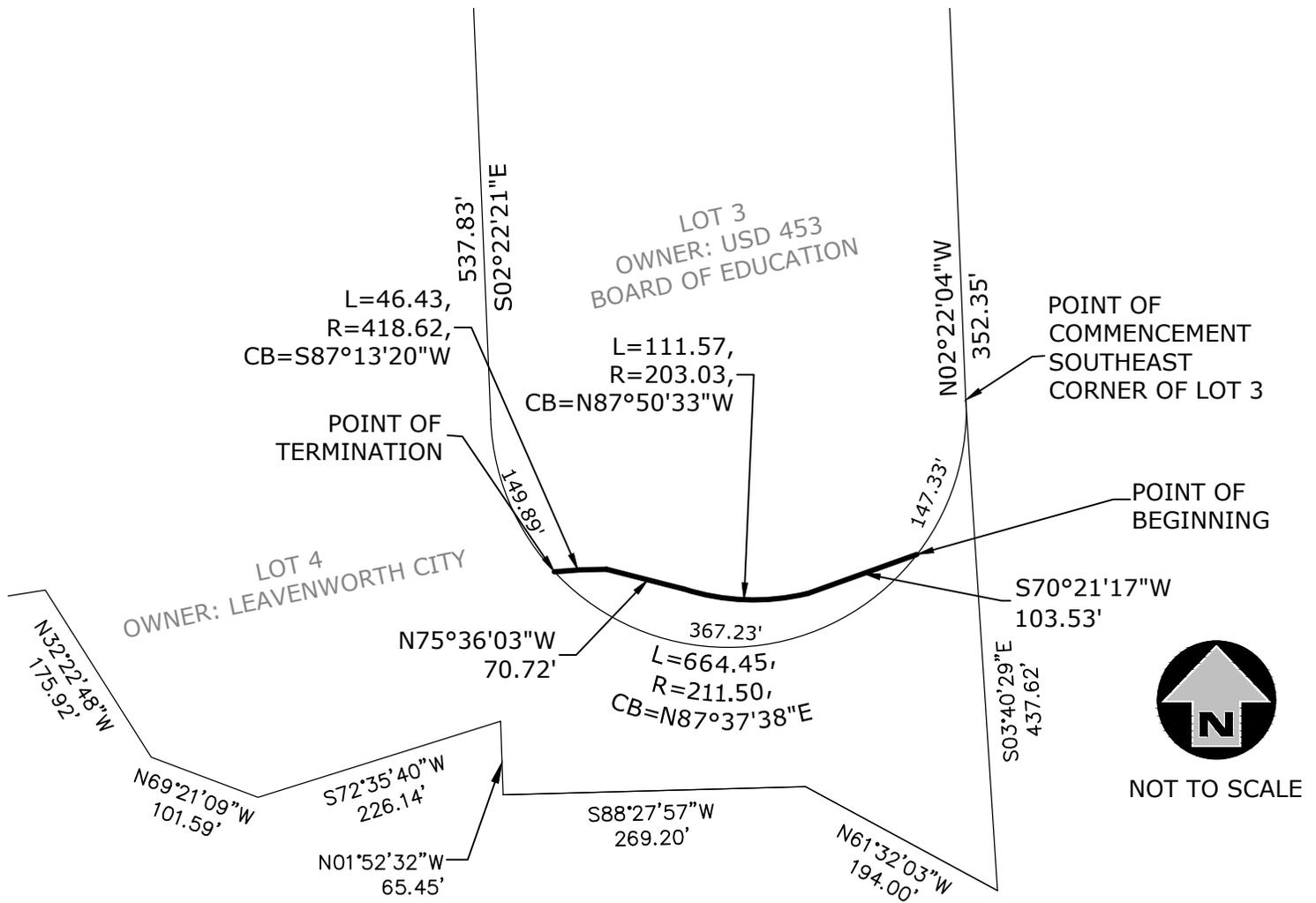
4/10/2020

SIGNED:
ROGER B. DILL L.S. 1408

EXHIBIT A
LEAVENWORTH CITY LOT 4, SOUTHWEST LEAVENWORTH PARK SUBDIVISION
ATLAS SURVEYORS, LLC. Taking care of your needs
<small>207 South 5th Street Leavenworth, Kansas 66048 913.682.8600 913.682.8606 (F)</small>

EXHIBIT B
DEPICTION OF CITY PROPERTY

EXHIBIT B INGRESS/EGRESS EASEMENT



NOT TO SCALE

A 10 FEET WIDE TRACT OF LAND IN LOT 3, FINAL PLAT OF SOUTHWEST LEAVENWORTH PARK SUBDIVISION, A SUBDIVISION OF LAND IN THE CITY OF LEAVENWORTH, LEAVENWORTH COUNTY, KANSAS, WHOSE CENTERLINE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE ALONG THE EAST LINE OF SAID LOT 3 ON A CURVE TO THE LEFT WITH A RADIUS OF 211.50 FEET AND AN ARC LENGTH OF 147.33 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE SOUTH 70°21'17" WEST, A DISTANCE OF 103.53 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 103.53 FEET, A CHORD BEARING OF NORTH 87°50'33" WEST, AND AN ARC LENGTH OF 111.57 FEET; THENCE NORTH 75°36'03" WEST, A DISTANCE OF 70.72 FEET; THENCE ON A CURVE TO THE LEFT, WITH A RADIUS OF 418.62 FEET, A CHORD BEARING OF SOUTH 87°13'20" WEST, AND AN ARC LENGTH OF 46.43 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3 ALSO KNOWN TO BE THE POINT OF TERMINATION.
CONTAINS: 3,322.50 SQUARE FEET MORE OR LESS

This is to certify on this 8th day of April, 2020, this field survey was completed on the ground by me or under my direct supervision.

4/10/2020

SIGNED:
ROGER B. DILL L.S. 1408

EXHIBIT B
USD 453 BOARD OF EDUCATION LOT 3, SOUTHWEST LEAVENWORTH PARK SUBDIVISION
ATLAS SURVEYORS , LLC. Taking care of your needs
<small>207 South 5th Street Leavenworth, Kansas 66048 913.682.8600 913.682.8606 (F)</small>

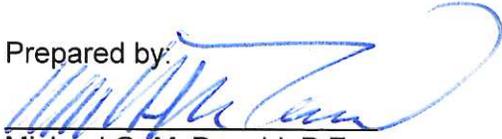
POLICY REPORT PWD NO. 20-18

CONSIDER APPROVAL OF LOW BID FOR
THE INDEPENDENCE COURT BANK STABILIZATION PROJECT

City Project 2018-896

April 14, 2020

Prepared by:



Michael G. McDonald, P.E.,
Director of Public Works

Reviewed by:



Paul Kramer,
City Manager

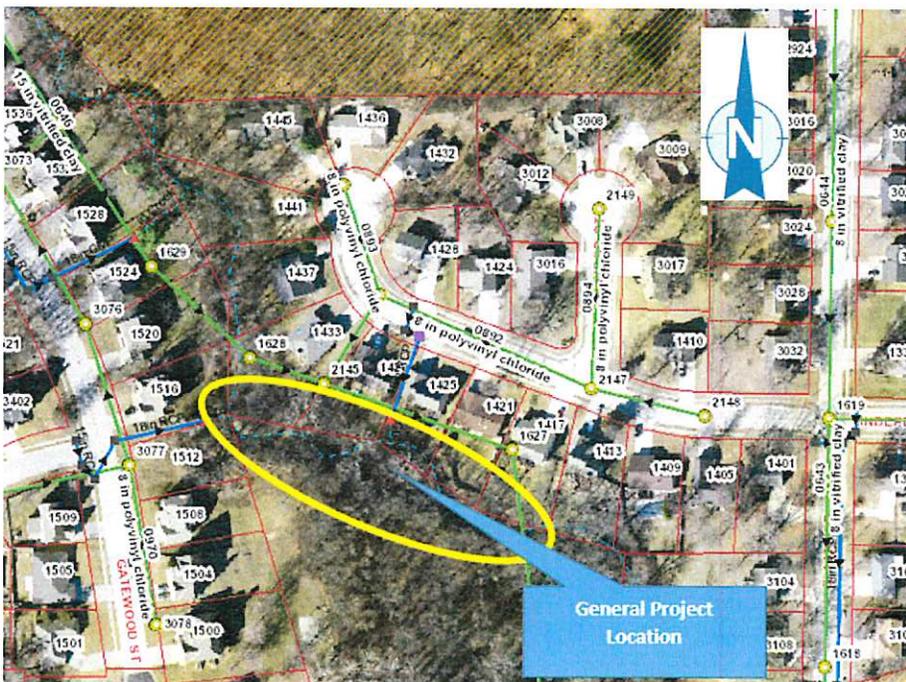
ISSUE:

Consider the bids received for the Independence Court Bank Stabilization Project.

BACKGROUND:

Staff was contacted by the owner of the property at 1421 Independence Court in August of 2018. There was concern over the continued erosion of property along the creek and movement of the branch of Five-Mile Creek toward the adjoining properties. A review by City staff determined that the top of the creek bank has moved 20 - 30 feet in the last 20+ years toward the houses on Independence Court. This location (1421-1425 Independence Court) has a sanitary sewer "at risk" from the continued erosion. Continued erosion and creek-bank stability issues provide an increasing risk of a significant sanitary sewer break that would require action to repair.

The City Commission approved a design contract with Water Resource Solutions (WRS) to design a stabilization project for the "Reach 6, Option 1" area identified in the stream study completed by WRS. Construction drawings were completed, required permits obtained and easements acquired by late 2019.



The project was advertised in the Leavenworth Times, sent to area plan rooms and Drexel Technologies. Bids were opened on April 1, 2020.

The results of the bid opening are shown below in the bid tabulation.

Company	City	Base Bid
Kissick Construction	Kansas City, MO	\$362,000.00
Mega KC	N. Kansas City, MO	\$438,158.00
Linaweaver Construction	Lansing, KS	\$465,088.00
LEXECO	Leavenworth, KS	\$640,305.70
Engineer's Base Bid Estimate		\$548,866.00

Kissick Construction of Kansas City, MO was the low bidder and met all bidding requirements. Kissick is the contractor working on the Thornton Street project.

Work is expected to begin between mid-July to mid-August of this year and be completed in One Hundred Fifty (150) calendar days.

Funding for this project is through the Stormwater Utility Fee. Inspection work will be by a combination of City staff and limited contract inspection services with WRS.

RECOMMENDATION:

Staff recommends that the City Commission approve the low bid submitted by Kissick Construction for the Independence Court Bank Stabilization Project, in the amount of \$362,000.

POLICY:

The City Commission generally awards bids to the lowest bidder that are properly submitted and within the Engineer's Estimate.

ATTACHMENTS:

Bid Tabs



CITY OF LEAVENWORTH
Project No. 2018-896
Independence Court Bank Stabilization Bid Tab Review
April 1, 2020

BASE BID			Engineer's Estimate		Kissick Construction		Mega KC		Linaweaver Construction		Lexeco, Inc.		
Item	Description	Unit	Quantity	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Mobilization	LS	1	\$40,000.00	\$43,500.00	\$15,631.00	\$15,631.00	\$25,000.00	\$25,000.00	\$42,000.00	\$42,000.00	\$64,000.00	\$64,000.00
2	Contractor Construction Staking	LS	1	\$5,000.00	\$5,000.00	\$6,100.00	\$6,100.00	\$3,900.00	\$3,900.00	\$5,000.00	\$5,000.00	\$4,350.00	\$4,350.00
3	Clearing, Grubbing & Site Preparation	LS	1	\$75,000.00	\$75,000.00	\$21,800.00	\$21,800.00	\$69,945.00	\$69,945.00	\$36,000.00	\$36,000.00	\$31,500.00	\$31,500.00
4	Erosion & Sediment Control	LS	1	\$15,000.00	\$15,000.00	\$24,100.00	\$24,100.00	\$24,000.00	\$24,000.00	\$12,000.00	\$12,000.00	\$29,100.00	\$29,100.00
5	Traffic Control	LS	1	\$5,000.00	\$5,000.00	\$3,375.00	\$3,375.00	\$1,200.00	\$1,200.00	\$3,000.00	\$3,000.00	\$2,150.00	\$2,150.00
6	Excavating, Filling & Grading - Excavation	CY	2,415	\$12.00	\$28,980.00	\$13.00	\$31,395.00	\$42.00	\$101,430.00	\$35.00	\$84,525.00	\$56.00	\$135,240.00
7	Excavating, Filling & Grading - Fill	CY	700	\$15.00	\$10,500.00	\$23.00	\$16,100.00	\$35.00	\$24,500.00	\$45.00	\$31,500.00	\$131.50	\$92,050.00
8	Removal & Resetting Fence	LF	175	\$85.00	\$14,875.00	\$55.00	\$9,625.00	\$38.00	\$6,650.00	\$25.00	\$4,375.00	\$52.00	\$9,100.00
9	Site Restoration - Lawn Sodding	SY	1,259	\$3.00	\$3,777.00	\$10.00	\$12,590.00	\$5.00	\$6,295.00	\$10.00	\$12,590.00	\$15.30	\$19,262.70
10	Site Restoration - Streambank Planting	SY	3,138	\$8.00	\$25,104.00	\$13.00	\$40,794.00	\$9.00	\$28,242.00	\$11.00	\$34,518.00	\$15.00	\$47,070.00
11	Rock Grade Control (D50=30" Rock)	CY	531	\$210.00	\$111,510.00	\$113.00	\$60,003.00	\$98.00	\$52,038.00	\$100.00	\$53,100.00	\$107.00	\$56,817.00
12	LPSTP (D50=18" Rock)	CY	639	\$230.00	\$146,970.00	\$115.00	\$73,485.00	\$87.00	\$55,593.00	\$100.00	\$63,900.00	\$114.00	\$72,846.00
13	Rip Rap Splash Pad (D50=30" Rock)	CY	12	\$300.00	\$3,600.00	\$116.00	\$1,392.00	\$95.00	\$1,140.00	\$100.00	\$1,200.00	\$192.50	\$2,310.00
14	Rip Rap Channel (D50=18" Rock)	CY	23	\$250.00	\$5,750.00	\$130.00	\$2,990.00	\$83.00	\$1,909.00	\$100.00	\$2,300.00	\$140.00	\$3,220.00
15	18" RCP	LF	16	\$225.00	\$3,600.00	\$135.00	\$2,160.00	\$111.00	\$1,776.00	\$140.00	\$2,240.00	\$125.00	\$2,000.00
16	18" RC Flared End Section	EA	1	\$1,500.00	\$1,500.00	\$2,100.00	\$2,100.00	\$1,300.00	\$1,300.00	\$800.00	\$800.00	\$1,250.00	\$1,250.00
17	24" RCP	LF	24	\$250.00	\$6,000.00	\$150.00	\$3,600.00	\$125.00	\$3,000.00	\$165.00	\$3,960.00	\$170.00	\$4,080.00
18	Energy Dissapating Baffle Rings	EA	4	\$600.00	\$2,400.00	\$1,900.00	\$7,600.00	\$980.00	\$3,920.00	\$1,200.00	\$4,800.00	\$1,150.00	\$4,600.00
19	Modular Block Headwall & Wing Walls(SF Front Face)	SF	108	\$100.00	\$10,800.00	\$145.00	\$15,660.00	\$165.00	\$17,820.00	\$180.00	\$17,280.00	\$420.00	\$45,360.00
20	Rip Rap Encasement Protection (D50=30" Rock)	CY	100	\$300.00	\$30,000.00	\$115.00	\$11,500.00	\$85.00	\$8,500.00	\$500.00	\$50,000.00	\$140.00	\$14,000.00
					\$0.00		\$0.00		\$0.00		\$0.00		\$0.00
	TOTAL - BASE BID				\$546,866.00		\$362,000.00		\$438,158.00		\$465,088.00		\$640,305.70

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE TO
AMENDING CHAPTER 20, FIRE PREVENTION AND PROTECTIONS, ARTICLE II, FIRE CODE
FOR THE CITY OF LEAVENWORTH**

APRIL 14, 2020



Carla K. Williamson, CMC

City Clerk



Paul Kramer

City Manager

ISSUE:

Place on first consideration an ordinance amending Chapter 20, Article II of the City of Leavenworth Code of Ordinances.

BACKGROUND:

On December 3, 2019 Fire Chief Gary Birch and Fire Marshal Andy Brooks presented to the City Commission the adoption of the 2018 International Fire Code. The City is currently using the 2006 International Fire Code.

The recommendation by Chief Birch and Fire Marshal Brooks is to adopt the 2018 International Fire Code with the exclusion of Chapter 11 titled "Construction Requirements for Existing Buildings" except for sections 1103.8 "Single and multiple-station smoke alarms" and sections 1103.9 "Carbon monoxide alarms".

Chief Birch addressed the Commission at additional meetings about burning in the city, explaining that the details are addressed administratively and not affected by the change to the ordinance.

ACTION:

Consensus to place the ordinance on first consideration.

ATTACHMENTS:

- Draft Ordinance

(Summary Publish in the Leavenworth Times on _____, 2020)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS, CHAPTER 20, FIRE PREVENTION AND PROTECTION, ARTICLE II, FIRE CODE, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTIONS AMENDED.

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

Section 1. That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 20, Fire Prevention and Protection, Article II, Fire Code, is hereby deleted in its entirety and amended to read as follows:

ARTICLE III. FIRE CODE

DIVISION 1. INTERNATIONAL FIRE CODE

Sec. 20-52. International fire code adopted.

The city has adopted the International Code Council (ICC) International Fire Code, 2018 edition, including appendices B, C, D, H and I published by the International Code Council, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Sec. 20-53. Amendments to adopted fire code.

The following amendments shall be made to the International Fire Code, 2018 edition adopted in section 20-52:

Chapter 1 Scope and Administration.

Section 101 General

101.1 *Title.* Shall be amended as follows: These regulations shall be known as the Fire Code of Leavenworth, Kansas; hereinafter referred to as "this code."

101.6 *Extra-territorial jurisdiction (ETJ).* Shall be added as follows: Nothing in this code shall be construed as limiting the application and enforcement of this code in areas such as the Extra-Territorial Jurisdiction (ETJ) of the city as may be allowed by local, state, or federal laws, ordinances, or codes.

Section 105 Permits.

105.6 Required operational permits. Shall be amended as follows: The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.4 Carnivals and fairs, 105.6.14 Explosives, 105.6.30 Mobile food preparation vehicles and 105.6.32 Open burning. All other subsections of 105.6 are omitted.

105.7 Required construction permits. Shall be amended as follows: The building code and/or fire code official is authorized to issue construction permits for work as set forth in Sections 105.7.1 through 105.7.25.

Section 109 Board of appeals.

109.1 General. Shall be amended as follows: Appeals under this article shall be the same as provided in section 10-61. Section

109.2 Limitations of authority and *Section 109.3 Qualifications* shall be deleted.

Section 110 Violations.

110.4 Violation penalties. Shall be amended as follows: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or by imprisonment not exceeding 30 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 112 Stop work order.

112.4 Failure to comply. Shall be amended as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$50.00 or more than \$2,000.00.

Chapter 3 General requirements.

Section 307 Open burning, recreational fires and portable outdoor fireplaces.

307.1.1 Prohibited open burning. Shall be amended as follows: Open burning shall be prohibited when atmospheric conditions or local circumstances make such fire hazardous.

Exceptions:

1. Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the fire code official.

2. The burning of debris resulting from municipal operations, disaster, or declared emergency is allowed by city personnel or their designee on city owned or controlled property when authorized by the fire chief or designee.

307.1.2 Nature of materials being burned. Shall be added as follows: Open burning is limited to natural and ordinary combustible materials. The burning of heavy smoke producing materials, including leaves, is prohibited. No processed or demolition debris construction wood products shall be burned.

307.3 Extinguishment authority. Shall be amended as follows: When open burning creates or adds to a hazardous situation, or a required permit for open burning has been obtained, or a nuisance is created as identified by local ordinance, the fire code official is authorized to order the extinguishment of the open burning operation.

307.4 Location. Shall be amended as follows: The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

Exceptions:

1. Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
2. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
3. Air curtain open pit destructor burning shall meet requirements set forth in local ordinance.

307.4.1 Bonfires. Shall be amended as follows: *307.4.1 Ceremonial Bonfires.* A ceremonial bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition. Maximum pile size shall be 6 feet (1828 mm) in diameter and 4 feet (1219 mm) in height. A separation trench or barrier such as bricks or stones shall surround the burn pile.

307.4.2 Recreational fires. Shall be amended as follows: Recreational/camp fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition. Maximum pile size shall be 3 feet (914 mm) in diameter and 2 feet (610 mm) in height.

Section 308, Open flames.

308.1.4 Open-flame cooking devices. Shall be amended as follows: Charcoal burners and other open-flame cooking devices shall not be operated or located on combustible balconies or within 10 feet (3048 mm) of combustible construction.

Exceptions:

1. One-and two family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. LP-gas cooking devices having LP-gas container with a water capacity not greater than 2 ½ pounds [nominal 1 pound (0.454 kg) LP-gas capacity].

Section 310 Smoking.

310.7.1 Smoking receptacles required. Shall be added as follows: Owners of commercial and multi-family properties, where smoking is permitted, shall be responsible for providing approved receptacles for discarded smoking material in locations approved by the authorizing jurisdiction.

Chapter 5 Fire service features.

Section 501 General.

501.3.1 Code footprint. Shall be added as follows: A code footprint shall be submitted to the fire department for review as required per Kansas Administrative Regulation and Kansas Statute.

Section 503 Fire apparatus access roads.

503.2.3 Surface. Shall be amended as follows: Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be concrete or asphalt surfaced so as to provide all-weather driving capabilities.

Chapter 9 Fire protection and life safety systems.

Section 903, Automatic sprinkler systems.

903.2.8 Group R. Shall be amended as follows adding the exception: An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: One- or two-family dwellings as identified and exempted per Kansas Statute.

903.4.2 Alarms. Shall be amended as follows: An approved audio/visual alarm device shall be connected to every automatic sprinkler system. Such sprinkler system waterflow alarm device shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

Section 906 Portable fire extinguishers.

906.1 Where required. Shall be amended as follows: Portable fire extinguishers shall be installed in all of the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

Exceptions:

1. In Group R-2 occupancies, portable fire extinguishers shall be required only in locations specified in items 2 through 6 where each dwelling unit is provided with a portable fire extinguisher having a minimum rating of 1-A; 10-B:C and each exit discharge serving more than one dwelling unit is provided with a portable fire extinguisher having a minimum rating of 2-A; 10-B:C.
2. In Group E occupancies, portable fire extinguishers shall be required only in locations specified in Items 2 through 6 where each classroom is provided with a portable fire extinguisher having a minimum rating of 2-A:20-B:C.
3. Within 30 feet (9144 mm) distance of travel from commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.
4. In areas where flammable or combustible liquids are stored, used or dispensed.
5. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 3315.1.
6. Where required by the sections indicated in Table 906.1.
7. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms. Where required by the fire code official.

Section 912 Fire department connections.

912.3 Fire hose threads. Shall be amended as follows: Fire hose threads used in connection with standpipe systems shall be approved and shall be compatible with fire department hose threads. Fire department connections shall be 4 inch Stortz with a 30-degree turn-down.

912.4 Access. Shall be amended as follows: Immediate access to fire department connections shall be no less than 36 inches in width and maintained at all times and without obstruction by fences, bushes, trees, walls or any other fixed or moveable objects. Access to fire department connections shall be approved by the fire code official.

Chapter 11 Construction requirements for existing buildings.

Chapter 11, Construction Requirements. Shall be omitted **except** for Sections 1103.8 through 1103.9

Chapter 56 Explosives and fireworks.

5601.2.4 Financial responsibility. Shall be amended as follows: Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$1,000,000 or a public liability insurance policy for the same amount or the current amount identified by local ordinance, for the purpose of the payment of all damages to persons or property

that arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from this bond requirement.

5601.2.4.2 Fireworks display. Shall be amended as follows: The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the City of Leavenworth for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.

Chapter 57 Flammable and combustible liquids.

5704.2.9.6.1 Location where above-ground tanks are prohibited. Shall be amended as follows: Storage of flammable or combustible liquids in outside above-ground tanks is prohibited in any residential, commercial, or M-1 zoning district.

5704.2.13.1.3 Out of service for one year. Shall be amended as follows: Underground tanks that have been out of service for a period of one year shall be removed from the ground in accordance with Section 5704.2.14.

5704.2.13.1.4 Tanks abandoned in place. Shall be deleted.

5706.2.4.4 Locations where above-ground tanks are prohibited. Shall be amended as follows: The storage of Class I and II liquids in above-ground tanks is prohibited in any residential, commercial, or M-1 zoning district.

Chapter 58, Flammable gasses and flammable cryogenic fluids.

5806.2 Limitations. Shall be amended as follows: Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in any residential, commercial, or M-1 zoning district.

Chapter 61, Liquefied petroleum gases.

6104.2 Maximum capacity within established limits. Shall be amended as follows: Storage of liquefied petroleum gas is restricted in any residential or commercial zoning district.

Appendix D

D103.1 Access road width with a hydrant. Shall be deleted.

D107.1 One-or two-family dwelling residential developments. Shall be amended as follows: Developments of one- or two-family dwellings where the number of dwelling units exceeds 40 shall be provided with two separate and approved fire apparatus access roads.

Exemptions:

1. Deleted.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will be connected with future development as determined by city planners and code officials and approved by the city commission.

DIVISION 2. ADDITIONAL LOCAL FIRE CODES

Sec. 20-54. Regulations for the use of air curtain open pit destructors.

- (a) *Generally.* Permit applications for the burning of land clearing debris, including trees, brush and vegetation only shall normally be considered as being necessary and in the public interest, providing that an air curtain open pit destructor of suitable design and capacity is used to accomplish the burning and, further, providing that such a device is installed, maintained and operated at maximum efficiency. Each such application, however, shall be considered individually upon its merits and the fire chief or his designee may decide that other factors require that such permit applications be denied.
- (b) *Burning permits.* Air curtain open pit destructors can only be used to burn trees and brush. They cannot be used to burn construction waste, demolition debris or other waste material. Any person intending to use an air curtain open pit destructor to burn trees or brush must apply to the fire department at least three working days prior to the intended start date.
 - (1) The application must include a site plan, including distances to the nearest structures and the location of the pit.
 - (2) The fire chief or his designee shall make the decision to require a fire to be extinguished if complaint is received.
 - (3) No permit shall be issued for a site that is less than 500 feet from an inhabited structure nor less than 250 feet from a vacant structure.
 - (4) Burning shall only be allowed on days when the cloud cover does not exceed a factor of 0.7 in accordance with National Weather Bureau Standards.
 - (5) Burning shall only be allowed on days when the wind speed is less than 15 mph, as determined by the fire chief or his designee.
 - (6) Burning shall be allowed between the hours of 8:00 a.m. and one-half hour before sunset. No materials shall be added to the pit less than two hours before sunset. Any material still burning one-half hour before sunset shall be extinguished by filling the pit with dirt or completely extinguishing with water.
 - (7) Each permit issued under this section shall be for a specified period of time not to exceed 30 days.
 - (8) A separate application and permit is required for each job site on which an air curtain open pit destructor is used. Each application is considered individually upon its merits. In addition to those factors discussed under subsection (a) of this section, other factors may require that a specific permit application be denied.

- (9) Each permit issued is accompanied by a copy of FDR-01-94, which contains required operating conditions and may include but may not be limited to the requirements and guidelines as set out in subsections (c) through (g) of this section.
 - (10) The fire department shall be notified each time the burner is going to be used by calling the number enclosed in the informational package.
- (c) *Design requirements.* Air curtain open pit destructors proposed for use in the city must meet the following design guidelines in order to accomplish minimum emission burning:
- (1) The pit should be the exact length of the nozzle-equipped air blowing plenum-manifold, less than ten feet across (preferably eight feet or less across), 12 feet or deeper, consistent with local soil conditions, and have all four sides smooth and vertical.
 - (2) The blower or fan selected should be capable of delivering an air velocity of at least 150 feet per second through nozzles designed to deliver a flat sheet or curtain of air blowing diagonally downward across the entire pit.
 - (3) Carefully examine the guideline diagram (on file with the city clerk) for pit construction and configuration of an air curtain open pit destructor.
- (d) *General operation.* Operations of air curtain open pit destructors shall be in accordance with the manufacturer's instructions and FDR-01-94; if there is a conflict, the manufacturer's instructions shall be followed.
- (1) Construction and placement of the pit as well as actual set-up of the air curtain open pit destructor itself must be approved by the fire chief or his designee before burning begins.
 - (2) The fire chief or his designee will also make spot check inspections during operation to ensure that everything possible is being done to minimize smoke and other emissions, that the operator is complying with all conditions of the permit, and that the burning is not causing a local nuisance or safety problem.
 - (3) Failure to comply with the terms of the permit or causing or contributing to significant nuisance, air pollution, or safety problems may compel revocation of the permit.
 - (4) Operator must do everything possible to minimize smoke, sparks and embers, fly ash and other emissions from the destructor. Extra care must be taken during start-up to minimize emissions. Trees and brush should be cut as long a time before burning as possible to maximize drying.
 - (5) Great care must also be taken when charging the pit to never overload. Newly added trees and brush must not pile or protrude so high that they break the air curtain.
 - (6) Periodic ash removal is essential to maintaining efficient combustion and minimizing air emissions. Ashes should not be allowed to build up in the pit to higher than one-third of the pit depth or to the point where they begin to impede combustion, whichever occurs first.
- (e) *Integrity of the pit.* If wear and tear, heat, or soil conditions cause significant crumbling or erosion of the pit walls, the fire chief or his designee may require the operator to cease burning until a new acceptable pit can be dug and approved.
- (f) *General safety requirements.* The operator must do everything possible to protect the safety of workers and the public.

- (1) To protect public safety, it is required that an effective, child-proof fence surround the combustion pit when unattended.
 - (2) To protect against potentially serious loader accidents, the pit should be dug in stable soil. Where necessary, earth anchors, backstays, or wire mesh should be used for additional support.
 - (3) A stop guide or restraining board is recommended at the loading side of the pit to prevent the loader from getting too close to the pit during charging operations.
- (g) *Additional requirements.* Fire department representatives may determine that additional operating or safety requirements are needed, based on conditions observed during inspections, public complaints, or other factors. Such additional requirements or restrictions shall become enforceable conditions of the burning permit.

Secs. 20-55—20-81. Reserved.

Section 2. REPEAL. Chapter 20, Fire Prevention and Protection, Article II, Fire Code, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this _____ day of _____ 2020.

Myron J. "Mike" Griswold, Mayor

{Seal}

ATTEST:

Carla K. Williamson, CMC, City Clerk

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE TO
AMENDING CHAPTER 10, BUILDINGS AND CONSTRUCTION
FOR THE CITY OF LEAVENWORTH**

APRIL 14, 2020



Carla Williamson, CMC
City Clerk



Paul Kramer
City Manager

ISSUE:

Place on first consideration an ordinance amending Chapter 10, Buildings and Construction of the City of Leavenworth Code of Ordinances.

BACKGROUND:

On December 3, 2019 Chief Building Inspector Hal Burdette and Director of Planning and Community Development Julie Hurley discussed the adoption of new international and national codes. Those codes include the following:

- 2018 International Building Code
- 2018 International Residential Code
- 2018 International Existing Building Code
- 2018 International Fuel Gas Code
- 2018 International Mechanical Code
- 2018 International Plumbing Code
- 2018 International Swimming Pool and Spa Code
- 2017 National Electrical Code
- 2018 International Property Maintenance Code

The City is currently using the 2006 International codes for building related guidance and the 1985 Uniform Housing Code for the purposes of assessing and enforcing violations related to property maintenance and unfit structures.

The following is a recap of the changes to the codes other than for Property Maintenance:

- Staff has reviewed Chapter 11 of the 2018 IRC (energy efficiency requirements) and proposes using the requirements of the current code (2006). Staff opinion is that the 2018 Code requirements are too strict in many aspects.
- There are a couple of changes to the building code that staff recommends that were not presented during the previous study sessions. After discussion with a local developer, and review of the codes adopted by other communities in the area, staff proposes including the following additional changes to the 2018 International Residential Code. These changes deal with fire rated separations of two-family dwellings and the requirements for automatic fire sprinkler systems in townhouses.

- The 2018 IRC calls for a one-hour fire rated assembly separation between dwellings in two-family dwellings. After discussion amongst staff, and reviewing changes made by other communities, staff recommends that the city require the separation of these dwellings to be the same as required between townhouses, which is a two hour fire rated assembly, or two (2) one hour fire rated assemblies, which extend from the foundation to the underside of the roof sheathing, deck or slab. There are also requirements for a parapet above the roof, or the more common approach which is fire rated sheetrock on the underside of the roof for a distance of four feet on each side of the common wall.

Staff is aware of many times in the past when two-family dwellings, or duplexes have been split and sold to different parties. This becomes a concern if there are issues, such as a fire. If one owner is wanting to start repairs before the other owner, code related issues arise. The change in the possible method of construction and the increased fire rating of the separation better protects future owners with the proposed changes to the code.

- Staff is also recommending that the requirements for an automatic fire sprinkler system for townhouses with three or more attached units be increased to those with four or more units.

Below is a recap of the International Property Maintenance Code:

- Minor modifications were made, to adopt administrative procedures currently in place, as well as to address items that are frequently encountered by Code Enforcement staff.
- Several of the chapters in the 2018 IPMC involve items not actively enforced by Code Enforcement Staff, including issues related to plumbing, mechanical, electrical, and fire safety. It is not anticipated that Code Enforcement staff will begin enforcing those items, and they for the most part duplicate standards found in other volumes of International Code administered and enforced by other departments. However, these chapters will likely prove useful to the new Rental Property Coordinator position that has been created and will be filled in early 2020. The specific powers and duties of that position are still in development, but this document will provide valuable guidance and authority in handling issues that are not addressed by current staff.

Because there were additions of two of the codes that were not previously adopted, it was necessary to do a re-write of the entire chapter to bring the adoption of the codes together, then move the Rental Registration and Moving of Structures to the end of the chapter.

Moving of Structures (Article XII) had minor changes to update the language for better flow and readability much like we did during the recodification.

There were no changes to Rental Registration (Article XIII) other than renumbering of the sections.

ACTION:

Consensus to place the ordinance on first consideration.

ATTACHMENTS:

- Draft Ordinance

(Summary Publish in the Leavenworth Times on _____, 2020)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS; CHAPTER 10, BUILDINGS AND CONSTRUCTION. PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE CHAPTER AMENDED.

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

Section 1. That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 10 Buildings and Construction, is hereby deleted in its entirety and amended to read as follows:

CHAPTER 10. BUILDINGS AND CONSTRUCTION

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ICC means the International code council, publisher of certain construction codes.

Sec. 10-2. Applicability; minimum standards.

This chapter, including provisions adopted by reference, is intended to be a complete code covering all buildings hereafter constructed, erected, enlarged, altered or moved into the city and its purpose is to provide minimum standards to safeguard life and limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use of, and maintenance of buildings, and providing for issuance of permits and collection of fees therefor.

Sec. 10-3. Liability insurance requirements.

When liability insurance is required under this chapter, including under any of the construction codes adopted by reference in this chapter, the contractor, licensee or permittee shall file with the city clerk a certificate of liability insurance issued by a company authorized to do business in the state providing \$1,000,000.00 per occurrence for bodily injury or property and \$2,000,000.00 aggregate coverage. The description of operations section of such policy shall include a reference to the activity for which the insurance is issued and the words "City of Leavenworth, its assigned, officers and affiliates are additional insured on a primary and non-contributory basis." The policy shall also include a provision that notice of change or cancellation shall be given to the city. The applicant, licensee or permit holder shall hold the city harmless for

all claims that may arise against the city by any person for damages caused by the licensee to persons or property.

Secs. 10-4. - 10-24. Reserved.

ARTICLE II. BUILDING CODE

DIVISION 1. GENERALLY

Sec. 10-25. International building code adopted.

The city has adopted the ICC International Building Code, 2018 edition, including appendices C, E, F, G, I and J, which is incorporated by reference fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-26 - 10-53. - Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED BUILDING CODE

Sec. 10-54. Generally.

The amendments to the adopted international building code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the international building code," unless clearly indicated in the contrary.

Sec. 10-55. 101 General.

Chapter 1, Scope and administration, section 101, General, shall be amended as follows:

101.1, Title. These regulations shall be known as the building code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10-56. 103 Department of building safety.

Chapter 1, Scope and administration, Section 103, Department of building safety, shall be amended as follows:

103.1, Creation of enforcement agency. The "building inspection division" shall be designated in the administrative division annually established as provided in chapter 2 of this code.

Any reference to the "building official" means the "public works director" or his designated agent.

103.2, Appointment. Shall be deleted.

Sec. 10-57. 105 Permits.

Chapter 1, Scope and administration, Section 105, Permits, shall be amended with the addition of the following:

105.2.3, Additional work exempt from permit shall include the following:

Electrical: Replacement of receptacles, switches, light fixtures, ceiling fans, bath fans, attic fans and hard-wired smoke detectors

Mechanical: Replacement of thermostats, registers, filters, and duct cleaning

Plumbing: Replacement of water closets, bidets, urinals, hose bibs, residential sinks, water faucets, residential icemakers, residential humidifiers, exposed traps, residential garbage disposals and dishwashers

Sec. 10-58. 109 Fees amended.

Chapter 1, Scope and administration, Section 109, Fees, shall be amended as follows:

109.2, Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, as set forth in the city fee schedule.

109.4, Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an investigation fee. The investigation fee shall be equal to the permit fee as set forth in the city fee schedule.

109.6, Refunds. The building official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The building official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

Sec. 10-59. 109 Fees added.

Chapter 1, Scope and administration, Section 109, Fees, shall be amended with the addition of the following:

109.7 Plan Review Fees. When submittal documents are required by Section 106, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be set forth in the city fee schedule. The building official or his designated agent may waive the plan review fee at their discretion.

109.8 Bond required. Each applicant desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000.00 to guarantee payment of such charges.

Sec. 10-60. 110 Inspections.

Chapter 1, Scope and administration, Section 110, Inspections, shall be amended as follows:

110.1 General. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain visible and able to be accessed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation or provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner's authorized agent to cause the work to remain visible and able to be accessed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection. The building official or his designated agent may waive any of the required inspections at their discretion.

Sec. 10-61. 113 Board of appeals.

Chapter 1, Scope and administration, Section 113, Board of appeals, shall be amended as follows:

113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the mayor, which appointment shall be subject to the approval of the city commission. Terms of all members of the board shall be for five (5) years and until their successors are appointed and qualified. Each appointee shall not succeed himself to more than one succeeding five-year term. All vacancies shall be filled for any unexpired term in a similar manner. The building official or his designated agent shall be an ex-officio member and shall act as secretary of the board. The board shall adopt reasonable rules and regulations for conducting its business, and shall render all decisions and findings in writing to the building official or his designated agent with a copy to the appellant, and may recommend to the city commission such new legislation as is consistent therewith.

113.2 Application for appeal; limitations on authority. Any person directly affected by a decision of the building official or code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The board shall not have authority to waive requirements of this code.

Appeals of notice and orders, other than emergencies or imminent dangers, shall stay the enforcement in municipal court of any violation notice.

113.3 Exceptions from appeal to board of appeals. Notwithstanding the foregoing, the board of appeals shall not have the right, power, or authority to review or consider any enforcement action commenced under the provisions of Article XI of the Leavenworth Municipal Code or K.S.A. 12-1750-12-1756g, inclusive, including to the extent any such provisions are incorporated by reference into other articles, chapters, or sections of the Leavenworth Municipal Code.

113.4 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and/or property maintenance and are not employees of the jurisdiction. The board shall consist of one architect or engineer; one citizen at large; and three people engaged in relevant trades.

113.5 Fee. The fee for an application for an appeal to the board shall be as set forth in the city fee schedule, no part of which is refundable. The city clerk shall be responsible for the collection of the application fee.

113.6 Commission and Court Review. The decisions of the board of appeals shall be subject to review by the city commission upon request of any involved party, provided that a written application for review is filed within twenty (20) days after the date of the final decision of the board of appeals. Any person shall have the right to apply to the appropriate court for a review or appeal of the city commission's review within thirty (30) days after the date of the final decision of the city commission.

Sec. 10-62. 114 Violations.

Chapter 1, Scope and administration, Section 114, Violations, shall be amended as follows:

114.4, Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Sec. 10-63. 116 Unsafe structures and equipment.

Chapter 1, Scope and administration, Section 116, Unsafe structures and equipment, shall be amended as follows:

All buildings or structures which are unsafe or not provided with adequate egress or which constitute a fire hazard or are otherwise dangerous to human life, or unfit for human occupancy, or which, in relation to existing use, constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire

hazard, disaster damage or abandonment, or other conditions or defects as specified in this code, or any other effective ordinance are, for the purpose of this section, unsafe buildings. Such unsafe buildings are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in state law or this code, including but not limited to Article XI of the Leavenworth Municipal Code, which is incorporated herein by this reference.

Sec. 10-64. 1612 Flood loads.

Chapter 16, Structural design, Section 1612, Flood loads, shall be amended as follows:

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the federal emergency management agency in an engineered report entitled "The Flood Insurance Study for Leavenworth County, KS., and Incorporated Areas," dated July 16, 2015, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

Sec. 10-65. 1809 Shallow foundations.

Chapter 18, Soils and foundations, Section 1809, Shallow foundations, shall be amended as follows:

1809.5 Frost protection. Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending below the frost line. The frost line for the City of Leavenworth is defined as thirty-six inches (36") below finished exterior grade.
2. Constructing in accordance with ASCE 32.
3. Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Risk Category I.
2. Area of 600 square feet or less for light-frame construction or 400 square feet or less for other than light-frame construction.
3. Eave height of 10 feet or less.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

Secs. 10-66 - 10-88. Reserved.

ARTICLE III. ELECTRICAL CODE

DIVISION 1. GENERALLY

Sec. 10-89. National electrical code adopted.

The city has adopted the National Electrical Code (NFPA 70), 2017 edition, which is incorporated by reference as set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-90 - 10-106. Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED ELECTRICAL CODE

Sec. 10-107. Generally.

The amendments to the adopted National Electrical Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the National Electrical Code," unless clearly indicated to the contrary.

Sec. 10-108. Article 80 Scope and Administration (Informative Annex H Administration and Enforcement)

Article 80, Scope and administration (Informative Annex H Administration and Enforcement) shall be amended to include as follows:

Part 1. Scope and administration.

Section 80.1 General.

80.1.1 Title. These regulations shall be known as the Electrical Code of the City of Leavenworth hereinafter referred to as "this code."

80.1.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of electrical systems within this jurisdiction.

Exception: Detached one-and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

80.1.3 Intent. The purpose of this code is to establish minimum standards to provide a reasonable level of safety, health, property protection and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance or use of electrical equipment and systems.

80.1.4 Severability. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

Section 80.2 Applicability.

80.2.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

80.2.2 Existing installations. Electrical systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and hazard to life, health or property is not created by such electrical system.

80.2.2.1 Existing building. Additions, alterations, renovations or repairs related to building or structural issues shall be regulated by the International Existing Building Code.

80.2.2 Services off for over one year. Each building or electrical system that has been disconnected or has not been in use for one year or longer shall require a service reconnection inspection be made prior to reconnection of the building or electrical system to the utility source of energy or power.

80.2.3 Maintenance. Electrical systems, materials and appurtenances, both existing and new, and parts thereof, shall be maintained in proper operating condition in accordance with the original design in a safe condition. Devices or safeguards required by this code shall be maintained in compliance with the edition of the code under which they were installed. The owner or the owner's authorized agent shall be responsible for maintenance of electrical systems. To determine compliance with this provision, the code official shall have the authority to require any electrical system to be reinspected.

80.2.4 Additions, alterations or repairs. Additions, alterations, renovations or repairs to any electrical system shall conform to that required for a new electrical system without requiring the existing electrical system to comply with all the requirements of this code. Additions, alterations or repairs shall not cause an existing system to become unsafe or overloaded. Minor additions, alterations, renovations and repairs to existing systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous and is approved.

80.2.5 Change in occupancy. It shall be unlawful to make any change in the occupancy of any structure that will subject the structure to any special provision of this code applicable to the new occupancy without approval of the code official. The code official shall certify that such structure meets the intent of the provisions of law governing building construction for the proposed new occupancy and that such change of occupancy does not result in any hazard to the public health, safety or welfare.

80.2.6 Historic buildings. The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings.

80.2.7 Moved buildings. Except as determined by Section 102.2, electrical systems that are a part of buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code for new installations.

80.2.8 Referenced codes and standards. The standards referenced in this code shall be those that are listed in Annex A and such standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1 and 102.8.2.

80.2.8.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

80.2.8.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

80.2.9 Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed electrical system, or for the public safety, health and general welfare, not specifically covered by this code shall be determined by the code official.

80.2.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

80.2.11 Application of references. Reference to chapter section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

Part 2. Administration and enforcement.

Section 80.3 Department of building safety.

80.3.1 Creation of enforcement agency. The "building inspection division" shall be as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

80.3.2 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to

appoint a deputy code official, other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the code official.

80.3.3 Liability. The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

80.3.3.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

Section 80.4 Duties and powers of the code official.

80.4.1 General. The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

80.4.2 Applications and permits. The code official shall receive applications, review construction documents and issue permits for the installation and alteration of electrical systems, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this code.

80.4.3 Inspections. The code official shall make all the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

80.4.4 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the code official has reasonable cause to believe that there exists in any building or on any premises any conditions or violations of this code that make the building or premises unsafe, dangerous or hazardous, the code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the code official by this code. If such building or premises is occupied, the code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner, the owner's authorized agent or other person having charge or

control of the building or premises and request entry. If entry is refused, the code official shall have recourse to every remedy provided by law to secure entry. Where the code official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, the owner, owner's authorized agent, occupant or person having charge, care or control of any building or premises shall not fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the code official for the purpose of inspection and examination pursuant to this code.

80.4.5 Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

80.4.6 Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

80.4.7 Department records. The code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

Section 80.5 Approval.

80.5.1 Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's authorized agent, provided that the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification conforms to the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the building inspection division.

80.5.2 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved.

80.5.2.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

80.5.3 Required testing. Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the

requirements of this code, or in order to substantiate claims for alternate materials or methods, the code official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction.

80.5.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall approve the testing procedures.

80.5.3.2 Testing agency. Tests shall be performed by an approved agency.

80.5.3.3 Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

80.5.4 Approved materials and equipment. Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

80.5.4.1 Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements have been reconditioned, tested, placed in good and proper working condition and approved.

80.5.4.2 Listing and labeling. Electrical materials, components, devices, appliances, fixtures and equipment shall be listed for the application, shall bear the label of an approved agency and shall be installed, and used, or both, in accordance with any instructions included in the listing and labeling.

Section 80.6 permits.

80.6.1 Where required. Any owner, owner's authorized agent or contractor who desires to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the code official and obtain the required permit for the work.

80.6.1.1 Annual permit. Instead of an individual construction permit for each alteration to an already approved system or equipment or appliance installation, the code official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

80.6.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The code official shall have access to such records at all times or such records shall be filed with the code official as designated.

80.6.2 Exempt work. The following work shall be exempt from the requirement for a permit:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefor.
3. Replacement of branch circuit overcurrent devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps, receptacles, switches, light fixtures, ceiling fans, bath fans, attic fans and hard-wired smoke detectors or connection of approved portable electrical equipment or approved permanently installed receptacles.

80.6.3 Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or owner's authorized agent. The permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information required by the code official.

80.6.3.1 Construction documents. Construction documents, engineering calculations, diagrams and other such data shall be submitted in two or more sets with each application for a permit. The code official shall require construction documents, computations and specifications to be prepared and designed by a registered design professional where required by state law.

Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code. Construction documents for buildings more than two stories in height shall indicate where penetrations will be made for the electrical system installation and shall indicate the materials and methods for maintaining required structural safety, fire-resistance rating and fireblocking.

Exception: The code official shall have the authority to waive the submission of construction documents, calculations or other data if the nature of the work applied for is such that reviewing of construction documents is not necessary to determine compliance with this code.

80.6.3.2 Preliminary inspection. Before a permit is issued, the code official shall be authorized to inspect and evaluate the systems, equipment, buildings, devices, premises and spaces or areas to be used.

80.6.3.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the code official shall have the authority to grant one or more

extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

80.6.4 By whom application is made. Application for a permit shall be made by the person or agent to install all or part of any electrical system. The applicant shall meet all qualifications established by statute, or by rules promulgated by this code, or by ordinance or by resolution. The full name and address of the applicant shall be stated in the application.

80.6.5 Permit issuance. The application, construction documents and other data filed by an applicant for permit shall be reviewed by the code official. If the code official finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, and that the fees specified in Section 80.6.6 have been paid, a permit shall be issued to the applicant.

80.6.5.1 Approved construction documents. When the code official issues the permit where construction documents are required, the construction documents shall be endorsed in writing and stamped "APPROVED." Such approved construction documents shall not be changed, modified or altered without authorization from the code official. Work shall be done in accordance with the approved construction documents.

The code official shall have the authority to issue a permit for the construction of a part of an electrical system before the entire construction documents for the whole system have been submitted or approved, provided that adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire electrical system will be granted.

80.6.5.2 Validity. The issuance of a permit or approval of construction documents shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of this code shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the code official from thereafter requiring the correction of errors in said construction documents and other data or from preventing building operations being carried on thereunder where in violation of this code or of other ordinances of this jurisdiction.

80.6.5.3 Expiration. Every permit issued by the code official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee therefor shall be one-half the amount required for a new permit for such work, provided that changes have not been made and will not be made in the original construction documents

for such work, and provided further that such suspension or abandonment has not exceeded 1 year.

80.6.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. A permit shall not be extended more than once. The fee for an extension shall be one-half the amount required for a new permit for such work.

80.6.5.5 Suspension or revocation of permit. The code official shall have the authority to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

80.6.5.6 Retention of construction documents. One set of approved construction documents shall be retained by the code official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws. One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

80.6.5.7 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

80.6.5.8 Posting of permit. The permit or a copy shall be kept on the site of the work until the completion of the project.

80.6.6 Fees. A permit shall not be issued until the fees prescribed in Section 80.6.6.2 have been paid, and an amendment to a permit shall not be released until the additional fee, if any, due to an increase of the electrical systems, has been paid.

80.6.6.1 Work commencing before permit issuance. Any person who commences any work on an electrical system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees.

80.6.6.2 Fee schedule. The fees for electrical work shall be as set forth in the city fee schedule.

80.6.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid where work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid where an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 80.7 Inspections and testing.

80.7.1 General. The code official is authorized to conduct such inspections as are deemed necessary to determine compliance with the provisions of this code. Construction or work for which a permit is required shall be subject to inspection by the code official, and such construction or work shall remain visible and able to be accessed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain visible and able to be accessed for inspection purposes. Neither the code official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

80.7.2 Required inspections and testing. The code official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

1. Underground inspection shall be made after trenches or ditches are excavated and bedded, raceways installed, and before any backfill is put in place.
2. Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and the electrical system is roughed-in, and prior to the installation of wall or ceiling membranes.
3. Final inspection shall be made after the building is complete, all electrical fixtures are in place and properly connected, and the structure is ready for occupancy.
4. Service reconnection. Service reconnection inspection shall be made prior to reconnection of any building or electrical system to the utility source of energy, fuel or power if the building or electrical system has not been in use for one year or longer.

80.7.2.1 Other inspections. In addition to the inspections specified in Section 80.7.2, the code official shall be authorized to make or require other inspections of

any construction work to ascertain compliance with the provisions of this code and other laws that are enforced.

80.7.2.2 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the code official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

80.7.2.3 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the code official. The code official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the code official.

80.7.2.4 Approved agencies. The code official is authorized to accept reports of approved inspection agencies, provided that such agencies satisfy the requirements as to qualifications and reliability.

80.7.2.5 Evaluation and follow-up inspection services. Prior to the approval of a closed, prefabricated electrical system and the issuance of an electrical permit, the code official shall require the submittal of an evaluation report on each prefabricated electrical system indicating the complete details of the electrical system, including a description of the system and its components, the basis on which the electrical system is being evaluated, test results and similar information, and other data as necessary for the code official to determine conformance to this code.

80.7.2.5.1 Evaluation service. The code official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to this code.

80.7.2.5.2 Follow-up inspection. Except where ready access is provided to all electrical systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the code official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the code official with the follow-up inspection manual and a report of inspections on request, and the electrical system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

80.7.2.5.3 Test and inspection records. Required test and inspection records shall be available to the code official at all times during the fabrication of the

electrical system and the erection of the building, or such records as the code official designates shall be filed.

80.7.3 Special inspections. Special inspections of alternative engineered design electrical systems shall be conducted in accordance with Sections 80.7.3.1 and 80.7.3.2.

80.7.3.1 Periodic inspection. The registered design professional or designated inspector shall periodically inspect and observe the alternative engineered design to determine that the installation is in accordance with the approved construction documents. Discrepancies shall be brought to the immediate attention of the electrical contractor for correction. Records shall be kept of all inspections.

80.7.3.2 Written report. The registered design professional shall submit a final report in writing to the code official upon completion of the installation, certifying that the alternative engineered design conforms to the approved construction documents. A notice of approval for the electrical system shall not be issued until a written certification has been submitted.

80.7.4 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the code official.

80.7.4.1 Revocation. The code official is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the notice is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

80.7.5 Temporary connection. The code official shall have the authority to authorize the temporary connection of the building or system to the utility source for the purpose of testing electrical systems or for use under a temporary certificate of occupancy.

80.7.6 Connection of service utilities. A person shall not make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by this code for which a permit is required until authorized by the code official.

Section 80.8 Violations.

80.8.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize any electrical system, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

80.8.2 Notice of violation. The code official shall serve a notice of violation or order to the person responsible for the erection, installation, alteration, extension, repair, removal or demolition of electrical work in violation of the provisions of this code, or in violation of a detail statement or the approved construction documents thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

80.8.3 Prosecution of violation. If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

80.8.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair electrical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

80.8.5 Stop work orders. Upon notice from the code official, work on any electrical system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

80.8.6 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the electrical systems on or about any premises.

80.8.7 Unsafe electrical systems. Any electrical systems regulated by this code that is unsafe or that constitutes a fire or health hazard, or is otherwise dangerous to human life is hereby declared unsafe. Any use of an electrical system regulated by this code constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe equipment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

80.8.7.1 Authority to condemn equipment. Where the code official determines that any electrical system, or portion thereof, regulated by this code has become hazardous to life, health or property, the code official shall order in writing that such electrical system or component thereof either be removed or restored to a safe condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain defective electrical system after receiving such notice. Where such electrical system is to be disconnected, written

notice as prescribed in Section 80.8.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.

80.8.7.2 Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the technical codes in case of an emergency, where necessary, to eliminate an immediate danger to life or property. Where possible, the owner or the owner's authorized agent and occupant of the building, structure or service system shall be notified of the decision to disconnect utility service prior to taking such action. If not notified prior to disconnecting, the owner, the owner's authorized agent or occupant of the building, structure or service systems shall be notified in writing, as soon as practical thereafter.

80.8.7.3 Connection after order to disconnect. A person shall not make connections from any energy, fuel, or power supply or supply energy or fuel to any equipment regulated by this code that has been disconnected or ordered to be disconnected by the code official or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such equipment.

Where any electrical system is maintained in violation of this code, and in violation of any notice issued pursuant to the provisions of this section, the code official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

Section 80.9 Means of appeal.

80.9.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

Section 80.10 Temporary equipment, systems and uses.

80.10.1 General. The code official is authorized to issue a permit for temporary equipment, systems and uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The code official is authorized to grant extensions for demonstrated cause.

80.10.2 Conformance. Temporary equipment, systems and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

80.10.3 Temporary utilities. The code official is authorized to give permission to temporarily supply utilities before an installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the code.

80.10.4 Termination of approval. The code official is authorized to terminate such permit for temporary equipment, systems or uses and to order the temporary equipment, systems or uses to be discontinued.

Section 80.11 Licenses.

80.11.1 Licenses. No person other than a licensed electrician shall do any electrical work in the city, and no person other than a licensed electrical contractor shall engage in the business of electrical construction, installation or maintenance of electrical wiring and apparatus, nor shall any person advertise for electrical work in the city unless such person shall be duly licensed in accordance with the provisions of this article. Licenses are not transferable from one person to another and the lending of any license or the obtaining of permits thereunder for any other person shall be deemed cause for revocation. It shall not be necessary for electrical contractors, maintenance electricians, master electricians, residential landlord electricians, and journeyman electricians who are presently licensed in the city at the time of the passage of this code to take an examination for a certificate of qualification if they obtain a license during the next subsequent year.

80.11.2 Type of licenses.

1. An electrical contractor is a person who may conduct, carry on, or engage in the business of electrical work. The electrical contractor must provide a copy of master electrical exam score of a 75 percent or better, in accordance with K.S.A 12-1525 et seq. Liability insurance requirements shall be as provided in section 10-3. An electrical contractor license is not transferable and the right to do business under an electrical contractor license depends upon the retention of the person holding the license as an acting member or officer of the firm, partnership, or corporation.
2. A master electrician is a person who may conduct, carry on, or engage in the business of electrical work where there is one electrical contractor. The master electrician must provide a copy of a master electrical exam score of a 75 percent or better, in accordance with K.S.A 12-1525 et seq.
3. A journeyman electrician is a person who labors in the trade of electrical work as an employee of an electrical contractor. The journeyman electrician must provide a copy of a journeyman electrical exam score of a 75 percent or better, in accordance with K.S.A 12-1525 et seq.
4. An apprentice electrician is a person who labors at the trade of electrical work as an employee under the supervision of a licensed electrical contractor, master electrician, or a journeyman electrician.
5. A residential landlord electrician is a person who may do electrical installation, replacement and service on residential structures up to three individual living units that he owns. The residential landlord electrician must provide a copy of a master residential electrical exam score of a 75 percent or better, by an approved testing agency acceptable to the jurisdiction having authority. Liability insurance requirements shall be as provided in section 10-3.
6. A maintenance electrician is a person who is restricted to the repair and maintenance of existing apparatus. Also, the work of a maintenance

electrician is to be restricted to the maintenance electrician's place of employment. The maintenance electrician must provide a copy of a maintenance electrical exam score of a 75 percent or better, by an approved testing agency acceptable to the jurisdiction having authority.

80.11.3 Display of electrician's license. All licensed electricians, contractors, masters, journeyman and apprentice shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city.

80.11.4 Renewal. All electrical licenses pursuant to this article shall expire on December 31 of each year. In addition, proof of 12 hours of continuing education of a type acceptable to the building official shall be submitted biennially at the time of license renewal in order to renew. Any licensee who fails to make proper application for renewal before March 1 shall be required to make an original application and take the qualifying examination.

80.11.5 Revocation of license. The board of appeals may cancel or revoke any license issued to any person if such person later shows incompetency or lack of knowledge in matter relevant to such license or if such license was obtained by fraud. If the license is canceled or revoked, another such license shall not be granted to such person within 12 months after the date of cancellation or revocation.

80.11.6 Fees. License fees shall be in accordance with the city fee schedule. If a new license application is made after January 1 of any year, the amount of the fee shall be determined by dividing the annual fee by four and multiplying the figure obtained by the number of quarters, or fractions thereof remaining until the next year.

80.11.7 When unlicensed persons may do electrical work. It is unlawful for any person other than the licensed electrician, to do any construction or work regulated by this article except in the following circumstances.

Homeowners:

1. A letter shall accompany the permit application stating that the owner will live in the dwelling for a minimum of one year from the day of final inspection and is able to do the work to pass all inspections.
2. The owner shall submit a sketch with the permit application showing all electrical work desired to be done.
3. When the work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.
4. When the person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or designed to be occupied by such owner.
5. When such owner shall personally perform all labor in connection therewith.

80.11.8 Working without a license. When an individual performs electrical work that requires a license by this code without first obtaining a license, they shall be fined the

amount equal to twice the license fee and all work must immediately cease until proper licensing is obtained.

Sec. 10-109. Chapter 2 Wiring and protection.

Chapter 2, Wiring and protection, shall be amended as follows:

230.70 (A) (1) Readily accessible location. The service disconnecting means shall be installed at a readily accessible location either outside of a building or inside nearest point of entrance of the service conductors. When service conductors are more than 6 feet from the point of entry to the service panel, a separate means of disconnect shall be installed at the service conductor entrance to the building.

Sec. 10-110. Chapter 3 Wiring methods and materials.

Chapter 3, Wiring methods and materials, shall be amended by including as follows:

300.1 Scope (D) Cutting, notching and boring. The cutting, notching and boring of wood and steel framing members, structural members and engineered wood products shall be in accordance with the building code as adopted by the city.

310.106 Conductor material. (B) (1) Aluminum or copper clad wire must be 60 amperes or larger and used only for service entrance conductors or panel feeders.

Sec. 10-111. Chapter 3 Wiring methods and materials.

Chapter 3, Wiring methods and materials, shall be amended as follows:

334.10 Uses permitted. Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following, except as prohibited in 334.12:

1. One- and two-family dwellings and their attached or detached garages, and their storage buildings.
2. Multi-family dwellings.
3. Other structures provided that the cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.
4. Where installed in cable trays where the cables are identified for the use.
5. Where installed in raceways and the cables are identified for the use.

Secs. 10-112 - 10-140. Reserved.

ARTICLE IV. PLUMBING CODE

DIVISION 1. GENERALLY

Sec. 10-141. International Plumbing Code adopted.

The city has adopted the ICC International Plumbing Code, 2018 edition, including appendices C and E, which is incorporated by reference as set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-142 - 10-165. - Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED PLUMBING CODE

Sec. 10-166. Generally.

Amendments to the adopted International Plumbing Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Plumbing Code," unless clearly indicated to the contrary.

Sec. 10-167. 101 General.

Chapter 1, Scope and administration, Section 101, General, shall be amended as follows:

101.1 Title. These regulations shall be known as the Plumbing Code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10-168. 103 Department of building safety.

Chapter 1, Scope and administration, Section 103, Department of plumbing inspection, shall be amended as follows:

103.1 Creation of enforcement agency. The "building inspection division" shall be as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

103.2, Appointment. Shall be deleted.

Sec. 10-169. 106 Permits added.

Chapter 1, Scope and administration, Section 106, Permits, shall be amended by adding as follows:

106.2.1 Items of replacement exempted from permit and inspection performed by property owner, business employees or nonpaid helpers are; water closets (toilets), bidets, urinals, hose bibs (outdoor water faucets), residential sinks, water faucets, residential icemakers, residential humidifiers, exposed traps, residential garbage disposals, and dishwashers.

Sec. 10-170. 106, Permits amended.

Chapter 1, Scope and administration, Section 106, Permits, shall be amended as follows:

106.6.2 Fee schedule. The fees for plumbing work shall be as set forth in the city fee schedule.

106.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

106.6.4 Bond. Each license holder desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000 to guarantee payment of such charges.

Sec. 10-171. 108 Violations.

Chapter 1, Scope and administration, Section 108, Violations, shall be amended as follows:

108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars, or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the code official, work on any plumbing system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

Sec. 10-172. 109 Means of appeal.

Chapter 1, Scope and administration Section 109, Means of appeal, shall be amended as follows:

109.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

109.2-109.7. Shall be deleted.

Sec. 10-173. Scope and administration.

Chapter 1, Scope and administration, shall be amended to include the following:

Section 111.1 Licenses. It is unlawful for any person to conduct, carry on, or engage in the business of plumbing or labor in the trade of plumbing without first having had issued a valid license, nor shall any person advertise for plumbing work in the city, without such license. Licenses are not transferable from one person to another and the lending of any license or the obtaining of permits thereunder for any other person shall be deemed cause for revocation.

It shall not be necessary for plumbing contractors, master plumbers, residential landlord plumbers, and journeyman plumbers who are presently licensed in the city at the time of the passage of this code to take an examination for a certificate of qualification if they obtain a license during the next subsequent year.

Section 111.2 Type of licenses.

1. A plumbing contractor is a person who may conduct, carry on, or engage in the business of plumbing work. The plumbing contractor must provide a copy of a master plumbing with gas exam score of a 75 percent or better, in accordance with K.S.A. 12-1508 et seq. Liability insurance requirements shall be as provided in section 10-3. A plumbing contractor license is not transferable and the right of a firm, partnership, or corporation to do business under a plumbing contractor license depends upon the retention of the person holding the license as an acting member or officer of the firm, partnership, or corporation.
2. A master plumber is a person who may conduct, carry on, or engage in the business of plumbing work as an employee of a plumbing contractor. The master plumber must provide a copy of a master plumbing with a gas exam score of a 75 percent or better, in accordance with K.S.A. 12-1508 et seq.
3. A journeyman plumber is a person who labors in the trade of plumbing work as an employee of a plumbing contractor. The journeyman plumber must provide a copy of journeyman plumbing with a gas exam score of a 75 percent or better, in accordance with K.S.A. 12-1508 et seq.
4. An apprentice plumber is a person who labors at the trade of plumbing as an employee under the supervision of a licensed plumbing contractor, master plumber, or journeyman plumber.
5. A residential landlord plumber is a person who may do plumbing work on residential structures for up to three individual living units that he owns. The residential landlord plumber must provide a copy of a master residential plumbing with a gas exam score of a 75 percent or better, by an approved

testing agency acceptable to the jurisdiction having authority. Liability insurance requirements shall be as provided in section 10-3.

Section 111.3 Display of plumber's license. All licensed plumbers, contractors, masters, journeyman and apprentice shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city.

Section 111.4 Renewal. All plumbing licenses pursuant to this article shall expire on December 31 of each year. In addition, proof of 12 hours of continuing education of a type acceptable to the building official shall be submitted biennially at the time of license renewal in order to renew. Any license holder who fails to make proper application for renewal before March 1 shall be required to make an original application and take the qualifying examination.

Section 111.5 Revocation of license. The board of appeals may cancel or revoke any license issued to any person if such person later shows incompetency or lack of knowledge in matter relevant to such license or if such license was obtained by fraud. If the license is canceled or revoked, another such license shall not be granted to such person within 12 months after the date of cancellation or revocation.

Section 111.6 Fees. License fees shall be in accordance with the city fee schedule. If a new license application is made after January 1, of any year, the amount of the fee shall be determined by dividing the annual fee by four and multiplying the figure obtained by the number of quarters, or fractions thereof remaining until the next year.

Section 111.7 When unlicensed persons may do plumbing work. It is unlawful for any person other than a licensed plumbing contractor to do any construction or work regulated by this article except in the following circumstance.

Homeowners:

1. A letter shall accompany the permit application stating that the owner will live in the dwelling for a minimum of one year from the day of final inspection and is able to do the work to pass all inspections.
2. The owner shall submit a sketch with the permit application showing all plumbing work desired to be done.
3. When the work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.
4. When the person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or designed to be occupied by such owner.
5. When such owner shall personally perform all labor in connection therewith.

Section 111.8 Working without a license. When an individual performs plumbing work that requires a license by this code without first obtaining a license, they shall be fined the amount equal to twice the license fee and all work must immediately cease until proper licensing is obtained.

Sec. 10-174. 305 General.

Chapter 3, General regulations, Section 305, General regulations, shall be amended as follows:

305.6.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be installed not less than 12 inches below finished grade at the point of septic tank connection. Building sewers shall be installed not less than 12 inches below grade.

Sec. 10-175. 903 Vent Terminals.

Chapter 9, Vents, Section 903, Vent Terminals, shall be amended as follows:

903.1 Roof extension. Open vent pipes that extend through a roof shall be terminated at least 6 inches above the roof. Where a roof is to be used for assembly or as a promenade, observation deck, sunbathing deck or similar purposes, open vent pipes shall terminate not less than 7 feet above the roof.

Secs. 10-176—10-196. Reserved.

ARTICLE V. FUEL GAS CODE

DIVISION 1. GENERALLY

Sec. 10-197. International Fuel Gas Code and appendix adopted.

The city has adopted the ICC International Fuel Gas Code, 2018 edition, which is incorporated by reference as set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-198 - 10-217. Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED FUEL GAS CODE

Sec. 10-218. Generally.

Amendments to the International Fuel Gas Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Fuel Gas Code," unless clearly indicated in the contrary.

Sec. 10-219. 101 General.

Chapter 1, Scope and administration, Section 101, General, shall be amended as follows:

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10-220. 103 Department of inspection.

Chapter 1, Scope and administration, Section 103, Department of inspection, shall be amended as follows:

Section 103, Department of building safety.

103.1 Creation of enforcement agency. The "building inspection division" shall be as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

103.2, Appointment. Shall be deleted.

Sec. 10-221. 106 Permits.

Chapter 1, Scope and administration, Section 106, Permits, shall be amended as follows:

106.6.2 Fee schedule. The fees for all work governed by this code shall be as set forth in the city fee schedule.

106.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

106.6.4 Bond. Each license holder desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000 to guarantee payment of such charges.

Sec. 10-222. 108 Violations.

Chapter 1, Scope and administration, Section 108, Violations, shall be amended as follows:

108.4, Violation penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or by imprisonment

not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5, Stop work orders. Upon notice from the code official that work is being performed contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's authorized agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

Sec. 10-223. 109 Means of appeal.

Chapter 1, Scope and administration, Section 109, Means of appeal, shall be amended as follows:

109.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

109.2.-109.7. Shall be deleted.

Sec. 10-224. 110, Licenses added.

Chapter 1, Administration, shall be amended to add/include as follows:

Section 111, Licenses.

Section 111.1 Licenses. It is unlawful for any person to conduct, carry on, or engage in the business of fuel gas systems and gas fired appliances or labor in the trade of fuel gas systems and gas fired appliances without first having had issued a valid license, nor shall any person advertise for fuel gas systems and gas fired appliances work in the city, without such license. Licenses for fuel gas systems and gas fired appliances covered by this code shall be issued in accordance with article IV or VI, chapter 10 of this Code.

Section 111.2 When unlicensed persons may do fuel gas work. It is unlawful for any person other than a licensed plumbing contractor or mechanical contractor to do any construction or work regulated by this article except in the following circumstances.

Homeowners:

1. A letter shall accompany the permit application stating that the owner will live in the dwelling for a minimum of one year from the day of final inspection and is able to do the work to pass all inspections.
2. The owner shall submit a sketch with the permit application showing all fuel gas work desired to be done.

3. When the work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.
4. When the person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or designed to be occupied by such owner.
5. When such owner shall personally perform all labor in connection therewith.
6. Kansas Gas Meter Relocation: Kansas Gas trained personnel shall be allowed to disconnect and reconnect gas meters to remove from inside a building to outside the building subject to the following:
 - (i) Kansas Gas identifies all the houses by address or area.
 - (ii) Limit pipe-outs to ten feet or less.
 - (iii) Plumbing permits will be secured on all meter sets.
 - (iv) Shut-in tests performed for leakage, Kansas Gas will contact a licensed plumbing contractor if test fails.
 - (v) City inspectors may request air tests be performed by a plumbing contractor at any time.
 - (vi) City inspectors measure all meter sets prior to any work being performed to determine the ten-foot limit.
 - (vii) All meter sets in excess of ten feet will be done by a licensed plumber.
 - (viii) At the end of the project, all piping on the customer side of the meter will be done by a licensed plumbing contractor.

Section 111.3 Working without a license. When an individual performs fuel gas work that requires a license by this code without first obtaining a license, they shall be fined the amount equal to twice the license fee and all work must immediately cease until proper licensing is obtained.

Sec. 10-225. 406 Inspection, testing and purging.

Chapter 4, Gas piping installations, Section 406, Inspection, testing and purging, shall be amended as follows:

406.1 General. Prior to acceptance and initial operation and on any piping system that has not been in operation for one year or longer, all piping installations shall be visually inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code.

406.4.1 Test pressure. The test pressure to be used shall be no less than one and one-half times the proposed maximum working pressure, but not less than 20 psig (138 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

Secs. 10-226 - 10-251. Reserved.

ARTICLE VI. MECHANICAL CODE

DIVISION 1. – GENERALLY

Sec. 10-252. International Mechanical Code and appendix adopted.

The city has adopted the ICC International Mechanical Code, 2018 edition, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-253 - 10-282. Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED MECHANICAL CODE

Sec. 10-283. Generally.

Amendments to the International Mechanical Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Mechanical Code," unless clearly indicated in the contrary.

Sec. 10-284. 101 General.

Chapter 1, Scope and administration, Section 101, General, shall be amended as follows:

101.1, Title. These regulations shall be known as the Mechanical Code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10-285. 103 Department of mechanical inspection.

Chapter 1, Scope and administration, Section 103, Department of mechanical inspection, shall be amended as follows:

Section 103, Department of building safety.

103.1 Creation of enforcement agency. The "building inspection division" shall be as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

103.2 Appointment. Shall be deleted.

Sec. 10-286. 106 Permits.

Chapter 1, Scope and administration, Section 106, Permits, shall be amended as follows:

106.2.1 Items of replacement exempted from permit and inspection performed by property owner, business employees or nonpaid helpers are; thermostats, registers, filters and duct cleaning.

106.5.2 Fee schedule. The fees for mechanical work shall be as set forth in the city fee schedule.

106.5.3, Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

106.5.4 Bond. Each license holder desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000 to guarantee payment of such charges.

Sec. 10-287. 108 Violations.

Chapter 1, Scope and administration, Section 108, Violations, shall be amended as follows:

108.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars, or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

108.5 Stop work orders. Upon notice from the code official that mechanical work is being performed contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served

with a stop work order, except such work as that person is directed to perform to remove an unsafe condition, shall be in violation of this code.

Sec. 10-288. 109 Means of appeal.

Chapter 1, Scope and Administration Section 109, Means of appeal, shall be amended as follows:

109.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

109.2.-109.7. Shall be deleted.

Sec. 10-289. 111 Licenses added.

Chapter 1, Scope and administration, shall be amended to include the following:

Section 111, Licenses.

Section 111.1 Licenses. It is unlawful for any person to conduct, carry on, or engage in the business of mechanical systems or labor in the trade of mechanical systems without first having had issued a valid license, nor shall any person advertise for mechanical work in the city, without such license. Licenses are not transferable from one person to another and the lending of any license or the obtaining of permits thereunder for any other person shall be deemed cause for revocation.

It shall not be necessary for mechanical contractors, master mechanical license holders or, residential landlord mechanical license holders who are presently licensed in the city at the time of the passage of this code to take an examination for a certificate of qualification if they obtain a license during the next subsequent year.

Section 111.2 Type of licenses.

1. A mechanical contractor is a person who may conduct, carry on, or engage in the business of mechanical system work. The mechanical contractor must provide a copy of a master mechanical exam score of a 75 percent or better, in accordance with K.S.A. 12-1541 et seq. Liability insurance requirements shall be as provided in section 10-3.
2. A master mechanical license holder is a person who may conduct, carry on, or engage in the business of mechanical work as an employee of a mechanical contractor. The master mechanical license holder must provide a copy of a master plumbing exam score of a 75 percent or better, in accordance with K.S.A. 12-1541 et seq.
3. A mechanical apprentice is a person who labors at the mechanical trade as an employee of a mechanical contractor.
4. A residential landlord mechanical license holder is a person who may do mechanical work on residential structures for up to three individual living units that he owns. The residential landlord mechanical license holder must

provide a copy of a residential air conditioning exam score of a 75 percent or better, by an approved testing agency acceptable to the jurisdiction having authority. Liability insurance requirements shall be as provided in section 10-3.

Section 111.3 Display of mechanical license. All mechanical license holders, contractors, masters and apprentice, shall carry their licenses on their persons and exhibit the license on the demand of the inspector, his assistants or any officer of the city.

Section 111.4 Renewal. All mechanical licenses pursuant to this article shall expire on December 31 of each year. In addition, proof of 12 hours of continuing education of a type acceptable to the building official shall be submitted biennially at the time of license renewal in order to renew. Any license holder who fails to make proper application for renewal before March 1 shall be required to make an original application and take the qualifying examination.

Section 111.5 Revocation of license. The board of appeals may cancel or revoke any license issued to any person if such person later shows incompetency or lack of knowledge in matter relevant to such license or if such license was obtained by fraud. If the license is canceled or revoked, another such license shall not be granted to such person within 12 months after the date of cancellation or revocation.

Section 111.6 Fees. License fees shall be in accordance with the city fee schedule. If a new license application is made after January 1, of any year, the amount of the fee shall be determined by dividing the annual fee by four and multiplying the figure obtained by the number of quarters, or fractions thereof remaining until the next year.

Section 111.7 When unlicensed persons may do mechanical work. It is unlawful for any person other than a licensed mechanical contractor to do any construction or work regulated by this article except in the following circumstances.

Homeowners:

1. A letter shall accompany the permit application stating that the owner will live in the dwelling for a minimum of one year from the day of final inspection and is able to do the work to pass all inspections.
2. The owner shall submit a sketch with the permit application showing all mechanical work desired to be done.
3. When the work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.
4. When the person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or designed to be occupied by such owner.
5. When such owner shall personally perform all labor in connection therewith.

Section 111.8 Working without a license. When an individual performs mechanical work that requires a license by this code without first obtaining a license, they shall be fined the

amount equal to twice the license fee and all work must immediately cease until proper licensing is obtained.

Secs. 10-290 - 10-321. Reserved.

ARTICLE VII. RESIDENTIAL CODE

DIVISION 1. GENERALLY

Sec. 10-322. International residential code adopted.

The city has adopted the ICC International Residential Code, 2018 edition, including appendices H, I, J, M, and Q, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas", with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-323 - 10-347. Reserved.

DIVISION 2. AMENDMENTS TO RESIDENTIAL CODE

Sec. 10-348. Generally.

The amendments to the International Residential Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Residential Code," unless clearly indicated in the contrary.

Sec. 10-349. R101 General.

Chapter 1, Scope and administration, Section R101, General, shall be amended as follows:

R101.1, Title. These provisions shall be known and the Residential Code for One-and Two-family Dwellings of the City of Leavenworth, Kansas, and shall be cited as such and will be referred to herein as "this code."

Sec. 10-350. R103 Department of building safety.

Chapter 1, Scope and administration, Section R103, Department of building safety, shall be amended as follows:

R103.1, Creation of enforcement agency. The "building inspection division" shall be designated in the administrative division annually established as provided in chapter 2 of this code. Any reference to the "building official" means the "public works director" or his designated agent.

R103.2, Appointment. Shall be deleted.

Sec. 10-351. R105 Permits.

Chapter 1, Scope and administration, Section R105, Permits, shall be amended as follows:

R105.2 Work exempt from permit.

Building:

1. One story detached accessory structures, provided that the floor area does not exceed 120 square feet.
2. Fences not over 6 feet high.
3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
5. Sidewalks and driveways on private property.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

R105.2.4, Additional work exempt from permit shall include the following:

Electrical:

Replacement of receptacles, switches, light fixtures, ceiling fans, bath fans, attic fans and hard-wired smoke detectors

Mechanical:

Replacement of thermostats, registers, filters, and duct cleaning

Plumbing:

Replacement of water closets, bidets, urinals, hose bibs, residential sinks, water faucets, residential icemakers, residential humidifiers, exposed traps, residential garbage disposals and dishwashers

Sec. 10-352. R108 Fees.

Chapter 1, Scope and administration, Section R108 Fees, shall be amended as follows:

R108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each shall be paid as required, as set forth in the city fee schedule.

R108.5 Refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

R108.6 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an investigation fee. The investigation fee shall be equal to the permit fee as set forth in the city fee schedule.

108.7 Bond required. Each applicant desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000.00 to guarantee payment of such charges.

Sec. 10-353. R112 Board of appeals.

Chapter 1, Scope and administration, Section R112, Board of appeals, shall be amended as follows:

R112.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

R112.2 Limitation on authority, R112.3 Qualifications and R112.4 Administration. Shall be deleted.

Sec. 10-354. R113 Violations.

Chapter 1, Scope and administration, Section R113, Violations, shall be amended as follows:

R113.4, Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Sec. 10-355. 115 Licenses added.

Chapter 1, Scope and administration, shall be amended to include as follows:

Section 115, Licenses.

R115.1 Licenses. It is unlawful for any person to conduct, carry on, or engage in the business of electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing, or to labor in the trade of electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing without first having had issued a valid license, nor shall any person advertise for electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing work in the city, without such license. Licenses for electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing covered by this code shall be issued in accordance with article III, IV, or VI, chapter 10, Building and Building Regulations, of the Code of Ordinances of the city.

R115.2 When unlicensed persons may do work. It is unlawful for any person other than a licensed contractor to do any electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing work regulated by this article except in the following circumstance.

Homeowners:

1. A letter shall accompany the permit application stating that the owner will live in the dwelling for a minimum of one year from the day of final inspection and is able to do the work to pass all inspections.
2. The owner shall submit a sketch with the permit application showing all-electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing work desired to be done.
3. When the work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings.
4. When the person doing the work is the bona fide owner of such dwelling and accessory buildings and quarters, and the same are occupied or designed to be occupied by such owner.
5. When such owner shall personally perform all labor in connection therewith.

Kansas gas meter relocation: Kansas Gas's trained personnel shall be allowed to disconnect and reconnect gas meters to remove from inside a building to outside the building subject to the following:

1. Kansas Gas identifies all the houses by address or area.
2. Limit pipe-outs to ten feet or less.
3. Plumbing permits will be secured on all meter sets.
4. Shut-in tests performed for leakage, Kansas Gas will contact a licensed plumbing contractor if test fails.
5. City inspectors may request air tests be performed by a plumbing contractor at any time.
6. City inspectors measure all meter sets prior to any work being performed to determine the ten-foot limit.

7. (vii) All meter sets in excess of ten feet will be done by a licensed plumber.
8. At the end of the project, all piping on the customer side of the meter will be done by a licensed plumbing contractor.

R115.3 Working without a license. When an individual performs electrical, mechanical, fuel gas systems and gas fired appliances, or plumbing work that requires a license by this code without first obtaining a license, they shall be fined the amount equal to twice the license fee and all work must immediately cease until proper licensing is obtained.

Sec. 10-356. Building planning table R301.2(1) Climatic and geographic design criteria.

Chapter 3, Building planning, Table R301.2(1) Climatic and geographic design criteria, shall be amended as follows:

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA								
Ground Snow Load	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM		
	SPEED (MPH)	Topographic effect	Special wind region	Windborne debris zone		Weathering	Frost line Depth	Termite
20	115	NO	NO	NO	A	SEVERE	36"	YES
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA								
WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT	FLOOD HAZARDS				AIR FREEZING INDEX	MEAN ANNUAL TEMP	
6	YES	A.) 1/9/1978 B.) 7/16/2015 C.) 0129G - 7/16/2015 0133G - 7/16/2015 0134G - 7/16/2015 0137G - 7/16/2015 0139G - 7/16/2015 0141G - 7/16/2015 0142G - 7/16/2015 0143G - 7/16/2015 0144G - 7/16/2015				1015	54.4	
MANUAL J DESIGN CRITERIA SHALL BE DELETED								

Sec. 10-357. R302 Fire-resistant construction.

Chapter 3, Building planning, Section R302, Fire-resistant construction, shall be amended as follows:

R302.3 Two-family dwellings. Dwelling units in two-family dwellings shall be separated in accordance with the requirements as set forth in Section R302.2 Townhouses of this code.

Sec. 10-358. R313 Automatic fire sprinkler systems.

Chapter 3, Building planning, Section R313, Automatic fire sprinkler systems, shall be amended as follows:

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses of four or more attached units. An automatic fire sprinkler system may be installed in townhouses of three attached units.

Exception: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R.313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904 or NFPA 13D.

R313.2 One- and two-family dwellings automatic residential fire sprinkler systems. An automatic fire sprinkler system may be installed in one- and two-family dwellings.

R.313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13D.

Sec. 10-359. Chapter 11 Energy efficiency amendments.

Chapter 11 Energy efficiency shall be amended as follows:

Section 1101 General.

N1101.1 Scope. This chapter regulates the energy efficiency for the design and construction of buildings regulated by this code.

Exception: Portions of the building envelope that do not enclose conditioned space.

N1101.2 Compliance. Compliance shall be demonstrated by either meeting the requirements of the International Energy Conservation Code or meeting the requirements of this chapter. The city is designated as being in Climate Zone 4 for determining the applicable requirements from this chapter.

N1101.3 Identification. Materials, systems and equipment shall be identified in a manner that will allow a determination of compliance with the applicable provisions of this chapter.

N1101.4 Building thermal envelope insulation. An R-value identification mark shall be applied by the manufacturer to each piece of building thermal envelope insulation 12 inches (305 mm) wide or more. Insulating materials shall be installed such that the manufacturer's R-value mark is readily observable upon inspection.

N1101.5 Fenestration product rating. U-factors of fenestration products (windows, doors and skylights) shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Products lacking such a labeled U-factor shall be assigned a default U-factor from Tables N1101.5 (1) and

N1101.5 (2). The solar heat gain coefficient (SHGC) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Products lacking such a labeled SHGC shall be assigned a default SHGC from Table N1101.5 (3).

N1101.6 Installation. All materials, systems and equipment shall be installed in accordance with the manufacturer's installation instructions and the provisions of this code.

N1101.6.1 Protection of exposed foundation insulation. Insulation applied to the exterior of basement walls, crawl space walls, and the perimeter of slab-on-grade floors shall have a rigid, opaque and weather-resistant protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed exterior insulation and extend a minimum of 6 inches (152 mm) below grade.

N1101.7 Above code programs. The building official or other authority having jurisdiction shall be permitted to deem a national, state or local energy efficiency program to exceed the energy efficiency required by this chapter. Buildings approved in writing by such an energy efficiency program shall be considered in compliance with this chapter.

TABLE N1101.5(1)				
DEFAULT GLAZED FENESTRATION U-FACTORS				
FRAME TYPE	SINGLE PANE	DOUBLE PANE	SKYLIGHT	
			SINGLE	DOUBLE
Metal	1.2	0.8	2	1.3
Metal with thermal break	1.1	0.65	1.9	1.1
Nonmetal or Metal Clad	0.95	0.55	1.75	1.05
Glazed Block	0.6			

TABLE N1101.5(2)			
DEFAULT DOOR U-FACTORS			
DOOR TYPE	U-FACTOR		
Uninsulated metal			1.2
Insulated Metal			0.6
Wood			0.5
insulated , nonmetal, edge, max 45% glazing, any glazing double pane			0.35

TABLE N1101.5(3)				
DEFAULT GLAZED FENESTRATION SHGC				
SINGLE GLAZED	DOUBLE GLAZED			GLAZED BLOCK
CLEAR	TINTED	CLEAR	TINTED	
0.8	0.7	0.7	0.6	0.6

Section N1102 Building thermal envelope.

N1102.1 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Table N1102.1.

N1102.1.1 R-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component R-value. The manufacturer's settled R-value shall be used for blown insulation. Computed R-values shall not include an R-value for other building materials or air films.

N1102.1.2 U-factor alternative. An assembly with a U-factor equal to or less than that specified in Table N1102.1.2 shall be permitted as an alternative to the R-value in Table N1102.1.

Exception: For mass walls not meeting the criterion for insulation location in Section N1102.2.3, the U-factor shall be permitted to be 0.10.

N1102.1.3 Total UA alternative. If the total building thermal envelope UA (sum of U-factor times assembly area) is less than or equal to the total UA resulting from using the U-factors in Table N1102.1.2. (Multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table N1102.1. The UA calculation shall be done using a method consistent with the ASHRAE Handbook of Fundamentals and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

N1102.2 Specific insulation requirements.

N1102.2.1 Ceilings with attic spaces. When Section N1102.1 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves.

N1102.2.2 Ceilings without attic spaces. Where Section N1102.1 would require insulation levels above R-30 and the design of the roof/ceiling assembly does not allow sufficient space for the required insulation, the minimum required insulation for such roof/ceiling assemblies shall be R-30. This reduction of insulation from the requirements of Section N1102.1 shall be limited to 500 ft² (46 m²) of ceiling area.

TABLE N1102.1										
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT ^a										
CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR ^b	GLAZED FENESTRATION SHGC	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^c	SLAB R-VALUE AND DEPTH ^d	CRAWLSPACE WALL R-VALUE
4	0.4	0.6	NR	38	13	5	19	10/13	10, 2 FT	10/13

- a) R-values are minimums. U-factors and SHGC are maximums. R-19 insulation shall be permitted to be compressed into a 2 x 6 cavity.
- b) The fenestration U-factor column excludes skylights. The solar heat gain coefficient (SHGC) column applies to all glazed fenestration.
- c) The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
- d) R-5 shall be added to the required slab edge R-values for heated slabs.

TABLE N1102.1.2								
EQUIVALENT U-FACTORS ^a								
CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR	CEILING U-FACTOR	FRAME WALL U-FACTOR	MASS WALL U-FACTOR	FLOOR U-FACTOR	BASEMENT WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
4	0.4	0.6	0.03	0.082	0.141	0.047	0.059	0.065

- a) Nonfenestration U-factors shall be obtained from measurement, calculation or an approved source.

N1102.2.3 Mass walls. Mass walls, for the purposes of this chapter, shall be considered walls of concrete block, concrete, insulated concrete form (ICF), masonry cavity, brick (other than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs. The provisions of Section N1102.1 for mass walls shall be applicable when at least 50 percent of the required insulation

R-value is on the exterior of, or integral to, the wall. Walls that do not meet this criterion for insulation placement shall meet the wood frame wall insulation requirements of Section N1102.1.

Exception: For walls that do not meet this criterion for insulation placement, the minimum added insulation R-value shall be permitted to be 10.

N1102.2.4 Steel-frame ceilings, walls and floors. Steel-frame ceilings, walls and floors shall meet the insulation requirements of Table N1102.2.4 or shall meet the U-factor requirements in Table N1102.1.2. The calculation of the U-factor for a steel-frame envelope assembly shall use a series-parallel path calculation method.

TABLE N1102.2.4		
STEEL-FRAME CEILING, WALL AND FLOOR INSULATION(R-VALUE)		
WOOD FRAME R-VALUE REQUIREMENT		COLD-FORMED STEEL EQUIVALENT R-VALUE ^a
	Steel Truss Ceilings ^a	
R-38		R-49 or R-38 +3
	Steel Joist Ceilings ^b	
R-38		R-49 IN 2X4 or 2X6 or 2X8 or 2X10
	Steel Framed Wall	
R-13		R-13 + 5 or R-15 +4 r-21 + 3
	Steel Joist Floor	
R-19		R19 + R-6 in 2x6 R-19 + R-12 in 2x8 or 2x10

- a) Cavity insulation R-value is listed first, followed by continuous insulation R-value.
- b) Insulation exceeding the height of the framing shall cover the framing.

N1102.2.5 Floors. Floor insulation shall be installed to maintain permanent contact with the underside of the subfloor decking.

N1102.2.6 Basement walls. Exterior walls associated with conditioned basements shall be insulated from the top of the basement wall down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1 and N1102.2.5.

N1102.2.7 Slab-on-grade floors. Slab-on-grade floors with a floor surface less than 12 inches below grade shall be insulated in accordance with Table N1102.1. The insulation shall extend downward from the top of the slab on the outside or inside of the foundation wall. Insulation located below grade shall be extended the distance provided in Table N1102.1 by any combination of vertical insulation, insulation extending under the slab or insulation extending out from the building. Insulation extending away from the building shall be protected by pavement or by a minimum of 10 inches (254 mm) of soil. The top edge of the insulation installed

between the exterior wall and the edge of the interior slab shall be permitted to be cut at a 45-degree (0.79 rad) angle away from the exterior wall. Slab-edge insulation is not required in jurisdictions designated by the code official as having a very heavy termite infestation.

N1102.2.8 Crawl space walls. As an alternative to insulating floors over crawl spaces, insulation of crawl space walls when the crawl space is not vented to the outside is permitted.

Crawl space wall insulation shall be permanently fastened to the wall and extend downward from the floor to the finished grade level and then vertically and/or horizontally for at least an additional 24 inches (610 mm). Exposed earth in unvented crawl space foundations shall be covered with a continuous vapor retarder. All joints of the vapor retarder shall overlap by 6 inches (152 mm) and be sealed or taped. The edges of the vapor retarder shall extend at least 6 inches (152 mm) up the stem wall and shall be attached to the stem wall.

N1102.2.9 Masonry veneer. Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.

N1102.2.10 Thermally isolated sunroom insulation. The minimum ceiling insulation R-value shall be R-19. The minimum wall R-value shall be R-13. New wall(s) separating the sunroom from conditioned space shall meet the building thermal envelope requirements.

N1102.3 Fenestration.

N1102.3.1 U-factor. An area-weighted average of fenestration products shall be permitted to satisfy the R-factor requirements.

N1102.3.2 Glazed fenestration SHC.C. An area weighted average of fenestration products more than 50 percent glazed shall be permitted to satisfy the solar heat gain coefficient (SHGC) requirements.

N1102.3.3 Glazed fenestration exemption. Up to 15 square feet (1.4 m²) of glazed fenestration per dwelling unit shall be permitted to be exempt from U-factor and solar heat gain coefficient (SHGC) requirements in Section N1102.1.

N1102.3.4 Opaque door exemption. One opaque door assembly is exempted from the U-factor requirement in Section N 1102.1.

N1102.3.5 Thermally isolated sun room U-factor. The maximum fenestration U-factor shall be 0.50 and the maximum skylight U-factor shall be 0.75. New windows and doors separating the sunroom from conditioned space shall meet the building thermal envelope requirements.

N1102.3.6 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the

replacement fenestration unit shall meet the applicable requirements for U-factor and solar heat gain coefficient (SHGC) in Table N1102.1.

N1102.4 Air leakage.

N1102.4.1 Building thermal envelope. The building thermal envelope shall be durably sealed to limit infiltration. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. The following shall be caulked, gasketed, weatherstripped or otherwise sealed with an air barrier material, suitable film or solid material.

1. All joints, seams and penetrations.
2. Site-built windows, doors and skylights.
3. Openings between window and door assemblies and their respective jambs and framing.
4. Utility penetrations.
5. Dropped ceilings or chases adjacent to the thermal envelope.
6. Knee walls.
7. Walls and ceilings separating the garage from conditioned spaces.
8. Behind tubs and showers on exterior walls.
9. Common walls between dwelling units.
10. Other sources of infiltration.

N1102.4.2 Fenestration air leakage. Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cubic foot per minute per square foot [1.5(L/s)/m²], and swinging doors no more than 0.5 cubic-foot per minute per square foot [2.5(L/s)/m²], when tested according to NFRC400 or AAMA/WDMA/CSA 101/I.S.2/ A440 by an accredited, independent laboratory, and listed and labeled by the manufacturer.

Exception: Site-built windows, skylights and doors.

N1102.4.3 Recessed lighting. Recessed luminaires installed in the building thermal envelope shall be sealed to limit air leakage between conditioned and unconditioned spaces by being:

1. IC-rated and labeled with enclosures that are sealed or gasketed to prevent air leakage to the ceiling cavity or unconditioned space; or
2. IC-rated and labeled as meeting ASTM E 283 when tested at 1.57 pounds per square foot (75 Pa) pressure differential with no more than 2.0 cubic feet per minute (0.944 L/s) of air movement from the conditioned space to the ceiling cavity; or
3. Located inside an airtight sealed box with clearances of at least 0.5 inch (13 mm) from combustible material and 3 inches (76 mm) from insulation.

N1102.5 Moisture control. The building design shall not create conditions of accelerated deterioration from moisture condensation. Above-grade frame walls, floors and ceilings not ventilated to allow moisture to escape shall be provided with

an approved vapor retarder. The vapor retarder shall be installed on the warm-in-winter side of the thermal insulation.

Exceptions:

1. In construction where moisture or its freezing will not damage the materials.
2. Frame walls, floors and ceilings. (Crawl space floor vapor retarders are not exempted.)
3. Where other approved means to avoid condensation are provided.

Section N1103 Systems.

N1103.1 Controls. At least one thermostat shall be installed for each separate heating and cooling system.

N1103.1.1 Heat pump supplementary heat. Heat pumps having supplementary electric-resistance heat shall have controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

N1103.2 Ducts.

N1103.2.1 Insulation. Supply and return ducts shall be insulated to a minimum of R-8. Ducts in floor trusses shall be insulated to a minimum of R-6.

Exception: Ducts or portions thereof located completely inside the building thermal envelope.

N1103.2.2 Sealing. Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with Section M1601.3.1.

N1103.2.3 Building cavities. Building framing cavities shall not be used as supply duct.

N1103.3 Mechanical system piping insulation. Mechanical system piping capable of carrying fluids above 105°F (40°C) or below 55°F (13°C) shall be insulated to a minimum of R-2.

N1103.4 Circulating hot water systems. All circulating service hot water piping shall be insulated to at least R-2. Circulating hot water systems shall include an automatic or readily accessible manual switch that can turn off the hot water circulating pump when the system is not in use.

N1103.5 Mechanical ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

N1103.6 Equipment sizing. Heating and cooling equipment shall be sized as specified in Section M1401.3.

Sec. 10-360. G2417 Inspection, testing and purging.

Chapter 24, Fuel gas, Section G2417, Inspection, testing and purging, shall be amended as follows:

G2417.1.1 General. Prior to acceptance and initial operation and on any piping system that has not been in operation for one year or longer, all piping installations shall be visually inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code.

G2417.4.1 Test pressure. The test pressure to be used shall be no less than one and one-half times the proposed maximum working pressure, but not less than 20 psig (138 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

Sec. 10-361. P2603 Structural and piping protection.

Chapter 26, General plumbing requirements, Section P2603, Structural and piping protection, shall be amended as follows:

P2603.5.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Sec. 10-362. E3403, Inspection and approval.

Chapter 34, General requirements, Section E3403, Inspection and approval, shall be amended as follows:

E3403.2.1 Electrical systems off for over one year. Each building or electrical system that has been disconnected or has not been in use for one year or longer shall require a service reconnection inspection be made prior to reconnection of the building or electrical system to the utility source of energy or power.

E3406.2 Conductor material. Conductors used to conduct current shall be of copper or aluminum except as otherwise provided in Chapters 34 through 43. Aluminum or copper clad wire must be 60 amperes or larger and used only for service entrance conductors or panel feeders. Where the conductor material is not specified, the material and the sizes given in these chapters shall apply to copper conductors. Where other materials are used, the conductor size shall be changed accordingly. (110.5)

Sec. 10-363. E3406, Electrical conductors and connections.

Chapter 34, General requirements, Section E3406, Electrical conductors and connections, shall be amended as follows:

E3406.2 Conductor material. Conductors used to conduct current shall be of copper or aluminum except as otherwise provided in chapters 34 through 43. Aluminum or copper clad wire must be 60 amperes or larger and used only for service entrance conductors or panel feeders. Where the conductor material is not specified, the material and the sizes given in these chapters shall apply to copper conductors. Where other materials are used, the conductor size shall be changed accordingly. (110.5)

Sec. 10-364. E3601, General services.

Chapter 36, Services, Section E3601, General services, shall be amended as follows:

E3601.6.2 Service disconnect location. The service disconnecting means shall be installed at a readily accessible location either outside of a building or inside nearest point of entrance of the service conductors. When service conductors are more than 6 feet from the point of entry to the service panel, a separate means of disconnect shall be installed at the service conductor entrance to the building. Service disconnecting means shall not be installed in bathrooms. Each occupant shall have access to the disconnect serving the dwelling unit in which they reside.

Sec. 10-365. E3602, Service size and rating.

Chapter 36, Services, Section E3602, Service size and rating, shall be amended to include as follows:

E3602.5 Minimum service entrance size.

1. New and existing one- and two-family dwellings with floor area not exceeding 1,000 square feet—100 amperes.
2. New and existing one- and two-family dwellings with floor area equal to or exceeding 1,000 square feet—150 amperes.

Sec. 10-366. E3902, Ground-fault and arc-fault circuit-interrupter protection.

Chapter 39, Power and lighting distribution, Section E3902, Ground-fault and arc-fault circuit-interrupter protection, shall be amended as follows:

E3902.2 Garage and accessory building receptacles. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in garages and grade-level portions of unfinished accessory buildings used for storage or work areas shall have ground-fault circuit-interrupter protection for personnel.

Exceptions:

1. A dedicated single receptacle for a garage door opener.
2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by cord-and plug-connected appliance such as a refrigerator or freezer.
3. A dedicated single receptacle for a sump pump.
4. A dedicated single receptacle supplying a permanently installed fire alarm or security alarm system.
5. Receptacles installed in accordance with these exceptions shall not be considered as meeting the requirements of Section E3901.9.

E3902.5 Unfinished basement receptacles. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in unfinished basements shall have ground-fault circuit interrupter protection for personnel. For purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms.

Exceptions:

1. A dedicated single receptacle for a garage door opener.
2. A single receptacle supplied by a dedicated branch circuit that is located and identified for specific use by cord-and plug-connected appliance such as a refrigerator or freezer.
3. A dedicated single receptacle for a sump pump.
4. A dedicated single receptacle supplying a permanently installed fire alarm or security alarm system.
5. Receptacles installed in accordance with these exceptions shall not be considered as meeting the requirements of Section E3901.9.

Secs. 10-367—10-378. - Reserved.

ARTICLE VIII. SWIMMING POOL AND SPA CODE

DIVISION 1. GENERALLY.

Sec. 10- 379. Swimming pool and spa code adopted.

The city has adopted the ICC International Swimming Pool and Spa Code, 2018 edition, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-380—10-390 . Reserved.

DIVISION 2. AMENDMENTS TO SWIMMING POOL AND SPA CODE.

Sec. 10-391 . Generally.

Amendments to the adopted International Swimming Pool and Spa Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Swimming Pool and Spa Code," unless clearly indicated to the contrary.

Sec. 10- 392. 101 General.

Chapter 1, Scope and Administration, Section 101, General, shall be amended as follows:

101.1 Title. These regulations shall be known as the Swimming Pool and Spa Code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10- 393. 103 Department of building safety.

Chapter 1, Scope and Administration, Section 103, Department of building safety, shall be amended as follows:

103.1, Creation of enforcement agency. The "building inspection division" shall be designated in the administrative division annually established as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

103.2, Appointment. Shall be deleted.

Sec. 10-394 . 105 Permits.

Chapter 1, Scope and Administration, Section 105, Permits, shall be amended as follows:

105.6.2 Fee schedule. The fees for work under this code shall be as set forth in the city fee schedule.

105.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

105.6.4 Bond. Each license holder desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000 to guarantee payment of such charges.

Sec. 10-395. 107 Violations.

Chapter 1, Scope and Administration, Section 107, Violations, shall be amended as follows:

107.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars, or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

107.5 Stop work orders. Upon notice from the code official, work on any system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

Sec. 10-396. 108 Means of appeal.

Chapter 1, Scope and Administration Section 109, means of appeal, shall be amended as follows:

108.1 General. Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

108.2.-108.7. Shall be deleted.

Secs. 10-397 - 10- 410. Reserved.

ARTICLE IX. EXISTING BUILDING CODE.

DIVISION 1. GENERALLY.

Sec. 10-411. International existing building code adopted.

The city has adopted the ICC International Existing Building Code, 2018 edition, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article

clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-412 - 10-422. Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED EXISTING BUILDING CODE

Sec. 10-423. Generally.

The amendments to the adopted International Existing Building Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Existing Building Code," unless clearly indicated in the contrary.

Sec. 10-424. 101 General amended.

Chapter 1, Scope and Administration, Section 101, General, shall be amended as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the City of Leavenworth, Kansas, hereinafter referred to as "this code."

Sec. 10-425 101 General added.

Chapter 1, Scope and Administration, Section 101, General, shall be amended by including as follows:

101.4.3 Vacant buildings. A building or portion of a building that has not been occupied for 24 months or longer shall be assigned an occupancy classification of Low-hazard storage, Group S-2, for the purpose of enforcement of this code. The code official is authorized to assign a different occupancy classification when circumstances exist that the code official determines that the Low-hazard storage, Group S-2, is not appropriate.

Section 10-426. 103 Department of building safety.

Chapter 1, Scope and Administration, Section 103, Department of building safety, shall be amended as follows:

103.1, Creation of enforcement agency. The "building inspection division" shall be designated in the administrative division annually established as provided in chapter 2 of this code. Any reference to the "code official" means the "public works director" or designated agent.

103.2, Appointment. Shall be deleted.

Section 10-427. 105 Permits.

Chapter 1, Scope and Administration, Section 105, Permits, shall be amended with the addition of the following:

105.2.4, *Additional work exempt from permit* shall include the following:

Electrical: Replacement of receptacles, switches, light fixtures, ceiling fans, bath fans, attic fans and hard-wired smoke detectors

Mechanical: Replacement of thermostats, registers, filters, and duct cleaning

Plumbing: Replacement of water closets, bidets, urinals, hose bibs, residential sinks, water faucets, residential icemakers, residential humidifiers, exposed traps, residential garbage disposals and dishwashers

Sec. 10-428. 108 Fees amended.

Chapter 1, Scope and Administration, Section 108, Fees, shall be amended as follows:

108.2, *Schedule of permit fees.* On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, as set forth in the city fee schedule.

108.4, *Work commencing before permit issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an investigation fee. The investigation fee shall be equal to the permit fee as set forth in the city fee schedule.

108.6, *Refunds.* The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permit holder not later than 180 days after the date of fee payment.

Sec. 10-429. Fees added.

Chapter 1, Scope and Administration, Section 108, Fees, shall be amended with the addition of the following:

108.7 *Plan Review Fees.* When submittal documents are required by Section 106, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be as set forth in the city fee schedule, or the actual cost of the review whichever is greater.

108.8 *Bond required.* Each applicant desiring to maintain a monthly charge account with the city for permit or inspection fees shall file a surety bond or other cash security in the amount of \$5,000.00 to guarantee payment of such charges.

Sec. 10-430. 110 Inspections.

Chapter 1, Scope and Administration, Section 110, Inspections, shall be amended as follows:

110.1 General. Construction or work for which a permit is required shall be subject to inspection by the code official and such construction or work shall remain visible and able to be accessed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation or provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner's authorized agent to cause the work to remain visible and able to be accessed for inspection purposes. Neither the code official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. The code official or designated agent may waive any of the required inspections at their discretion.

Sec. 10-431. 112 Board of appeals.

Chapter 1, Scope and Administration, Section 112, Board of appeals, shall be amended as follows:

112.1 General Appeals under this article shall be the same as provided for in section 10-61 of the Leavenworth Municipal Code, the terms of which are incorporated herein by this reference.

112.2 Limitations on authority. Shall be deleted.

112.3 Qualifications. Shall be deleted.

Sec. 10-432. 115 Unsafe Structures and equipment.

Chapter 1, Scope and Administration, Section 115, Unsafe structures and equipment, shall be amended as follows:

All buildings or structures which are unsafe or not provided with adequate egress or which constitute a fire hazard or are otherwise dangerous to human life, or unfit for human occupancy, or which, in relation to existing use, constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment, or other conditions or defects as specified in this code, or any other effective ordinance are, for the purpose of this section, unsafe buildings. Such unsafe buildings are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in state law or this code, including but not limited to Article XI of the Leavenworth Municipal Code, which is incorporated herein by this reference.

Sec. 10-433. 117 Demolition.

Chapter 1, Scope and administration, Section 117, Demolition, shall be deleted.

Secs. 10-434. - 10-445. - Reserved.

ARTICLE X. PROPERTY MAINTENANCE.

DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE.

Sec. 10-446. International property maintenance code adopted.

The city has adopted the ICC International Property Maintenance Code, 2018 edition, including appendix A, which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-447 - 10-457 Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED PROPERTY MAINTENANCE CODE.

Sec. 10-458. Generally.

The amendments to the adopted international property maintenance code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the international property maintenance code," unless clearly indicated in the contrary.

Sec. 10-459. 101 General.

Chapter 1, Scope and administration, section 101, General shall be amended to read:

Section [A] 101.1 Title. These regulations shall be known as the "International Property Maintenance Code" of The City of Leavenworth, hereinafter referred to as "this code".

Sec. 10-460. 103 Department of property maintenance inspection.

Chapter 1, Scope and administration, section 103, Department of property maintenance inspection shall be amended to read:

Section [A] 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the city fee schedule.

Sec. 10-461. 110 Demolition.

Chapter 1, Scope and administration, Section 110, Demolition, shall be amended as follows:

Section 110.1 General. All buildings or structures which are unsafe or not provided with adequate egress or which constitute a fire hazard or are otherwise dangerous to human life, or unfit for human occupancy, or which, in relation to existing use, constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment, or other conditions or defects as specified in this code, or any other effective ordinance are, for the purpose of this section, unsafe buildings. Such unsafe buildings are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in state law or this code, including but not limited to Article XI of the Leavenworth Municipal Code, which is incorporated herein by this reference.

110.2.-110.4. Shall be deleted.

Sec. 10-462. 111 Means of appeal.

Chapter 1, Scope and administration, Section 111, Means of appeal, shall be deleted.

Sec. 10-463. 112 Stop work order.

Chapter 1, Scope and administration, Section 112, Stop work order, Section [A] 112.4 Failure to Comply, shall be amended to read:

Section [A] 112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to prosecution in municipal court.

Sec. 10-464. 2 General definitions.

Chapter 2, Definitions, Section 2, General definitions shall be amended to read:

[a] Code official. The department head or other person designated by the city manager to enforce this article. The present designated code official is the zoning administrator, community development department. All officers of the city including code enforcement, law enforcement and building inspection personnel may report violations to this person who shall investigate and determine appropriate action. Citizens are also encouraged to report violations of this code to the designated code official.

Sec. 10-465. 302 Exterior property maintenance areas.

Chapter 3, General requirements, Section 302, Exterior property maintenance areas shall be amended to read:

Section 302.4 Weeds, Premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches in height. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

Sec. 10-466. 304 Exterior structure.

Chapter 3, General requirements, Section 304 Exterior structure shall be amended to read:

Section 304.14 Insect Screens During the period from April 1 to October 1, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

Sec. 10-467. 602 Heating facilities.

Chapter 6, Mechanical and electrical requirements, Section 602 Heating facilities shall be amended to read:

Section 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to April 1 to maintain a minimum temperature of 60°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to April 1 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

Sec. 10-468. Purpose.

The purpose of this article is to provide for enforcement of property maintenance standards which are considered essential to health and sanitation, but their violation would not necessarily make a home unfit for continued occupancy. Each standard enumerated herein is a minimum order of law. Persons are encouraged to maintain their properties to higher standards.

Secs. 10-469. - 10-526. - Reserved.

ARTICLE XI. UNSAFE OR DANGEROUS STRUCTURES; ABANDONED PROPERTY.

Sec. 10-527. State law adopted.

The provisions of K.S.A. 12-1750-12-1756g are adopted by reference as though fully set forth herein. The term "abandoned property" shall have such meaning as is provided in K.S.A. 12-1750, as amended.

Sec. 10-528. Designation of enforcing officer.

The environmental officer is designated as the enforcing officer charged with the administration of the provisions of this article.

Sec. 10-529. Prohibition.

It is unlawful to maintain or allow the existence of any unsafe or dangerous structure, or any abandoned property, in the city. It is unlawful for the owner, occupant or custodian of any unsafe or dangerous structure to permit such structure to remain in such an unsafe or dangerous condition or to occupy, permit occupation or otherwise utilize such a structure while it remains in an unsafe or dangerous condition. It is unlawful for the owner or custodian or any abandoned property to permit such property to remain as abandoned property, whether as the result of unpaid taxes or such property having a blighting influence (as defined in K.S.A. 12-1750, as amended).

Sec. 10-530. Determination.

- (a) When the enforcing officer shall file with the city commission a statement in writing that any structure is unsafe or dangerous or is abandoned property, describing the structure and where located, the city commission shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of record,

and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished, or rehabilitated in the case of abandoned property.

- (b) The resolution provided for in subsection (a) of this section shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder or occupant at their last-known place of residence and shall be marked "deliver to addressee only."
- (c) On the date fixed for hearing under this section or any adjournment thereof, the city commission shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure, as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the city commission finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe or secure. If the city commission finds that such structure is abandoned property, the governing body may authorize the rehabilitation of such property as provided by K.S.A. 12-1756a, as amended. Such resolution shall be published once in the official city newspaper and a copy thereof mailed to the owners, agents, lienholders of record and occupants in the same manner provided in the notice of hearing. The resolution shall fix a reasonable time within which the repair or the removal of such structure shall be commenced, and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated, or fails to diligently prosecute such repair or removal until the work is completed, the city commission will cause the structure to be repaired or razed and removed in the case of unsafe or dangerous structures, or rehabilitated in the case of abandoned property.

Sec. 10-531. Posting of notice.

The enforcement officer shall place a notice on the particular structures found by the enforcement officer to be unsafe or dangerous, reading as follows: "This structure has been found to be unsafe or dangerous by the Enforcement Officer of Leavenworth, Kansas." This notice is to remain on this building until it is repaired or demolished in accordance with the notice which has been given the owner, the owner's agent, any lienholder of record and any occupant of this structure.

Sec. 10-532. Vacation of premises.

Any structure condemned as unfit for human habitation, and so designated and placarded by the enforcement officer, shall be vacated within 30 days after notice of such condemnation has been given to the owner, the owner's agent, any lienholder of record and any occupant of the structure.

Sec. 10-533. Reuse only after defects are corrected.

No structure which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until approval is secured from and such placard is removed by the enforcement officer. The enforcement officer shall remove such placard when the defect upon which the condemnation and placarding action were based has been eliminated.

Sec. 10-534. Removing notices prohibited.

No person shall deface or remove the placard from any structure which has been condemned as unfit for human habitation and placarded as such, except as provided in this article.

Sec. 10-535. Abatement by city; collection of costs.

- (a) If the owner of any structure determined to be unsafe or dangerous fails to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute such repair or removal thereafter, the city may proceed to raze and remove the structure, make the premises safe and secure or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the costs of removing such structure and making the premises secure. All moneys in excess of that necessary to pay such costs shall, after payment of all costs, be paid to the owner of the premises upon which the structure was located.
- (b) If there is no salvageable material or money received from the salvage is insufficient to pay the costs of such work, such costs, or any portion thereof, including an administrative cost as set out in the city fee schedule, shall be assessed as a special assessment against the parcel of land on which the structure is located and the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs, and the county clerk shall extend such costs on the tax rolls of the county against the lot or parcel of land. When any structure is removed from any premises under the provisions of this article, the city clerk shall certify to the county assessor that such structure, describing the same, has been so removed.
- (c) If there is no salvageable material, or if the moneys received from the sale of salvage is insufficient to pay the cost of the work, such costs, or any portion thereof in excess of that received from the sale of the salvage, may be financed until the assessment is paid out of the general fund or by the issuance of no fund warrants. When no fund warrants are issued under the authority of K.S.A. 12-1755, or any amendments thereto, the city commission shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon, all as provided by K.S.A. 12-1755.

Sec. 10-536. Immediate hazard.

When, in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay, and such action may, under such circumstances, be taken without prior

notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by section 10-535 above.

Sec. 10-537. Duties of owner after removal of structure.

The owner of any structure, upon removing the structure, shall fill any basement or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition.

Secs. 10-538 - 10-567. Reserved.

ARTICLE X11 MOVING OF STRUCTURES

DIVISION 1. GENERALLY

Sec. 10-568 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Structure means any house, building, derrick or any other similar structure.

Public property means any street, alley, public right-of-way, park, city building, bridges or other city owned property.

Sec. 10-569. Compliance with construction codes; inspections; expenses.

All structures that are constructed outside the city and then moved to the city for erection or location will have to meet and comply with the current building, electrical, plumbing and other codes of the city. The city inspection team will make spot checks at the location of the manufacturer of structures to be erected in the city, or the manufacturer shall provide a certification by an engineer licensed to do business in the state, or other approval inspection agency, certifying that each home meets all city construction codes. The manufacturers of structures that are erected in the city shall be required to pay the travel expense for the city inspectors to visit their respective plants if travel is necessary.

Sec. 10-570. Duty of mover, damages.

- (a) It shall be the duty of the applicant, the applicant's agent and employees, to whom a permit is issued under this article, to move such structure with rubber-tired equipment along the route designated in the permit with the least possible interference with the use public property for public purposes.
- (b) If in the moving of any structure under this article any person shall cause damage to any public property, the same shall be immediately repaired under the direction and supervision of the public works director or designee.

- (c) It shall be the duty of the applicant to notify all utility companies of the move to obtain approval and to coordinate any necessary modification or moving of wires, cables, poles or other property. All expense incurred shall be coordinated between the applicant and the utility company.

Sec. 10-571. Cutting or trimming of trees, owner's consent.

It is unlawful for any person moving any structure to cut or trim any trees growing upon any property abutting any street, avenue or alley without the consent of the owner of the property. Trees in the public rights-of-way may be trimmed only upon the approval of the parks and recreation director or designee.

Sec. 10-572. Damaging trees.

Any person moving any structure within the city shall use care to prevent injury to trees and shall be liable for any damage. Such damage shall immediately be reported to the city inspector to estimate and determine such damage.

DIVISION 2. PERMIT

Sec. 10-573. Permit, fees, deposit of costs, liability insurance required.

No person shall engage in the moving of any structure within the city without first having made application to the city clerk and paying the permit fee provided in the city fee schedule.

Liability insurance is required. The contractor, licensee or permittee shall file with the city clerk a certificate of liability insurance issued by a company authorized to do business in the state providing \$1,000,000.00 per occurrence for bodily injury or property and \$2,000,000.00 aggregate coverage. The description of operations section of such policy shall include a reference to the activity for which the insurance is issued and the words "City of Leavenworth, its assigned, officers and affiliates are additional insured on a primary and non-contributory basis." The policy shall also include a provision that notice of change or cancellation shall be given to the city. The applicant, licensee or permit holder shall hold the city harmless for all claims that may arise against the city by any person for damages caused by the licensee to persons or property.

The application shall be in writing to the city clerk. The application shall describe the structure, its size, current location and where the structure it is to be relocated. City staff shall review the application and determine the following:

1. Route to be taken.
2. Conformity to all codes of the city.
3. Any required moving or rearrangement of any city property to include but not limited to city trees, street signs, wires and traffic lights. An estimate of the reasonable cost and expenses necessary to cut, elevate, rearrange or reconstruct to allow passage of the structure shall be provided to the applicant.

Before the permit shall be issued, the applicant shall deposit with the city clerk a sum sufficient to cover one-half of such estimated cost and expense.

After approval by city staff, proof of liability insurance provided, and a deposit of the sum of one-half of the estimate cost and expense to the city for the moving or rearrangement of city property as describe in the applications process, the permit shall be issued. The permit shall designate the name of the applicant, name of owner, the route to be used, the date and time of the move and any other details and requirements deemed necessary by city staff.

After the work is done, the actual cost of city expenses incurred will be calculated. The applicant shall pay within 30 days any remaining balance due not covered by the deposit. Should the deposit be in excess of the actual costs, the excess shall be returned to the applicant within 14 days.

Sec. 10-574. Denial, revocation and appeal.

- (a) If a permit is not issued, the city clerk or designee shall indicate in writing the reasons for denial and inform the applicant of the applicant's right to an appeal of the denial in accordance with the provision of this article.
- (b) A permit may be revoked if the applicant fails to provide true and correct information on the application, the applicant fails to continuously maintain insurance in accordance with requirements of this chapter, or upon a violation by the applicant or any involved agents or employees of any provision of this Code or any federal, state, or local law, rule, or regulation applicable or related to the license or permit issued under this article. Notice of such revocation shall be mailed by the city clerk or designee to the applicant's address as shown on the registration application form, or to the applicant's last-known address, indicating in writing the reasons for revocation and informing the applicant of the applicant's right to an appeal of the revocation in the same manner as a denied application; however, any appeal of a license or permit revocation shall not suspend the revocation during the pendency of the appeal.
- (c) Upon the city's denial of an application for revocation of a permit under this article, the applicant shall have the right to appeal such action within 14 days of the denial or revocation being mailed to the applicant's address as shown on the registration application form, or to the applicant's last-known address. Such an appeal must be in the form of a written request, filed with the city clerk, setting the grounds for the appeal. Upon receipt of such a written request, the city clerk shall schedule the appeal hearing to take place during the next ten calendar days, before the city manager. Notice of the appeal hearing shall be given to the appellant in the same manner as provided for in the mailing of the notice of license or permit denial or revocation. The decision of the city manager on the appeal shall be final and binding on all parties.

Secs. 10-575 - 10-590. Reserved.

ARTICLE XIII. RENTAL REGISTRATION PROGRAM

Sec. 10-591. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dwelling means a building or structure or portion of a building or structure designed for or used for human habitation, including any rental unit or rooming unit.

Dwelling unit or *unit* means any room or group of rooms located within a dwelling and forming a single habitable unit with cooking, living, sanitary and sleeping facilities or rooming unit.

Operator/manager means any person who, alone or jointly or severally with others, shows rental dwelling units to prospective tenants or enters lease agreements on the owner's behalf or receives rent from tenants.

Owner means any person who, alone or jointly or severally with others:

- (1) Has legal title to any building with or without accompanying actual possession thereof;
- (2) Has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure or part thereof; or
- (3) Has possession or right to possession under a contract for deed.

Premises means the building in which the unit is located and all land appurtenant to such building.

Registered agent means the person designated by the owner to be the agent required by sections 10-593 and 10-594.

Rental housing complex means any residential rental units of any nature or character on one property or on adjacent property under common ownership.

Tenant/occupant means any person living, sleeping, cooking or eating at or actually having possession of a rental dwelling, dwelling unit or a rooming unit.

Unit means any dwelling unit or rooming unit.

Sec. 10-592. Applicability.

- (a) The provisions of this article shall apply to all rental dwellings, including rented single-family and multifamily dwellings and rented dwelling units in owner-occupied dwellings.
 - (1) A one-time registration shall be filed per owner of all property in which rental dwellings exist providing all property is titled under the same name;
 - (2) If the owner of the property in which rental dwellings exist is titled under different names, each property titled differently will be required to submit additional registrations; and

- (3) The city shall have the authority to exercise its powers under this article, including the power to enforce or to declare one or more of the owner's rental dwellings in violation of this article.
- (b) The provisions of this article shall not apply to:
- (1) State-licensed hotels, motels, and bed and breakfast facilities or to convents, monasteries, parish houses or rectories, mosques, temples, churches, synagogues, hospitals, licensed nursing homes;
 - (2) Assisted living facilities subject to inspection by other government agencies;
 - (3) Jails; or
 - (4) Residential dwelling units owned and operated by any housing authority.

Sec. 10-593. Application for registration.

- (a) No person shall allow any dwelling units in the city to be occupied or rent to another for occupancy unless the owner has first registered under the terms of this article. The owner of each rental dwelling shall make written application for registration to the city clerk's office on a form furnished by the city for such purpose. No application shall be considered without payment of the registration fee in the amount provided in the city fee schedule. The application shall set forth the following information:
- (1) *Owner information.* If the owner is a partnership or limited liability company, the name of the entity and the name, residence address, and telephone number of the managing partner or member shall be provided. If the owner is a corporation, the name and address of the corporation and the name, residence address, and telephone number of the chief operating officer shall be provided.
 - (2) *Registered agent information.* In cases where the owner of a rental dwelling resides more than 40 miles outside of the city, the owner shall designate a resident agent who shall reside within a 40-mile radius of the corporate limits of the city, and the registered agent's name, street and mailing address, and telephone number must be included on the application.
 - (3) *Manager information.* If some person other than the owner, manager or agent is actively involved in and responsible for the maintenance and management of the premises, that person's name, street and mailing address, and telephone number must be given in the application.
 - (4) *Keeper of tenant register.* The name, address, street and mailing address, and telephone number of the person designated as responsible for maintaining a current register of all tenants and other persons with a lawful right of occupancy to a rental dwelling.
 - (5) *Location; number and type of units.* Address identifying locations of the rental dwelling owned by the owner and the number and type of rental units in the building (dwelling units, rooming units or shared bath units).
- (b) Post office box addresses are not acceptable for any address required in this section. A street address must be provided.

Sec. 10-594. Duties of licensee and registered agents.

Every owner of a residential rental property shall notify the city in writing of any changes of information contained in the last registration filed within 30 days of the changed information. The registered agent shall be jointly and severally responsible with the owner for the upkeep and maintenance of the premises, compliance with this article and all other codes regulating the premises and acceptance of service of process and of all notices under this article.

Sec. 10-595. Penalties; remedies not exclusive.

- (a) *Failure to comply with any term of this article is unlawful.* The minimum penalty for a registration violation will be \$150.00. Each day that a person fails to comply as required by this article shall constitute a separate offense. Fines and penalties shall be consistent with the city's uniform offense code.
- (b) *The remedies provided in this article are not exclusive.* They are in addition to and do not supersede or pre-empt other remedies such as a declaration of being unsafe or dangerous, written violation orders and warnings and criminal charges for violation of substantive provisions of any city or state code relating to housing maintenance, fire safety, building codes, zoning, health and the like. Further, the remedies in this article do not supersede or affect the legal rights and remedies of tenants provided under state law or this Code.

Sec. 10-596 – 10-615. Reserved.

Section 2. REPEAL. Chapter 10, Buildings and Construction, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this ____ day of _____ 2020.

Myron J. "Mike" Griswold, Mayor

{Seal}

ATTEST:

Carla K. Williamson, CMC, City Clerk