

Town of Leavenworth, Indiana

Subdivision Control Ordinance

Prepared for:

The Town of Leavenworth

636 West Plaza Drive
Leavenworth, Indiana 47137
Phone: 812.739.1221

August 4, 2008 (Leavenworth Advisory Plan Commission public hearing and adoption)
October 13, 2008 (Leavenworth Town Council adoption)

Prepared by:

Bernardin, Lochmueller & Associates, Inc.

Engineering, Planning, Surveying, Environmental Studies, Water/Wastewater
6200 Vogel Road
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ORDINANCE NO. 2008-41

ORDINANCE ADOPTING THE SUBDIVISION CONTROL ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LEAVENWORTH, INDIANA
ADOPTING THE SUBDIVISION CONTROL ORDINANCE OF THE TOWN OF LEAVENWORTH,
INDIANA

WHEREAS, the ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-700 series) for the purpose of establishing control over the recording and division of lands, the development of lands, the control of land uses, the proper and legal description of side lands for the assessment of taxes, the recording of property purchased or sold, and for the health, welfare and enjoyment of properties by the current and future citizens of LEAVENWORTH; and

WHEREAS, the Advisory Plan Commission of LEAVENWORTH, Indiana, did on August 4, 2008 hold a legally advertised public meeting to consider adoption of the attached Subdivision Control Ordinance (Exhibit A) for the town; and

WHEREAS, the Plan Commission did consider said Subdivision Control Ordinance until all comments and objections were heard, and

WHEREAS, the Plan Commission found that the Subdivision Control Ordinance meets the requirements of Indiana Code 36-7-4-700, and that the adoption of this Subdivision Control Ordinance is found to be in the best interests of LEAVENWORTH, Indiana, and

WHEREAS, the Town Council finds that it is in the best interest of the Town to adopt said Subdivision Control Ordinance.

NOW THEREFORE, BE IT ORDAINED, that the Town Council of LEAVENWORTH, Indiana, hereby adopts Exhibit A, attached and made a part hereof, as the Subdivision Control Ordinance of the Town of LEAVENWORTH, Indiana.

This ordinance shall take effect from and after its passage as provided by law.

DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LEAVENWORTH, INDIANA, ON THIS
THE 13th DAY OF October, 2008.

Aye

Nay

Abstain

Absent

Steve Willis
John Stutzman
Ralph Lindauer

Ralph Lindauer
John Stutzman
Steve Willis

John Stutzman
John Stutzman, President

ATTEST:

Bonnie Young
Bonnie Young, Clerk-Treasurer

ORDINANCE NO. 2008-3**BUILDING FEES, ZONING FEES, AND CERTAIN REAL ESTATE
DEVELOPMENT FEES**

WHEREAS, the Common Council of the Town of Leavenworth, Indiana has now determined that it is appropriate to amend the present fees charged by the Town for certain building construction, certain zoning activities, and certain real estate development.

BE IT ORDAINED by the Common Council of the Town of Leavenworth, Indiana as follows:

Section One. Whenever an owner of real estate desires to construct or desires to build a new structure within the zoning jurisdiction of the Town of Leavenworth, Indiana that applicant or its agent must pay the following fees:

- A. Single Family Dwelling - \$60.00 plus \$.01 per square foot of the building.
- B. Two Family Dwelling - \$120.00 plus \$.01 per square foot of the building.
- C. Multifamily Dwelling, Apartment Buildings, Condominiums, Cooperative Buildings, Mobile Homes in parks or any other type of multifamily housing – each building is \$55.00 for the first unit and \$25.00 for each unit thereafter plus \$.01 per square foot for each building.
- D. Industrial and Commercial Buildings:
 - 1. Each separate building \$150.00 plus \$.01 per square foot.
 - 2. Addition to each existing structure \$50.00 plus \$.01 per square foot for each foot of the new addition.
 - 3. Off street parking lots (operated by any entity other than local government, state government, or federal government) \$50.00 plus \$2.00 per parking space.
- E. Additions to existing one and two family dwellings - \$20.00 per room for up to three rooms; over three rooms it is \$60.00 plus \$.01 per square foot of the total area of the new addition.
- F. Detached garages and carports - \$20.00 for one and two car garage with an additional \$5.00 charge for those detached garages and carports which have room for more than two cars. (Applies only when

garage or carport is not constructed at the same time as principally permitted use.)

G. Accessory items:

1. Multipurpose structures such as yard barns (portable or stationary) - \$25.00
2. Swimming Pools (includes in ground and above ground) - \$10.00 plus \$.01 per square foot of the square footage covered by the swimming pool including any concrete aprons and patio areas surrounding and/or adjacent the pool.
3. All permitted accessory uses in all residential districts and mixed use district except composting, off-street parking of recreational vehicles and off-street parking and loading - \$10.00.
4. All permitted accessory uses in commercial and industrial districts - \$25.00.

H. Demolition of Building Structures:

1. Principal Buildings - \$25.00
2. Accessory Building - \$15.00

I. Temporary Permits

1. Temporary Improvement Location Permit - \$50.00.
2. Temporary Certificate of Occupancy - \$25.00

J. Moving or changing location of buildings:

1. Principal Buildings - \$50.00
2. Accessory Buildings - \$20.00

K. Sign Permits - \$15.00

L. Sign Erections:

1. Signs up to 4' X 8' (32' square) - \$10.00 per face of sign.
2. Signs or billboards with over 32' square each square footage of face is \$1.00 per square foot per face of sign or billboard.

3. Nonprojecting signs (minimum \$10.00) or \$.35 per square foot if the total calculated in this manner exceeds \$10.00.
- M. Remodeling – This applies to a project which exceeds \$1000.00 in total costs excluding installation of central heating, air conditioning, major rewiring, major plumbing, etc. - \$20.00.
- N. Certificate of occupancy fees:
 1. One and two family residences - \$25.00
 2. Multifamily residential - \$50.00
 3. Commercial and Industrial - \$75.00
 4. Conditional use - \$50.00
 5. Accessory use - \$2.00

Section Two. The following fees apply to those applicants who seek zoning amendments, zoning variances, conditional uses, and other approvals under the present zoning code as applicable to the Town of Leavenworth as follows:

- A. Variance - \$250.00
- B. Zoning Amendments including change of master plan, zoning classification, or change in zoning text - \$100.00; change of zoning map - \$250.00.
- C. Change in development plan (which has been previously approved) - \$25.00; filing fee for original development plan - \$75.00.
- D. Conditional Uses - \$250.00
- E. Appeals from Administrator to Board of Zoning Appeals - \$100.00
- F. Grading permits as required under Article _____ of the existing zoning code of the Town of Leavenworth:
 1. Filing Fee - \$25.00 (In the event that an applicant fails to pay the required \$25.00 filing fee for a grading permit as required under the existing zoning code of the Town of Leavenworth, any enforcement action to compel the applicant to pay such filing fee shall require a fine in the sum not less than \$250.00 and not more than \$1000.00.)

Section Three. Real estate development including provisional and record plats of real estate require the following fees:

- A. Overall provisional plat - \$150.00 plus \$1.00 for each lot.
- B. Resubmitted overall provisional plat - \$100.00 plus \$1.00 for each lot.
- C. Record plat - \$100.00 for plat with less than 10 lots; \$50.00 for plat plus \$5.00 per lot with more than 9 lots and less than 50 lots; and \$5.00 per lot for those record plats which have 50 lots or more.

Section Four. Charges for copies of following shall be:

A. Zone Map(s)

- 1. Full Size - (34" X 44") - \$14.00
- 2. Reduced - (17" X 22") - \$4.00

B. Zoning Code Text

- 1. Paper - \$14.40 (96 pages long)
- 2. \$10.00 plus cost of medium
- 3. Comprehensive plan - \$10.30
- 4. Improvement location permits, temporary improvement location permits, certificate of occupancy, temporary certificates of occupancy, and grading permits - \$1.00 per page.
- 5. Documents relating to proceedings before Board of Zoning Appeals, Plan Commission, and Technical Advisory Committee - \$1.00 per page.

Section Five. Penalties. If any applicant shall violate any provisions of this Ordinance, such applicants shall be fined in any sum not less than \$10.00 and no more than \$1,000.00 for each act and each day of such unlawful activity as is prohibited shall constitute a separate offense. The Town of Leavenworth shall also be entitled to reimbursement of its reasonable attorney fees, costs and legal expenses incurred in enforcing the provisions of this ordinance of any such applicant who is found to have violated the terms of this ordinance.

Section Six. This ordinance shall be in full force and effect from and after its passage by the Council, approval by the Council President and publication in accordance with Indiana law.

PASSED AND ADOPTED by the Common Council of the Town of Leavenworth, Indiana this 13th day of October, 2008.

John W. Stutzman
Presiding Officer

ATTEST:

Bonnie Young
Bonnie Young, Clerk-Treasurer

Presented by me to the Council President of the Town of Leavenworth, Indiana, this 13th day of October, 2008 at the hour of 7:00 o'clock P.M.

Bonnie Young
Bonnie Young, Clerk-Treasurer

Approved and signed by me on this 13th day of October, 2008.

John W. Stutzman
John Stutzman, President

**SUBDIVISION CONTROL ORDINANCE
CERTIFICATION**

I, Rebecca Wormley, Secretary of the Leavenworth Advisory Plan Commission do hereby certify to the Leavenworth Town Council, that the Subdivision Control Ordinance of the Town of Leavenworth, a true copy of which is attached, was considered and approved by the Leavenworth Advisory Plan Commission at their meeting held on August 4, 2008 by a vote of 7 in favor, 0 against, 0 abstaining, and 2 absent and do herewith forward the same to you for your consideration and approval.

Rebecca Wormley
Rebecca Wormley
Secretary
Leavenworth Advisory Plan Commission

August 4, 2008
Date

RESOLUTION NO. 2008-2

RESOLUTION OF THE PLAN COMMISSION
ADOPTING THE SUBDIVISION CONTROL ORDINANCE


A RESOLUTION RECOMMENDING THAT THE TOWN COUNCIL OF THE TOWN OF LEAVENWORTH ADOPT THE ATTACHED SUBDIVISION CONTROL ORDINANCE, CONSISTENT WITH INDIANA STATE LAW REQUIREMENTS:

WHEREAS, the ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-700 series) for the purpose of establishing control over the recording and division of lands, the development of lands, the control of land uses, the proper and legal description of side lands for the assessment of taxes, the recording of property purchased or sold, and for the health, welfare and enjoyment of properties by the current and future citizens of Leavenworth; and

WHEREAS, the Advisory Plan Commission of Leavenworth, Indiana, did on August 4, 2008 hold a legally advertised public hearing on the proposed Subdivision control Ordinance of the town of Leavenworth, Indiana until all comments and objections were heard; and

WHEREAS, the Advisory Plan Commission found that said Subdivision control Ordinance is in the best interest of the citizens of Leavenworth, Indiana.

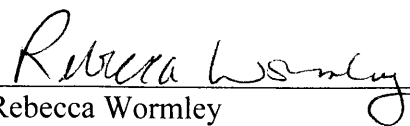
NOW THEREFORE, BE IT RESOLVED, that the Advisory Plan Commission of Leavenworth, Indiana, recommends to the Town Council the adoption of said Subdivision control Ordinance attached hereto named Subdivision control Ordinance of Leavenworth, Indiana, dated July 14, 2008.



S. A. Indigo
President
Leavenworth Advisory Plan Commission

8/4/08

Date



Rebecca Wormley
Secretary
Leavenworth Advisory Plan Commission

August 4, 2008

Date

SIGN-IN SHEET

Leavenworth Advisory Plan Commission – Public Hearing on Proposed Subdivision Control Ordinance
 Breeden Memorial Library, 529 West State Road 62, Leavenworth, Indiana 47137
 7:00 PM August 4, 2008

	<u>Name</u>	<u>Mailing Address</u>	<u>Telephone (optional)</u>
1.	Don Autsgaard	380 East State Rd. 62	812-739-2379
2.	Robert Thompson	301 S Franklin St.	812-739-2708
3.	Marvin Elmer	8237 S. INDIAN RIDGE RD	812-739-4381
4.	Donnie Young	N Roosevelt	739-2940
5.	Rubia W. Smith	160 S. Townsend Dr.	739-2497
6.	Donna W. Smith	160 S. Townsend Dr.	739-2497
7.	SA Indigo	127 S TOWNSEND DR	739-4273
8.	David Ripple	6200 Vogel Rd, Evansville, IN 47615	800-424-7411
9.	Barred Edelman	PO Box 22, Corydon, Ia	812-788-2100
10.	Chuck Carpenter	270 S. Ohio Viste Dr.	812-739-2318
11.	Carole Carpenter	270 S. Ohio Viste Dr	812-739-2318
12.	Carol Schuck	7915 S. St. Rd 66	812-739-2925
13.			
14.			
15.			

Form Prescribed by State Board of Accounts General Form #99P (revised 1987)

TOWN OF LEAVENWORTH

Crawford County

O'Bannon Publishing Co., Inc.
301 North Capitol Avenue
Corydon, IN 47112

RE: NOTICE OF PUBLIC HEARING 8/4/08

PUBLISHER'S CLAIM

Federal I.D. #35-1070-670

Line Count

Display Matter (Must not exceed two actual lines, neither which shall total more than four solid lines of the type in which the body of the advertisement is set) number of equivalent lines.....

Head - number of line.....

Body - number of line.....

Tail - number of lines.....

Total number of lines in notice.....

COMPUTATION OF CHARGES

X lines 1 (ONE) columns wide equals

equivalent lines @ \$58 per line.....

Additional charge for notices containing rule.....

Or tabular work (50 percent above amt.).....

Charge for extra proofs of publication.....

\$1.00 for each proof in excess of two.....

TOTAL AMOUNT OF CLAIM: \$49.22

DATA FOR COMPUTING COST

Width of single column 9 ems

Size of type 6 point

Number of inserts

Pursuant to the provision and penalties of Chapter 155, Acts 1953, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all set credits, and that no part of the same has been paid.

Date:

July 30, 2008

PUBLISHER'S AFFIDAVIT

State of Indiana ss:

Harrison County

Personally appeared before me, a notary public in and for said county and state, the undersigned, Jon O'Bannon who, being duly sworn, says that he is publisher of the Clarion News, newspaper of general circulation printed and published in the English language in the town of Corydon, in the state and county aforesaid, and that the printed matter attached hereto is a true copy which was duly published in said paper for time(s), the dates of publication being as follows:

July 23, July 30, 2008

Subscribed and sworn to before me on the 30 day of

July

2008

Cathryn Riddle

Notary Public

CATHRYN RIDDLE
Resident of Harrison County

My commission expires 01-06-2016

NOTICE OF PUBLIC HEARING

The Leavenworth Advisory Plan Commission will hold a public hearing on August 4, 2008 at 7:00 pm, Crawford County Jail, at the Broaden Memorial Library, 636 West State Road 62, Leavenworth, Indiana 47137.

The subject of the public hearing is the adoption of an interim subdivision control ordinance for the Town of Leavenworth and its two-mile extrajurisdiction area. The proposed ordinance provides for the control of the subdivision of land and their development and the approval of plats and replats of land within the jurisdiction of the Leavenworth Plan Commission, as part of the Comprehensive Plan for the Town of Leavenworth, Indiana, recommended to the Council by the Plan Commission, in accordance with Indiana Code 36-7-4-485-1(b)(2).

The proposed ordinance contains the following penalty provisions in Section 10.30.040.090:

If the first plat is not filed and recorded within the following time following Secondary Approval, it shall have no validity and shall not be recorded except by petitioning for and recording and re-certification by the Leavenworth Plan Commission.

The proposed ordinance also contains the following additional provisions in Section 10.30.120.010:

(A) The action of the Plan Commission obtaining Primary Plat Approval shall constitute an agreement between the Petitioner and the Town of Leavenworth, Indiana, and the Board of Health. The ordinance of the Board of Health shall be subject to the terms and conditions of this agreement, and any uncompleted instructions may be adjudged to be a Public Nuisance and shall be treated accordingly.

(B) Any person, firm, or corporation violating any of the provisions of this Chapter shall be fined, for each offense, an amount determined by Ordinance of the Council of the Town of Leavenworth. A separate offense shall be deemed committed on each day during or on which a violation occurs, or continues. Imposition of fines shall not be concurrent with actions taken under 10.30.120.010 above.

A copy of the proposed ordinance is on file for examination before the public hearing at the Leavenworth Town Hall (636 West Plaza Drive, Leavenworth, Indiana 47137) and at the Broaden Memorial Library (636 West State Road 62, Leavenworth, Indiana 47137), during normal business hours.

Written objections to the proposed ordinance that are filed with the Secretary of the Plan Commission at the Leavenworth Town Hall before the public hearing will be considered.

Oral comments concerning the proposed ordinance will be heard at the public hearing. The hearing may be continued from time to time as may be found necessary.

LEAVENWORTH
ADVISORY PLAN
COMMISSION

By: S.A. Indigo, President

NOTICE OF ADOPTION OF TOWN OF LEAVENWORTH REPLACEMENT ZONING ORDINANCE

In accordance with IC 36-7-4-610, the Leavenworth Advisory Plan Commission hereby gives public notice of the adoption of a replacement Zoning Ordinance by the Town Council of the Town of Leavenworth:

Section 1 – Summary: This replacement Zoning Ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-600 series) for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare by establishing land use classifications, by dividing the Town into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, by limiting the height, area, and bulk of buildings and other structures, by providing for yards and other open spaces around them, by establishing standards of performance and design, and by providing for the administration and enforcement thereof.

Section 2 – Date of Adoption: The Leavenworth Town Council adopted this replacement Zoning Ordinance at a regularly scheduled meeting on Monday, July 14, 2008.

Section 3 – Areas Affected by Ordinance: The places or areas affected by this replacement Zoning Ordinance include the entire incorporated area of the Town of Leavenworth and its extraterritorial area extending up to two miles from the incorporated area boundaries. These are the same areas affected by the previous zoning ordinance.

Section 4 – Penalty: The penalty for violation of the replacement Zoning Ordinance is the same as the previous zoning ordinance. The replacement ordinance contains the following penalty provisions in Section 10.20.070.070 Remedies and Penalties:

Action on the violation of any provision of this ordinance and the rights of injunction against such violation shall be as provided by the pertinent state statutes of the Indiana General Assembly, and all acts amendatory thereto.

Section 5 – Inspection Locations: The entire text of the replacement Zoning Ordinance is available for inspection at either of the following two (2) locations, during normal business hours:

- Leavenworth Town Hall, 636 West Plaza Drive, Leavenworth, Indiana 47137
- Breeden Memorial Library, 529 West State Road 62, Leavenworth, Indiana 47137

Leavenworth Advisory Plan Commission

By: S. A. Indigo, President

CHAPTER 10.30 SUBDIVISION CONTROL ORDINANCE

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10.30.000 ENACTMENT

**SUBDIVISION CONTROL ORDINANCE
LEAVENWORTH, (CRAWFORD COUNTY), INDIANA
ORDINANCE NO. 2008-xxx**

AN ORDINANCE TO:

1. TO ENACT A NEW SUBDIVISION CONTROL ORDINANCE, DESIGNATED AS CHAPTER 10.30 OF THE TOWN OF LEAVENWORTH CODE, WHICH SHALL READ AS FOLLOWS:

“AN ORDINANCE PROVIDING FOR THE CONTROL OF THE SUBDIVISION OF LANDS AND THEIR DEVELOPMENT AND THE APPROVAL OF PLATS AND REPLATS OF LAND WITHIN THE JURISDICTION OF THE LEAVENWORTH ADVISORY PLAN COMMISSION, AS A PART OF THE COMPREHENSIVE PLAN FOR THE TOWN OF LEAVENWORTH, INDIANA. RECOMMENDED TO THE COUNCIL, BY THE PLAN COMMISSION, IN ACCORDANCE WITH INDIANA CODE 36-7-4-405-1(B)(iii).”

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF LEAVENWORTH, INDIANA, UNDER AUTHORITY OF INDIANA CODE 36-7-3 ET SEQ. AND INDIANA CODE 36-7-4-700 ET SEQ., AND ALL ACTS SUCCESSOR, AMENDATORY, OR SUPPLEMENTAL THERETO THAT CHAPTER 10.30 OF “THE MUNICIPAL CODE OF LEAVENWORTH, INDIANA, IN ITS ENTIRETY, SHALL READ AS FOLLOWS:

10.30.010 ADMINSTRATIVE REGULATIONS

10.30.010.010 PURPOSE

This section provides a statement of intent for the subdivision control regulations as follows:

- (A) In agreement with Crawford County, the Town of Leavenworth finds that it is in the best interest of the current and future citizens of Leavenworth to exercise control of land use in that portion of Crawford County lying inside the Municipal Boundaries of the Town, which jurisdiction is allowed by Indiana Code 36-7-3 et seq. and Indiana Code 36-7-4 et seq.
- (B) The Town of Leavenworth finds that it is in the best interest of the current and future citizens of Leavenworth to exercise control of land use in all of the territory within its jurisdiction including lands both within and outside of its municipal boundaries.
- (C) The Town of Leavenworth Indiana hereby finds that it is in the best interest of the current and future Citizens of Leavenworth to establish control over the recording and division of lands, the development of lands, the control of land uses, the proper and legal description of said lands for the assessment of taxes, the recording of property purchased or sold, and for the health, welfare and enjoyment of properties by the current and future Citizens of Leavenworth; therefore, the Town of Leavenworth hereby establishes the entities, procedures, standards and regulations contained herein, all of which shall comply with principles set forth in IC 36-7-4-201 et seq.

10.30.010.020 ESTABLISHMENT OF CONTROL

This section constitutes the establishment of control for the recording of plats and control of subdivision development:

- (A) Territorial Jurisdiction: The jurisdiction of the Leavenworth Plan Commission for this ordinance shall include lands inside the Town limits and lands outside the Town limits for which Leavenworth has statutory jurisdiction, or for which Crawford County has relinquished control for the purposes of Land Use Control.
- (B) Enforcement Authority: Leavenworth Advisory Plan Commission is the final authority for approval of plats, re-plats, subdivisions of lands, and standards of control for the development of lands within its jurisdiction in accordance with IC 36-7-3 et seq. and IC 36-7-4 et seq., pursuant to IC 36-7-4-701.
- (C) Subdivision Control -- Platting or Replatting of Land Without Development: No plat of a subdivision of lands, or replat of lands previously platted, which are located within the jurisdiction of the Leavenworth Plan Commission shall be recorded until it shall have been approved by the Leavenworth Advisory Plan Commission, and such approval shall have been entered in writing on the plat by the President, and attested by the Secretary of the Commission. Platting or Repatting shall specifically include lands dedicated to public service and all other lands except those specifically excluded herein. No plat of land, or a subdivision of land, may be recorded until total compliance with Indiana Code 36-7-3 et seq. has been established. The approval for platting or re-platting of lands under Sect. 10.30.010.020 (B) (above) does not constitute approval for development of a subdivision under Sect. 10.30.010.020 (D) 1. (following), or compliance with Indiana Code 36-7-4-700 et seq.
- (D) Subdivision Control --- Platting or Replatting of Land With Development or Development of Land previously platted under IC 36-7-3 et seq. and this ordinance or under any previous valid ordinance:
 - 1. No plat of a subdivision of lands, which are located within the jurisdiction of the Leavenworth Plan Commission, shall be recorded until it shall have been approved by the Leavenworth Plan Commission, and such approval shall have been entered in writing on the plat by the President and Secretary of the Commission. Platting or Repatting shall specifically include lands dedicated to public service and all other lands except those specifically excluded herein. No plat of land, or a subdivision of land, may be recorded until complete compliance with Indiana Code 36-7-3 et seq., or Indiana Code 36-7-4-700 et seq. has been established.
 - 2. No replat of lands or development of lands, previously platted under IC 36-7-3 or which were platted and recorded, under laws in effect at the time, shall be recorded until it shall have been approved by the Leavenworth Plan Commission, and such approval shall have been entered in writing on the plat by the President and attested by the Secretary of the Commission. Platting or Repatting shall specifically include lands dedicated to public service and all other lands except those specifically excluded herein. No plat of land, or a subdivision of land, may be recorded until total compliance with Indiana Code 36-7-3 et seq., and Indiana Code 36-7-4-700 et seq. has been established.
 - 3. No Development of a Subdivision of land shall occur until the Commission shall have determined that the petition for Primary Approval of the Subdivision Plat qualifies for approval under the provisions of this ordinance and is in compliance with Indiana Code 36-7-3 et seq. and/or Indiana Code 36-7-4-700 et seq..
 - 4. This code (Code10.30) applies to any division of land(s) which has one or more of the following characteristics:
 - a. The division results in two (2) or more contiguous lots or parcels each of which have an area of less than five acres;

- b. The division requires dedication of lands for public uses such as roadways, alleys, public parks, lands set aside for construction of schools, walkway, or easements for utilities;
- c. The division results in lots or parcels of five (5) or more acres and which requires dedication of lands for public access for any reason.

Provided however, for practical reasons certain exclusions apply, in accordance with Code §10.30.050.060 contained herein.

10.30.010.030 DEFINITIONS.

(A) Intent of Definitions: For the purpose of this Chapter of the Code certain terms, phrases or words used herein shall be interpreted or defined as follows:

- 1. Words used in the present tense include the future tense. The term "shall" is always mandatory.
- 2. Definitions contained herein are specific to Code 10.30.
- 3. Providing that these definitions are in conflict with other ordinances then the meaning(s) contained herein shall apply.
- 4. Definitions contained in IC 36-7-1 shall take precedence over the definitions contained herein.

(B) Terms Defined:

- 1. ADDITION - A group of lots, or contiguous parcels of land added, or sought to be added, to a municipality. Or any action sought to develop a group of lots or contiguous parcels to be added to a municipality in the future. This definition also includes the definition of "SUBDIVISION".
- 2. ADMINISTRATOR - means the Land Use and Zoning Administrator of the Town of Leavenworth. The "Administrator", if appointed, is a deputy of the Director of Planning and Zoning. If no deputy is appointed "Administrator" means the Director of Planning and Zoning Pursuant to IC 36-7-4 et seq.
- 3. ALLEY - A public thoroughfare primarily designed to serve as access to the side or rear of properties where principal frontage is on some other street. Alleys may also serve as easements and access for utilities. Alleys generally will not be approved for the development of future residential areas, unless unusual circumstances require them.
- 4. APPLICANT – One or more land owners or individuals with the permission of the land owners who apply for approval of a plat, replat or subdivision, also known as the SUB-DIVIDER, PETITIONER or DEVELOPER.
- 5. BLOCK - A unit of property bounded by streets, or by street or railroad rights-of-way, waterways, or other barriers. Blocks are required to have unique block names, numbers or other designations for identification. Blocks must comply with the requirements of Zoning Ordinance.
- 6. BLOCK FRONTAGE - Property abutting on one side of a street, and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier.

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE

7. **BUILDING SET BACK LINE, – BUILDING LINE** - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line.
8. **COMMISSION** - The Leavenworth Advisory Plan Commission.
9. **COMPREHENSIVE PLAN – (MASTER PLAN)** --The complete plan, or any of its parts, for the development of the Town and its environs, prepared by the Commission and adopted in accordance with Indiana Code 36-7-4. This Chapter 10.30 is part of, and a supplement to, the Comprehensive Plan.
10. **CONSERVATION DISTRICT** – The Crawford County Soil and Water Conservation District.
11. **COUNTY** – Crawford County, Indiana.
12. **COVENANT** - A recorded agreement between buyer and seller of a piece of property specifying what may or may not be done with the subject property. Covenants approved by the Advisory Plan Commission, and recorded with the County Recorder, run with the land and may not be abrogated without approval of the Advisory Plan Commission. Covenants not approved by the Advisory Plan Commission shall not be recorded and shall not run with the land. Covenants are not valid if they violate Federal, State, County or Town Laws, Ordinances or Regulations.
13. **CROSS WALKWAY – CROSS WALK**--A strip of land dedicated to public use, which is reserved across a block to provide pedestrian access to adjacent areas.
14. **CUL-DE-SAC** - (a Court or Dead End Street) A short Residential Street having one end open to traffic and being permanently terminated at the other end by a vehicle turn-around.
15. **DEVELOP** – To plat or replat land or to make a development; also to do any grading or filling of land, whether un-developed or already subdivided, so as to change the drainage or the flow of water, or to do any work upon or to the land that is capable of future use as a subdivision or development of building sites. To install buildings, public facilities, drainage facilities, utilities or other facilities serving lots and blocks to be sold for use for any purpose. Also means any substantial excavation of land other than for agricultural uses.
16. **DEVELOPER** - (Or Sub-divider) Any person engaged in developing or improving lands, or structures thereon, for use or occupancy.
17. **DIRECTOR OF PLANNING AND DEVELOPMENT** – The Administrator of Zoning, The Administrator of Building Codes, or other persons designated by the Council to Administer the land use laws.
18. **EASEMENT** - A grant by the property owner of the use of a strip of land by the public, a corporation, or persons, for one or more specified purposes. Easements are usually defined for use by utilities for the construction, operation and maintenance of utility infrastructure or system. An easement is a right of use or right of access. An easement may be restrictive. A restrictive easement must be defined on the recorded plat.
19. **JURISDICTION OF THE COMMISSION** - The Town of Leavenworth, Indiana, and the contiguous unincorporated territory shown on a map, and/or an area described by meets and bounds, which is filed with the Crawford County Recorder.

20. LEASE - To rent or to permit the possession of, or right of possession, or right of use, for a consideration, of a lot, parcel, tract, land, or group of lots, parcels, tracts, or lands, for a definite or indefinite period.
21. LETTER OF CREDIT – A legally binding instrument, such as an Irrevocable Letter of Credit or cashier's check, from a duly chartered financial institution or insurance company providing surety satisfactory to the Plan Commission that all improvements and installations (required as a condition of primary plat approval) will be constructed in accordance with the standards of this Ordinance. The Advisory Plan Commission no longer accepts a bond as surety that the Applicant or Sub-divider will complete all improvements in accordance with the primary plant approval.
22. LOT – The smallest subdivision of land described in a plat recorded with the Crawford County Recorder and which complies with the requirements of Indiana Code 36-7-3 et seq. or Indian Code 36-7-4-700 et seq.. In determining lot area and boundary lines no part thereof within the limits of a street, either existing or proposed, shall be included. Lots are required to have unique numbers for purposes of identification in accordance with IC 36-7-3-3A)(3). Lots must comply with the requirements of Subdivision Control Ordinance (Code 10.30), and Zoning Ordinance (Code 10.20).
23. LOT, DOUBLE FRONTAGE - A lot, other than a corner lot, which fronts on two streets.
24. MARGINAL ACCESS STREET – A road which parallels a major arterial street providing access from abutting property and separated from the highway by a common dividing strip, or by Double Frontage Lots.
25. MASTER PLAN – COMPREHENSIVE PLAN - The complete plan or any of its parts, for the development of the Town and its environs (see COMPREHENSIVE PLAN).
26. NO ACCESS EASEMENT – Public easement along a public right-of-way across which the access to the property is not permitted.
27. OWNER - Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land, sought to be subdivided, to commence and maintain proceedings to subdivide or develop the same under this Ordinance The Owner may be separate from the Developer but has joint and several responsibility to the Commission for compliance with all land use ordinances and this chapter.
28. PARCEL – An ownership, lot plat, or part of an ownership, lot or plot, or any designated group or lots or ownerships.
29. PERFORMANCE BOND OR SURETY BOND - A personal or corporate surety agreement between a Developer or Sub-divider, and such Surety that may be approved, in favor of a governmental body, governmental unit, or private entity, guaranteeing the completion of physical improvements, or other requirements of this Ordinance, according to plan and specifications within the time prescribed by the sub-divider's agreement (Also see PERFORMANCE GUARANTEE and SURETY).
30. PERFORMANCE GUARANTEE - Any guarantee, which may be accepted by a governmental body or governmental unit, in lieu of a requirement that certain improvements be made before the Commission approves the record plat, including by way of illustrating but not limitation, performance bonds, escrow agreements, deposit agreements, and other similar collateral or surety arrangements approved as valid and enforceable by the Commission (Also see PERFORMANCE BOND AND SURETY).

31. **PERSON** – A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person. If the PERSON is other than a natural person then articles of incorporation, partnership, association etc. will be required as proof of the right to petition. Proof of POWER OF ATTORNEY may be required of an individual acting on behalf of the PERSON.
32. **PETITIONER** – The Owner of the property which is the subject of a petition, or other Person qualified to appear for the Owner. A Developer, if the developer is not the Owner. If the petitioner is other than a natural person then a Power of Attorney or other significant proof of the right to petition may be required with, and at the time of, the petition.
33. **PLACE** – An open, unoccupied, officially designated space, other than a street or alley permanently reserved for use as the principal means of access to abutting property.
34. **PLAT** – A map or chart and included pertinent information, accurately and thoroughly describing the subdivision or re-subdivision of land, which is intended to be filed for the permanent record.
35. **PRIMARY APPROVAL**—The initial approval granted by the Advisory Plan Commission and which is sufficient approval for the Developer to initiate improvements in accordance with the conditions ordered by the Plan Commission pursuant to IC 36-7-4-702 et seq.. PRIMARY APPROVAL does not contain any element of SECONDARY APPROVAL.
36. **PRIMARY PLAT (PROVISIONAL PLAT)** – The map, and supporting information, indicating the proposed layout and conditions, applying to the subdivision which is presented to the Commission, for consideration and approval, in accordance with state law and this ordinance.
37. **REPLAT** – A subdivision of land or plat, the site of which has heretofore been platted or subdivided with lots or parcels of land. It may include all or any part of a previously recorded subdivision or plat or a change in condition of a parcel of land dedicated for use as a street or to other public service. Certain transactions may, for practical reasons, be excluded herein.
38. **RECORD PLAT** – A map, chart or drawing, in final form, along with supporting information, showing the sub-divider's plan of subdivision containing all information or detail required by state law, and by this ordinance, to be presented to the Plan Commission for approval, and which if approved, may be duly filed or recorded by the applicant in the Office of the Crawford County Recorder.
39. **SECONDARY PLAT APPROVAL (SECONDARY APPROVAL)**—Follows PRIMARY APPROVAL. The approval granted by the Advisory Plan Commission after all requirements of PRIMARY APPROVAL have been met, inspected and certified, pursuant to IC 36-7-4-710. (See 10.30.040.010 SECONDARY APPROVAL)
40. **STREET OR THOROUGHFARE** - A right-of-way, other than an alley or place, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, park-way, boulevard, road, avenue, land, drive, or other appropriate name, in compliance with the Thoroughfare Plan. A street may also be identified according to type of use, as follows:
- a. **Street, Arterial** - A Street designated for large volumes of traffic movement. Certain Arterial Streets should be classified as Limited Access Highways to

which entrances and exits are provided only at controlled intersections and access is denied to abutting properties. Arterial Streets are divided into two categories: Primary and Secondary.

- b. Street, Feeder (or Collector) – A Street planned to facilitate the collection of traffic from Residential Streets, and to provide circulation within the neighborhood areas and for convenient ways for traffic to reach Arterial Streets.
 - c. Street, Residential - A Street designated primarily to provide access to abutting properties, usually residential. Certain Residential Streets parallel to Arterial Streets, which provide access to abutting property and ways for traffic to reach access points on Arterial Streets (also see CUL de SAC).
 - d. Any other designation provided for in the Leavenworth Thoroughfare Plan.
41. STREET (OR ALLEY) IMPROVEMENT - Shall mean the construction, or re-construction, of a street or alley to its full design standard and pavement thickness, commencing at the sub-grade according to the specifications contained in, or referred to, in this Chapter of the Leavenworth Code. The placing of a new surface over an existing paved or closed surface street or alley shall not be considered as an improvement but as necessary maintenance.
42. STREET WIDTH – The shortest distance, at right angles to the centerline, between the lines which delineate the right-of-way.
43. SUB-DIVIDER – Any person or persons, firm or corporation engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this Code (ALSO SEE DEVELOPER).
44. SUBDIVISION (VERB) - The act of division, or re-division, of any parcel of land, separately described in a deed on record in the Office of the County Recorder, into two or more contiguous parcels, sites or lots in accordance with provisions contained in this code (Code10.30).
45. SUBDIVISION (NOUN) - A contiguous group of parcels or lots, with integral provisions for necessary infrastructure including but not limited to streets, alleys, easements or lands set aside for future public uses all of which comply with provisions contained in this code (Code10.30) pursuant to IC 36-7-1-19.
46. SURETY – A person, corporation or other entity that ensures or guarantees, by becoming liable for an obligation, that any debt or obligation under this Chapter will be paid, performed, or otherwise liquidate the liability for the obligation. (Also see PERFORMANCE BOND AND PERFORMANCE GUARANTEE).
47. THOROUGHFARE PLAN - The part of the Master Plan, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, highways, and other thoroughfares.
48. TOWN – The Town of Leavenworth, Indiana.
49. ZONING ADMINISTRATOR – A staff position of the Advisory Plan Commission whose duties include the administration of all matters pertaining to Land Use and Planning. (Also See ADMINISTRATOR).

50. ZONING ORDINANCE - The part of the Comprehensive (Master) Plan, whether current *or hereafter amended, which includes an ordinance and zone map which divides the Jurisdiction of the Commission into Zoning Districts, with regulations and requirements and procedures for the establishment of land use controls (refer to Code 10.20).

10.30.010.040 DUTIES AND AUTHORITY OF THE ZONING ADMINISTRATOR

The designated Zoning Administrator is hereby vested with the duty, and authority, to administer and enforce the regulations under this Chapter. The Administrator shall have the legal authority to make reasonable and necessary entry onto the lands, included in any case before the Plan Commission under this code, for the purpose of administering his duty under this code. Provided however, the Administrator shall exercise his authority in a manner proscribed by custom and common law.

10.30.010.050 REFERENCE TO OTHER STATUTES AND REGULATIONS

Any legal citation or reference to another statute, ordinance or regulation shall be meant to include all amendments thereto or replacements thereof

10.30.010.060 CONFLICT WITH OTHER STATUTES

Where the requirements under this Chapter 10.30 are in conflict with the requirements of any other statute, law or ordinance that is in effect within the Town's territorial jurisdiction, then the more restrictive requirement shall prevail. If an irreconcilable conflict arises the matter shall be settled by a separate appeal for variance, in accordance with Code 10.30.050.130 herein, to the Plan Commission. Final action of the Plan Commission on Appeal may be reviewed by certiorari in accordance with IC 36-7-4-1016.

10.30.010.070 CONFLICT SEVERABILITY

The several provisions of this Chapter are severable as follows:

- (A) *Chapter provisions.* If any court of competent jurisdiction shall adjudge any provisions of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.
- (B) *Property provisions.* If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

10.30.010.080 AMENDMENT AND REPLACEMENT

The Plan Commission shall give notice and hold a public hearing, in the manner prescribed for changes made to the Zoning Ordinance in accordance with IC 36-7-4-610, on any proposed amendments to or replacement of this Chapter pursuant to I.C. 36-7-4-701(b).

10.30.020 APPLICATION FOR SUBDIVISION APPROVAL

10.30.020.010 PRE-APPLICATION FOR SUBDIVISION APPROVAL

- (A) Prior to the filing of a formal application for approval of a preliminary plat, the petitioner shall submit to the Zoning Administrator the plans and data which outline generally the scope and intent of the proposed subdivision project.
- (B) The pre-application plans and data shall include the following, in a legible form acceptable to the Commission, and suitable for convenient duplication and dissemination:
 - 1. Present use and configuration of the land, including and existing land uses defined by the Comprehensive Plan or any of it's several parts, improvements, easements, rights-of-way, available utilities, contamination or other hazards of the land, covenants, restrictions, topography and drainage patterns.
 - 2. Proposed use and configuration of the land, including lot sizes, dedications of land for public uses. Dedication of rights-of-way and easements, street and utility layouts, grading plans, and plans for storm drainage improvements, and storm drainage mitigation.
 - 3. The utilities and other facilities proposed to be furnished for the completed project.
 - 4. The name of the proposed development, including street names, lot and block numbers and other appropriate informational designations.

10.30.020.020 ZONING ADMINISTRATOR'S PRELIMINARY REVIEW

(A) Informal Review

The pre-application process is intended to be a reasonably informal review of the proposal, and the Administrator and Petitioner will jointly review the proposal for compliance with the requirements of the comprehensive plan, zoning regulations, and subdivision regulations. It is expected that the Administrator will convene, on one or more occasions as required, the Plan Commission Technical Advisory Committee.

(B) Requirements for Notice:

The Petitioner shall deliver notice of the plan to all of the respective utility organizations, and to the Town's Utility Service Board (s (as defined by Indiana Code 8-1.5-3-3) and the Town Council for their review and comment.

(C) Other Requirements:

- 1. Provided that the lands included in the petition for Preliminary Review are not properly zoned for the project, then the Administrator shall advise the petitioner that it is necessary to file concurrent petitions for changes in the Zoning Map.
- 2. Provided that any of the lands included in the petition for Preliminary Review are proposed as Zoning Districts for commercial or manufacturing uses, then the Administrator shall advise the Petitioner that it is necessary to file concurrent petitions for Site Plan Review under the Provisions of the Zoning Ordinance 10.20.060.020.
- 3. Provided that planned uses of the properties require a determination by the Board of Zoning Appeal then the Administrator shall advise the Petitioner that it is necessary to file concurrent petitions for recommendations to the Board of Zoning Appeals.

4. Provided that the lands included in the petition are a Flood Plain, as described in Flood Hazard Regulations applicable to Leavenworth, the Petitioner shall provide substantial evidence of the intent to comply with before appearing before the Commission.
- (D) Technical Advice: The Zoning Administrator shall hold at least one formal meeting of the Technical Advisory Committee, in accordance with the Rules and Procedures of the Plan Commission, prior to issuing any recommendation or determinations.
- (E) Recommendations for Change: The Zoning Administrator shall consider all information supplied by any interested party and shall make written recommendations to the petitioner concerning necessary or appropriate changes to the plan and the filing of a formal application for Primary Plat review by the Commission.
- (F) Documentation of the Administrator's Review: The Zoning Administrator's recommendations is not binding on the Commission. Provided; however, the written responses of utilities, Town departments, the Town Council and/or any other interested parties, the minutes of the Technical Advisory Committee and the written recommendations of the Administrator shall be submitted to the Plan Commission along with the application for Primary Plat Approval.

10.30.020.030 FORMAL APPLICATION

A written application for Primary Plat Approval of a plat shall be filed by the petitioner with the Zoning Administrator in accordance with IC 36-7-4-700 et seq., the Leavenworth Plan Commission Rules of Procedure and/or any pertinent Chapter of the Leavenworth Comprehensive Plan. The application shall be complete and shall include a copy of the proposed subdivision plan and preliminary plat. The petitioner is responsible for completing, mailing and filing notifications and legal advertisements in accordance with Leavenworth Plan Commission Rules of Procedure, or the requirements of this Chapter Code 10.30.

10.30.020.040 FILING FEE.

The filing fee and the costs and fees associated with the public hearing shall be as required under any applicable Chapter of Leavenworth Comprehensive Plan and land use ordinances and the expense thereof shall be paid by the petitioner. All filing fees shall be paid prior to scheduling a date for the public hearing.

10.30.020.050 ZONING ADMINISTRATOR'S FORMAL REVIEW

- (A) If the Zoning Administrator determines that the proposal does not conform with these regulations, then the application shall be returned to the petitioner for modification; however, with the concurrence of the Zoning Administrator, and any two members of the Commission, the petitioner may proceed with the application together with a written request for a variance by the Plan Commission, and the Administrator shall set a date for a public hearing, on the variance only, within 30 days of the decision. A written request for variance shall state all of the particulars, including a specific statement describing the reason a variance is requested. A separate petition shall be filed for each and every variance sought.
- (B) If the Zoning Administrator determines that the proposal is in conformance with these regulations, then the Administrator shall set a date for a public hearing within 30 days of making the determination.

10.30.030 PRELIMINARY PLATS AND PRIMARY APPROVAL

10.30.030.010 PRELIMINARY PLAT APPROVAL

- (A) The Plan Commission shall consider the preliminary plat at a public hearing pursuant to I.C. 36-7-4-706. After the hearing the Plan Commission, in accordance with its Rules of Procedure, may in a duly noticed public meeting:
1. Grant primary approval of the plat as presented;
 2. Grant primary approval of the plat contingent on changes or revisions deemed necessary and in the interests and needs of the community;
 3. Disapprove the plat;
 4. Continue the hearing to another specified date and time; or
 5. Place the request on The Table for consideration at some specified future meeting.
- (B) Plan Commission primary approval shall constitute authorization to proceed with construction of the required improvements, and shall precede Secondary Approval of the plat. Primary approval shall not qualify a plat for recording with the Crawford County Recorder. Provided however, that no installations of improvements may be begun until the developer has complied with all of the requirements of any Special Conditions, this Ordinance, the Zoning Ordinance, the Thoroughfare Plan Ordinance (if any) and the Building Code Ordinance (if any), including application for and compliance with any permits or other requirements that may be necessary.
- (C) Primary Plat Approval shall not be granted unless proof is presented that an agreement has been reached to provide the infrastructure required by this ordinance, constructed to the minimum standards required by this ordinance, or to the standards required by the proposed potential owner of the infrastructure, whichever is more restrictive.
- (D) Proof of agreements for the provision of infrastructure and/or services shall take the general form contained in Appendix B-[X]. Additional formats may be required depending on the corporate structure of the provider of the infrastructure. Provided however, "proofs of agreement" shall contain all of the information required by Appendix B-1.
- (E) The required infrastructure may be, but is not limited to, the following listing:
1. Transportation Utilities:
 - a. Streets and roadways;
 - b. Alleys;
 2. Sidewalks
 3. Bridges;
 4. On site drainage utilities;
 5. Utilities for drainage of, or to, offsite areas;
 6. Water Supply Utilities:
 - a. Potable water utilities;
 - b. Water Utility for fire suppression;
 - c. Reclaimed waste water utility, for irrigation or other approved purposes;
 7. Waste Water Utilities:

- a. Sanitary sewage infrastructure, or;
 - b. Certifications for private septic system by the County Sanitarian;
- 8. Electric utility;
- 9. Public Lighting;
- 10. Communication Utilities:
 - a. Telephone utility;
 - b. High speed internet service utility;
 - c. Wireless Communication Utilities;
- d. Natural Gas Utility.

10.30.030.020 NOTIFICATION OF DECISION

- (A) The Zoning Administrator shall notify the Petitioner of the Plan Commission's decision in writing within 30 days. If the primary plat was disapproved, the notification shall include a copy of the plat with appropriate notations setting forth the reason(s) for disapproval and specifying with particularity the aspects in which the proposed plat fails to conform to the requirements of this Chapter.
- (B) The Attorney for the Advisory Plan Commission shall, in a timely manner, summarize the orders of the Plan Commission and submit the summary, along with any Certificate of Surety, provided under 10.30.040.050, or other part of this chapter, to the Crawford County Recorder. The form of the Summary shall clearly be designed to provide an encumbrance on all of the properties included in the petition for Primary Approval in accordance with Indiana Code 36-7-3 et seq. and/or Indiana Code 36-7-4-700 et seq.

10.30.030.030 EFFECTIVE TERM OF PRIMARY APPROVAL

Primary Approval shall be effective for a maximum period to be determined by the Plan Commission, beginning on the date of notification and ending with the petition for Secondary Approval. Provided; that upon application by the Petitioner the Plan Commission may grant one or more additional extensions each one not to exceed twelve (12) months. Extension shall each be formally considered in accordance with the procedures for granting the original Primary Approval.

10.30.030.040 PRIMARY PLAT; REQUIRED FORMAT

The proposed primary plat shall be formatted as follows:

- (A) Two copies of the plat, development plan and supplementary data sheets shall be transmitted to the Zoning Administrator for referral to the Plan Commission.
- (B) In addition the Petitioner may be required to submit plans and specifications in an acceptable digital format
- (C) Paper copies of the plat and development plan are acceptable for primary approval (As a guide the final plat shall be submitted on drawings of a standard size which shall not be less than 20-inch wide by 18-inch high). The drawings shall be submitted on reproducible media (Mylar, or equivalent) or in an acceptable digital format.

- (D) The preferred scale is one hundred (100) feet to one (1) inch. Other scales will be approved by the Administrator if the preferred scale compromises legibility.

10.30.030.050 PRIMARY PLAT; REQUIRED INFORMATION FOR PRIMARY APPROVAL

The proposed primary plat shall contain the following information:

- (A) Name of the subdivision in prominent font;
- (B) Scale of plat and north point;
- (C) Boundary survey drawing as follows, based on accurate traverses:
 - 1. Showing angular and lineal dimensions, radii, internal angles, central angles, points of curvature and tangency, lengths of tangents and lengths of arcs.
 - 2. Showing State Plane Coordinates and true courses and distances to the nearest official survey monuments which shall accurately describe the location of the plat.
 - 3. Showing township and section lines accurately, tied to the lines of the subdivision by distances and courses.
 - 4. Showing municipal corporation lines which are within and/or adjacent to the tract.
- (D) Boundary description by section, township and range, together with the legal description.
- (E) Exact location, dimensions and names, as applicable, of the following:
 - 1. Existing and proposed rights-of-way, public ways, and easements, with the label(s) "Public Right-of-Way," "Public Way," "Public Utility Easement," "Public Drainage Easement," or "Public Utility and Drainage Easement" to be used as they are appropriate.
 - 2. All existing or proposed streets within and adjacent to the tract, with existing and proposed names. Names of proposed streets shall, where possible, conform to the names of corresponding streets which abut and are to be extended into the subdivision, and except for such extensions, no proposed name shall duplicate that of any other street in the Town or the unincorporated areas of Crawford County. All street names are subject to the approval of the E911 Committee of the Crawford County Emergency Management Agency.
 - 3. Proposed parks and other open public spaces, and parcels of land to be dedicated or temporarily reserved for public use or set aside for use of the property owners in the subdivision.
 - 4. Permanent buildings or structures.
 - 5. In the case of a re-plat, all the descriptive lines of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion.
 - 6. Contours of the land as follows:
 - a. Where slopes are less than 5%, show vertical intervals of one foot.
 - b. Where slopes are between 5% and 10%, show vertical intervals of two feet.
 - c. Where slopes exceed 10%, show vertical intervals of five feet.
 - d. The courses of all natural drainage, and their twenty five (25) year and fifty (50) events for storm water rate of runoff flow.
 - e. Where slopes exceed 10%, the percent of slopes shall be shown.

7. Where lands are identified on the Town's or county's Flood Insurance Rate Map (FIRM), determined by the Federal Emergency Management Agency, as flood hazard areas, the plat shall show:
 - a. The elevation of the regulatory flood
 - b. The area subject to inundation by the regulatory flood.
 - c. The National Flood Insurance Program Community Number, determined by the Federal Emergency Management Agency, corresponding to the area shown on the plat.
8. Conditional on the proposed fire suppression utility, a Fire Insurance rating (1 through 9), certified by an Insurance Service Organization (ISO). Provided a certified insurance rating is not forthcoming then the plat shall show that the Fire Insurance Rating is nine (9).
9. Layout and numbering of lots.
10. Dimensions on all lots, including lines, arcs, and curves.
11. Building setback lines with dimensions.
12. Location and dimensions of all easements.

(F) Additional Requirements

1. Where a right-of-way is to be dedicated as a public right-of-way, but the street thereon is to be a private street, the right-of-way shall be annotated with the following words inscribed within each such separate right-of-way: "Public Right-of-Way - Privately Maintained Street."
2. The petitioner shall also provide in the plat for the maintenance of all privately maintained streets by the adjoining property owners, utilizing the following format:

["Maintenance of Private Streets. The streets shown on this plat, which have not been accepted by the Leavenworth Town Council, for maintenance shall be private streets, and the owners of the lots in this plat shall be responsible for maintenance of all such private streets and the adjacent right-of-way except for the utilities or other public improvements located within the right-of-way. The Leavenworth Town Council shall NOT be required to maintain, repair or replace any private street in this plat unless and until each such street, to be maintained, has been improved in accordance with the standards of the Leavenworth Town Council for a street located within the Town of Leavenworth, and said street has been officially accepted for maintenance by said Town. This covenant shall not be altered or removed except by agreement of the Town Council of the Town of Leavenworth."]

- (G) For an unimproved alley and for all easements on the plat, the petitioner shall provide in the plat for the maintenance of all unimproved alleys and all easements by the adjoining property owners, and restrictions on the use thereof, utilizing the following format:

["Use and Maintenance of Easements and Unimproved Alleys. Within any dedicated right-of-way for an alley, and within any dedicated public utility and/or drainage easement shown on this plat, no structure, building, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or storm water control, and except for the utilities located within the alley or easement, and except for improvements accepted by the Town of Leavenworth for maintenance. The alley or easement shall be maintained by the abutting property owners. Access to and inspection of all storm water easements by the Town of Leavenworth and maintenance by the Town, if and as necessary, when maintenance is in the opinion of the Town inadequate to provide for proper storm water management in the designed improvements, shall be granted, and the Town shall, as necessary, require from the owners of the property the reimbursement of all costs for inspecting and/or maintaining easements. This covenant

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE

shall not be altered or removed except by agreement of the Town Council of the Town of Leavenworth.”]

- (H) The private restrictive covenants, if desired for the plat.
- (I) A notation shall be included stating that none of the terms of the plat, except the private restrictive covenants, shall be changed without the approval of the Advisory Plan Commission of the Town and the Town Council of the Town, whichever governmental unit has jurisdiction over the covenant.
- (J) The following certifications, names and signatures, in the order shown:
 - 1. Property owner(s) names and signatures, with the acknowledgment of a notary public.
 - 2. Petitioner(s) names and signatures, with the acknowledgment of a notary public if other than the property owner(s).
 - 3. Signature, registration number and seal of the registered Professional Land Surveyor, or Registered Professional Engineer, preparing the plat.
 - 4. Signature, registration number and seal of any registered Engineer or registered Surveyor required by this ordinance.
 - 5. Primary approval shall be certified by the president and secretary of the Plan Commission, in the following format:

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STATE OF INDIANA

} SS:

(COUNTY OF CRAWFORD)

We, the undersigned President and Secretary of the Plan Commission of the Town of Leavenworth, Crawford County, Indiana, do hereby certify that this plat was given “Primary Approval” by a majority of the members of said Plan Commission at properly constituted meetings held on the following date(s):

Primary Approval: this _____ day of _____, 20_____

(Signature), President

(Signature), Secretary

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IC 36-7-4-702 et seq.

10.30.040 FINAL PLATS AND SECONDARY APPROVAL

10.30.040.010 SECONDARY APPROVAL

- (A) After Primary Approval of the plat by the Plan Commission, the petitioner shall proceed to install the improvements required by the primary approval. Provided however, that no installations of infrastructure or improvements may be begun until the developer has complied with all of the requirements of this Ordinance, the Zoning Ordinance, the Thoroughfare Plan (if any) and the Building Code Ordinance (if any), or any special conditions imposed by the Commission, including application for and compliance with any permits that may be required.
- (B) When the required improvements have been installed and otherwise completed, inspected and accepted by the appropriate agencies, and all terms and conditions of the primary approval have been satisfied, the plat or an approved phase thereof may be granted Secondary Approval.
- (C) A notice of hearing is not required for secondary approval (IC 36-7-4-710). Provided; however, that Commission action on Secondary Approval shall be made by the Advisory Plan Commission at a properly constituted public meeting.
- (D) A plat shall not be filed with the Crawford County Auditor and shall not be recorded by the Crawford County Recorder unless granted Secondary Approval by the Plan Commission.
- (E) Secondary approval shall be certified by the president and secretary of the Plan Commission, in the following format, or in a format approved by the Attorney for the Commission:

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STATE OF INDIANA

} SS:

(COUNTY OF CRAWFORD)

We, the undersigned President and Secretary of the Plan Commission of the Town of Leavenworth, Crawford County, Indiana, do hereby certify that this plat was given "Primary and Secondary Approvals" by a majority of the members of said Plan Commission at properly constituted meetings held on the following dates:

Primary Approval on the _____: day of _____, 20_____

Secondary Approval on the _____ day of _____, 20_____

(Signature), President (Signature), Secretary

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IC 36-7-4-711

10.30.040.020 RECORDING OF APPROVED PLAT

- (A) Within five (5) working days of the secondary approval of a plat, or a phase thereof, the petitioner shall have a fully-signed original of the approved plat recorded with the Crawford County Recorder, and shall deliver one copy of the recorded plat to each of the following agencies:
1. Town of Leavenworth;
 - a. Town Clerk;
 - b. The Zoning Administrator;
 - c. The Town Engineer, if applicable.
 2. Crawford County Auditor;
 3. Crawford County Surveyor.
- (B) The petitioner shall be responsible for payment of all fees required for recording and any necessary copying of the plat.
- (C) If the petitioner certifies a need for additional time to accomplish the recording and distribution of copies, the Commission may grant additional time, at the same time and in the same meeting at which secondary approval is granted

10.30.040.030 FAILURE TO RECORD PLAT

If the final plat is not filed and recorded, within the allowed time following Secondary Approval, it shall have no validity and shall not be recorded except by petitioning for and re-approval and re-certification by the Advisory Plan Commission.

10.30.040.040 PHASING OF CONSTRUCTION

Where it is in the interest of the petitioner to complete construction of the improvements, required by the primary approval, in phases rather than all at once, the petitioner shall so state in writing to the Plan Commission, along with the petition for Secondary Approval, and deliver the request together with maps and drawings showing the intended phasing of the project. The Plan Commission may at its option provide Secondary Approval to each phase as it is built, provided that at no time shall the phasing plan produce an unsafe condition or a utility plan that is not in compliance with the requirements of the Primary Approval, of Indiana law or this Chapter. A phasing plan shall not produce additional cost to any utility over and above the cost that would be incurred if the overall plan was developed at one time.

10.30.040.050 SECONDARY APPROVAL PRIOR TO COMPLETION OF IMPROVEMENTS

- (A) Pursuant to IC 36-7-4-709 Secondary Approval may be granted, by the Commission, prior to completion of the improvements and conditions, specified under the Primary Approval, provided that the petitioner must provide proof that there is a Binding Agreement, to complete the project, with the current or proposed future owners, operators and maintainers of the infrastructure. The Binding Agreement shall, at the sole discretion, collectively or individually, of the owners or future owners, operators and maintainers of the infrastructure, include a requirement for Surety for the completion of the project.

- (B) Proof of Binding Agreement shall be in a form approved by the Attorney for the Plan Commission and shall include the following general forms as they apply:
1. A Resolution of the Leavenworth Town Council;
 2. A Resolution of any applicable Utility Service Board of Directors;
 3. A Certification of Agreement over the Signature of the Chief Executive Officer, Chief Operating Officer or the General Manager of a Corporation, providing the Attorney for the Commission agrees that he/she has that authority;
- (C) The Resolution or Certification of Agreement must include the following information (canons of construction):
1. A comprehensive description of the infrastructure covered by the agreement in the form of complete maps, drawings, specifications and operating requirements;
 2. A statement as to whether or not the agreement is binding and enforceable under the laws of Indiana;
 3. A statement as to whether or not the certifier has the legal authority to enter into the agreement (service area or municipal jurisdiction);
 4. A statement as to whether or not the petitioner has provided security for any contribution, by the petitioner, to the project;
 5. The form of the security provided, and the identity of the entity providing the security;
 6. Whether the agreement is in accordance with the Owner's or Potential Owner's standard policy for development (certification of convenience and necessity);
- (D) In order to resolve any doubts, or conflicts, concerning certifications related to Secondary Approval, the Commission may require the verbal testimony and/or the written certifications of Attorneys, Registered Professional Engineers or other Experts as it may find necessary. Any such additional testimony or evidence shall be at the expense of the petitioner.
- (E) If the Petitioner, or the Petitioner's agent, is performing the installation of the infrastructure then the current or proposed future owners of the infrastructure may require such security as they deem necessary, in amount, type, or form, to ensure the adequate and proper completion of the infrastructure. The security may be in any of the following forms as approved by the governing entity of the current or proposed future owner of the infrastructure:
1. Refundable Aid to Construction Deposit, with a contractual agreement;
 2. Nonrefundable Aid to Construction Deposit;
 3. Escrow, with a contractual agreement;
 4. Cash Deposit with contractual agreement;
 5. Deposit of a negotiable instrument with a contractual agreement of disposition;
 6. Performance or Special Bond or Irrevocable Letter of Credit, without any restrictions or limitations, from a financial institution approved by the Commission.

10.30.040.060 DETERMINATION OF COMPLIANCE WITH PRIMARY APPROVAL

The Zoning Administrator shall assist the Plan Commission in determining compliance with the requirements of the Primary Approval. In so assisting, the Administrator shall require a finding by the Town Council and/or the Town's Utility Service Board, as appropriate, that all required public infrastructure has been installed in accordance with the Primary Approval. The Governmental Unit or Utility may, at its sole discretion, require that any request for Secondary or Primary Approval shall be accompanied by a certificate from a registered professional engineer, or

registered professional surveyor, attesting to the conditions cited as a reason for the approval. The certificate shall bear the professional seal of the engineer or surveyor. The engineer or surveyor shall be certified to practice in the state of Indiana.

10.30.040.070 EVIDENCE OF COMPLIANCE WITH PRIMARY APPROVAL

- (A) Satisfactory evidence that the improvements and installations required under a primary approval have been completed and are in accordance with the requirements of this Chapter shall include but not be limited to all of the following:
1. Submission of satisfactory test results for all systems that require testing to meet design, local, state and/or federal requirements.
 2. Submission of letters from all public or private utility agencies and organizations, and/or the Town Council, and/or Utility Service Board stating that the installation of all public and private utility facilities and public works has been accomplished in full compliance with the plans and specifications of the preliminary plat and are therefore accepted for ownership and maintenance.
 3. Submission of a signed statement by the Petitioner to the Zoning Administrator stating that the Petitioner has performed a review and inspection of the required improvements and compared those improvements to the requirements of the approved Primary Plat and that all requirements under the approved Primary Plat have been satisfactorily completed. Any request for Secondary Approval shall be accompanied by a certificate from a registered professional engineer, or registered professional surveyor, attesting to the conditions cited as a reason for the approval. The certificate shall bear the professional seal of the engineer or surveyor. The engineer or surveyor shall be certified to practice in the state of Indiana.
- (B) The Zoning Administrator shall with the approval of the Town Council or the Town's Utility Service Board, as appropriate, make a final determination concerning the acceptability of each piece of evidence as proof of satisfactory completion of the requirements of the primary approval. The determination of the Zoning Administrator shall not constitute Primary or Secondary Approval of the plat or Primary or Secondary Approval of the construction of the infrastructure.

10.30.040.080 FINAL PLAT; REQUIRED FORMAT

The petitioner shall submit four Mylar (or equivalent) tracings of the proposed final plat for original signatures, formatted as follows:

- (A) Sheets shall measure no less than twenty (20) inches in width and eighteen (18) inches in height.
- (B) Where the plat has been prepared using CAD (Computer Assisted Drawing) software, an additional copy of the plat shall be delivered to the Plan Commission on computer disk in a .dwg or .dxf format. Other specifications, primarily in text form, may be submitted in .pdf format
- (C) Maps and Drawings shall have the same scale and general requirements as the Primary Plat unless the Commission approves otherwise.

10.30.040.090 FINAL PLAT; REQUIRED INFORMATION

The information required for the Primary Plat shall also be provided on the final plat, together with any changes or additions required by the Plan Commission as conditions of Primary or Secondary Plat approval.

10.30.050 DEVELOPMENT PLANS

10.30.050.010 APPLICABILITY

Except as noted, the following standards apply to all development plans and subdivisions of land.

10.30.050.020 DEVELOPMENT STANDARDS

Each development plan for subdivision approval shall contain in addition to the requirements under this Chapter, the requirements under Zoning Ordinance Code 10.20.060.020 (Site Plan Review) and the Comprehensive Plan, and the Flood Hazard Regulations applicable to Leavenworth.

10.30.050.030 SUBDIVISION AND DEVELOPMENT PLANS REQUIRED

- (A) Subdivision of land is permitted in all zoning districts within the planning and zoning jurisdiction of the Town.
- (B) Subdivision and development plans, and subdivision plats, shall be required for all subdivisions of land, except exempt subdivisions of land named herein, in all zoning districts within the planning and zoning jurisdiction of the Town.
- (C) Provided that lands, which are unsuited for development, for any of the reasons stated in this ordinance, the Comprehensive Plan or in the Zoning Ordinance, may not be altered from their present state without a special development plan approved by the Commission.

10.30.050.040 CERTIFICATION OF DESIGN

The design of the Primary Plat and the Secondary Plat, for a subdivision, and each development plan, shall be certified by a registered professional engineer, or surveyor, licensed by the State of Indiana.

10.30.050.050 DEVELOPMENT AND SUBDIVISION PLAN APPROVAL

The Plan Commission shall approve the development plan for a subdivision of land that requires Plan Commission approval, and it is hereby required that no plat, or subdivision of any lot, or any part thereof, or any subdivision that includes dedication of lands for public use, within the territorial jurisdiction of the Town, shall be entitled to be recorded with the County Recorder until it has been approved. No subdivision of land shall have any validity until it has been approved in accordance with the criteria of this Chapter.

10.30.050.060 EXEMPT SUBDIVISIONS OF LAND

The following subdivisions of land shall be exempt from the requirements of this Chapter:

- (A) The division of a lot into more than one lot as a part of the settlement of an estate by a court of law.
- (B) A division of land for a unit of government, or a Utility, to acquire or improve a right-of-way easement.
- (C) An adjustment of lot lines between existing adjoining lots which shall not violate the conditions and standards imposed by this Code (Code 10.30), the Zoning Code, or the general standards set forth in the Comprehensive Plan. In addition the subdivision(s) shall not interfere with any existing easements or other access requirements.
- (D) A subdivision of an existing lot or lots established under IC 36-7-3, or a previous action of the Plan Commission under IC 36-7-4, which subdivision shall not violate the conditions and standards imposed by this Code (Code 10.30), the Zoning Code, or the general standards

set forth in the Comprehensive Plan. In addition the subdivision(s) shall not interfere with any existing easements or other access requirements. The descriptions of the lots created by subdivision shall be recorded in accordance with the requirements of IC 36-7-3-3(a)(3), which descriptions shall contain reference to the original lot numbers.

- (E) A division of land into cemetery plots for the burial of corpses, providing that the subdivision is located in a land area previously approved for use as a cemetery.

10.30.050.070 DEVELOPMENT PLAN STANDARDS

Each development plan shall incorporate improvements that conform to the standards under Zoning Ordinance (Code 10.20) and this Chapter. These requirements are, except where noted, minimum requirements. Where it is necessary to accommodate the particular needs of the development plan under review, or the particular needs of the community outside of the proposed development, higher standards and greater requirements shall be included as required by the Plan Commission.

10.30.050.080 COMPLIANCE WITH THE COMPREHENSIVE PLAN, SUBDIVISION AND ZONING PROVISIONS

Before either Primary Plat (Plan) or Secondary Plat (Plan) approval is granted the Plan Commission shall make specific findings of the following requirements individually. The vote shall be by roll call vote:

- (A) Before plan approval shall be granted, the Advisory Plan Commission shall determine if the development plan complies with the provisions of all Ordinances, State and Federal Statutes or State or Federal Regulations.
- (B) Applications for approval shall not be accepted for consideration if the property constituting the development plan, or the petitioner, is in violation of any Town ordinance or state or federal statute at the time the application is filed.
- (C) In making its determination, the Advisory Plan Commission shall review the development plan for requirements of the Comprehensive Plan and the Thoroughfare Plan Code (if any), the Flood Hazard Regulations applicable to Leavenworth, and the Zoning, and this Chapter, for but not limited to, the following:
 - 1. Compatibility of the development plan with surrounding land uses.
 - 2. Compatibility of the development plan with the requirements and recommendations of the Comprehensive Plan.
 - 3. Adequate provisions for internal management of traffic, including access for fire protection and law enforcement vehicles
 - 4. Analysis of the capacity of thoroughfares to ensure that adjacent streets can safely and efficiently accommodate the additional traffic generated by the development.
 - 5. Adequate provisions for public facilities and infrastructure, and provisions for extension of infrastructure to adjacent developable properties.
 - 6. Provisions for the allocation of land for streets, parks, schools, public and semi-public buildings, homes, businesses and industry, as appropriate.
 - 7. Adequate on-site management of storm-water, and erosion control on site.
 - 8. In cooperation with Drainage Utility or Agency of jurisdiction, provisions for management of the additional storm water that will be generated by development of other properties for which this site provides natural drainage. Such cooperation shall not require the petitioner to bear the entire cost of such provisions.

- (D) Compliance with the provisions, contained in this Chapter, shall not exclude other provisions of the Comprehensive Plan, or other conditions favorable to health, safety and convenience, and the harmonious development of the territorial jurisdiction of the Town. Specifically, and as a minimum requirement, the Commission shall follow the review standards and make the individual findings required by Zoning Ordinance 10.20.060.020 SITE PLAN REVIEW.

10.30.050.090 CONDITIONS OF THE LAND

No land shall be developed if such land is considered by the Advisory Plan Commission to be unsuitable for such development by reason of flooding, improper drainage, or any topographic feature deemed harmful to the health and safety of the community, or by any environmental condition of the land which shall qualify the land for environmental review and which has not been reviewed and/or remediated in accordance with federal and state laws. Due consideration shall be given by the Petitioner to the prevention of air and stream pollution, the proper treatment and disposal of waste and refuse and the proper management of storm water runoff.

10.30.050.100 PUBLIC SITES

Whenever the reasonable requirements provided by these regulations shall indicate the necessity for providing for a school site, park or other recreational site, or other public lands within any proposed development, and if such lands have not been dedicated to the Town, County, Board of Education, or other appropriate public agency, and if no provision has been made for such dedication, then such lands shall be reserved for acquisition by the appropriate agency having jurisdiction over such land for a period of not less than four years, by purchase or other means. If said four years has expired without having begun acquisition procedures, the owners of such lands shall have the right to develop such lands in any other manner consistent with these regulations. Direct and Public Notice shall be given that such lands have been set aside and reserved and the purpose for which the lands have been set aside and reserved. Proof that such notice has been given shall be obtained by the Attorney for the Commission, and certified to the Commission.

10.30.050.110 ESTIMATE OF COST OF CONSTRUCTION

Provided such information is required as proof of compliance before the Commission, the petitioner shall employ a professionally qualified registered professional engineer, or a professionally qualified registered professional surveyor to make an estimate of the probable expenditures necessary to enable the petitioner to build the required improvements in conformance with the standards established in this Chapter.

10.30.050.120 VARIANCE AND MODIFICATION OF DEVELOPMENT PLAN

- (A) Where evidence may support a petitioner's challenge to these regulations, in that extraordinary hardship or practical difficulty may result from strict compliance with these regulations, and/or that the purpose of these regulations may be served to a greater extent by an alternative proposal, the proposed plan shall be referred to the Plan Commission and the Plan Commission may grant variance to these development regulations so that substantial justice may be done and the public interest secured; provided, that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and provided further that the Plan Commission shall not grant a variance unless it shall make findings in writing based upon the evidence presented to it in each specific case that the following criteria have been affirmatively determined:

1. The granting of the variance will not be detrimental to public safety, health or welfare, or injurious to other property;
2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

3. Due to the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from mere inconvenience, if the strict letter of these regulations is carried out. Financial hardship shall not constitute grounds for a variance; and
 4. The variance shall comply substantially with the provisions of the comprehensive plan.
- (B) A petition for variance shall be submitted in writing by the petitioner prior to the Plan Commission's hearing for approval of the Primary Plat. The petition shall state fully the grounds for the application and the facts relied upon by the petitioner. Where the variance has an impact on design and construction of public facilities, all public agencies as appropriate shall be given ample time to investigate the petition and comment in writing to the Plan Commission. In approving variances, the Plan Commission may require such conditions as will in its judgment substantially secure the objectives of these regulations. The Plan Commission may require the Petitioner to submit, along with his petition for variance, a certification from a registered professional engineer, or registered professional surveyor, attesting to the facts submitted in support of the petition.
- (C) The petition for variance shall be docketed and heard before the Commission as a separate issue and docket, and public notice shall be given, and the issued resolved, in the same manner as approval of the Primary Plat.

10.30.050.130 APPEALS TO THE PLAN COMMISSION

- (A) Any person aggrieved by a decision of the Plan Commission concerning any official action on an application for subdivision approval may appeal to the Plan Commission in writing for modification of their decision in accordance with I.C. 36-7-4-708.
- (B) Where a decision by the Plan Commission was made at a public hearing and that decision is under appeal, a public hearing shall again be required in order to hear the appeal of that decision, and the petitioner for the appeal shall pay for the hearing as may be required by any part of Title 15 Land Use Codes.
- (C) Final action of the Plan Commission on Appeal may be reviewed by certiorari in accordance with IC 36-7-4-1016.

10.30.050.140 SURVEY MONUMENTS

For any subdivision of land, permanent survey monuments shall be set at the comers and other points of angular change in the perimeter of the subdivision, and at all intersections of lot lines with other lines, and at points of angular change in lot lines. Monuments shall be not less than 5/8-inch diameter by 30-inch long steel bars with the surveyor's registration number on the cap. Monuments shall extend not more than one inch above, or more than three inches below the finished grade of the land.

- (A) At least two permanent and adequate survey monuments shall be established as a Bench Mark and shall be clearly designated on the plat each with its distance above mean sea level.
- (B) At least two of the permanent survey monuments shall be clearly designated on the plat with the State Plane Coordinates.

10.30.050.150 BLOCKS

Blocks shall not exceed 800 feet in length as measured between the right-of-way lines of the cross streets, or as measured from the right-of-way line of the cross street and the rearmost property line of the lot at the end of a cul-de-sac or dead-end street.

10.30.050.160 LOTS AND STREETS

- (A) All lots shall be arranged so that each building or structure to be placed thereon shall have adequate space for light, air and fire protection, and each building shall be so sited as to provide convenient access to streets and parking facilities.
- (B) The following specifications shall apply to all lots:
 - 1. *Rights-of-way streets.* Every lot shall abut an improved street in a dedicated public right-of-way unless the Plat provides for private streets as described herein.
 - 2. *Building setbacks.* Minimum building setback lines shall be established on all lots, and they shall be appropriate for the location of the subdivision, for the type of development and the use contemplated; provided, however, that they shall not be less than the standards established in the Zoning Ordinance for the zoning district in which the lot is located.
 - 3. *Area and frontage:* The area, minimum frontage, depth and width requirements shall not be less than the standards established in the Zoning Ordinance for the Zoning District in which the lot is located.
 - 4. *Lot line design.* Side lot lines which are at right angles or radial to street lines shall be preferred.
- (C) Minimum standards and requirements for streets, roadways and alleys shall be established by the Unit of Jurisdiction (Leavenworth Town Council) (or in certain special circumstances by the Board of Commissioners of Crawford County); provided however, that the minimum standards and requirements shall not be less than those required by the Zoning Ordinance.

10.30.050.170 ALLEYS

In general alleys will not be permitted in residential areas unless there are special circumstances requiring their use. Commercial and Industrial areas may have alleys permitted. Each Commercial or Industrial lot may be accessible from an alley along its rear lot line and the width shall be established by the Commission. If an alley is provided, the standard of construction shall be defined by the Unit of Jurisdiction (Leavenworth Town Council); provided however, the minimum standards and requirements shall not be less than those required by the Zoning Ordinance.

10.30.050.180 UTILITY EASEMENTS

Dedicated public utility easements shall be provided in accordance with the following standards. The public utility easement shall not be used as surface storm-water easements, and access to utility easements for utility installation or service shall not be via surface storm-water easements.

- (A) *Rear lot lines.* Where a dedicated public alley is not provided along the rear of each lot, each lot shall have a public utility easement of not less than 20 feet in width located along the entire width of the rear lot line. Where so located along lot lines within the subdivision, one-half of each such easement shall be taken from the rear of each abutting lot.
- (B) *Side lot lines.* Public utility easements shall be dedicated along interior side lot lines as required by the conditions of installation of services, as determined by the providers thereof of each such service.

- (C) *Front lot lines.* At the discretion of the Commission, and in addition to other right-of-way dedications, public utility easements may be required along front lot lines, as a condition of approval of a subdivision of land, to facilitate the installation of services where said services cannot be provided except under the paved portion of a street.

10.30.060 STREETS, ALLEYS AND RIGHTS-OF-WAY

10.30.060.010 APPLICABILITY

The street and alley development standards in this sub-chapter apply to all streets whether inside or outside of the corporate limits of the Town, except as specifically provided herein.

10.30.060.020 GENERAL DESIGN CONSIDERATIONS

- (A) All provisions of this Code 10.30 are subject to provisions of the Thoroughfare Plan, its revisions and successor ordinances. Certain provisions of the Thoroughfare Plan shall be evident on the Preliminary Plat as follows:
1. All streets represented on the Preliminary Plat shall be designated for their intended use as provided in the Plan i.e. arterial, feeder, residential, private, or other as may hereinafter be provided.
 2. Minimum general standards shall be in accordance with the provisions of the Thoroughfare Plan i.e. minimum longitudinal grade, minimum transverse slopes, minimum right of way width, minimum traveled way width, minimum sight distances, minimum construction standards, minimum lighting requirements or other requirements as may hereinafter be provided.
- (B) Street layout and construction shall take into account the relationship of the proposed streets to existing and planned streets, major thoroughfares, adjacent developments, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets. Local streets shall be so laid out that their use by through-traffic will be discouraged. Where a new street is located in a dedicated public right-of-way and complies with the design and construction requirements for inclusion in the maintenance program of the Town as appropriate, the petitioner shall dedicate the street to the Town, or other applicable jurisdiction, as public improvements, after construction and acceptance by the Town or other jurisdiction.
- (C) Where a Subdivision borders on an existing county, state or federal roadway then compliance with standards required by the bordering roadways shall equal or exceed those required by the jurisdiction owning the existing roadway.

10.30.060.030 STREET DESIGN STANDARDS

The petitioner shall, at his expense, design and provide all proposed streets, alleys, roadways, roadway drainage, bridges and other access infrastructure, on dedicated rights of way in accordance with standards of design and construction provided by the Leavenworth Town Council and/or other entity that has jurisdiction over the proposed infrastructure.

- (A) Whenever the proposed Streets, Alleys, or Roadways intersect with, coincide with, or impinge upon any Federal, State or County Right of Way or Traveled Way, then the petitioner shall comply with regulations and standards related to that jurisdiction.
- (B) Provided however, that if the Government Unit of Jurisdiction has not established design standards for low volume roadways, streets and alleys, then the general design criteria shall be that contained in "LOW-VOLUME ROAD TASK FORCE REFERENCE DOCUMENT" dated 1988 Author Tommy Nantung, or other Design Standard approved by the Plan Commission. The design standard reference is available from the Indiana Local Technical Assistance Program administered by Purdue University West Lafayette, Indiana

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- (C) No Street, Alley or Roadway shall have dimensions or general standards less than those required by the Leavenworth Zoning Ordinance or the Leavenworth Thoroughfare Ordinance.
- (D) Roadway drainage and the general drainage for the project shall be coordinated with, and incorporated in, the roadway design.
- (E) The Government Unit of Jurisdiction may require that all plans and specifications and all certifications of completion be provided by a registered professional engineer bearing his written certification and seal.
- (F) With the consent of the Unit of Government having jurisdiction the petitioner may develop private, non public, streets and alleys with the following requirements:
1. Private , roads, streets and alleys shall be shown on the final recorded plat as private access;
 2. A covenant stating the conditions by which the private roads are to be constructed, operated and maintained shall be recorded with the Crawford County Recorder and said Covenant shall run with the land. Said covenants may not be changed or abrogated in any manner without the consent of the Commission.
 3. No cost of construction, operation or maintenance shall accrue to the Town of Leavenworth or to any of their operating units except as may be expressly provided herein.
 4. No private infrastructure may be accepted for ownership, operation or maintenance or to be incorporated into the transportation system of the Unit of Jurisdiction until the infrastructure shall have been brought to the standards stated herein, for acceptance as public infrastructure.
- (G) Any street or roadway standards provided by any agency shall contain the statutory requirements of IC 36-7-4-702.

10.30.060.040 MINIMUM SIGHT DISTANCE

At the intersection of any street, alley or driveway with a street, the minimum distance that an observer sitting in an automobile at the intersection shall be able to see a vehicle approaching from any direction on a through-street crossing the intersection shall be not less than the distance shown below corresponding to the posted speed limit:

<u>Miles per hour</u>	<u>Feet</u>
20	177
25	217
30	267
35	328
40	403
45	482
50	571
55	655

10.30.060.050 EXTENSION OF STREETS

In order to provide for future development of adjacent land, and as required by the Plan Commission, the following shall apply:

- (A) *Proposed streets.* Proposed streets shall be extended to the boundary line of an adjacent tract, and terminated without a turnaround. Provided; however, that if it is required by the Town Council a suitable traffic barrier and signage shall be erected at the terminus of the street.
- (B) *Extension of streets.* Where an existing street terminates at the boundary line of a proposed subdivision, either the street shall be continued into the street pattern of the proposed subdivision or a turnaround shall be provided in the proposed subdivision in accordance with the requirements for dead-end streets.
- (C) *Dead-end streets.* Except for streets approved for future extension into adjacent developable territory, the closed end of a dead-end street shall be provided with a cull-de-sac for vehicle turnaround.

10.30.060.060 MINIMUM STANDARD FOR INTERSECTIONS

Proposed intersections shall comply with the following design criteria:

- (A) *Cross Streets.* The extension of a proposed street into the development in alignment with an existing street at an intersection shall be preferred. Where a proposed intersection cannot match the centerline alignment of an existing street at the intersection, the intersection shall be offset by not less than 125 feet.
- (B) *Driveways.* Driveways shall have the following minimum separation distances:
 - 1. Not closer than twenty-five (25) feet to the intersection of any streets or alleys.
 - 2. Not closer than four (4) feet to any other curb opening.
 - 3. Not closer than two (2) feet to a property line.
- (C) *Angle of intersection.* Streets, alleys and driveways shall intersect as nearly as possible at right angles, but not less than seventy (70) degrees nor more than one hundred and ten (110) degrees.
- (D) *Arc.* Property lines at intersections shall be rounded by the following arcs:
 - 1. At the intersection of a local street with another street, at least twenty-five (25) feet.
 - 2. At all other street intersections, at least fifty (50) feet.
 - 3. At the intersection of an alley with a street, not less than fifteen (15) feet.

10.30.060.070 MINIMUM STANDARDS FOR LONGITUDINAL GRADING

Requirements of Storm Drainage for the roadway and adjoining lands shall be considered when establishing longitudinal grades.

- (A) Final surface grades on streets and alleys shall not be less than ½ percent (0.5%), or greater than eight percent (8%) as measured along the centerline of the street. For variances from this standard a finding of necessity shall be required of the Commission.

10.30.060.080 MINIMUM STANDARDS FOR TRANSVERSE SLOPES

- (A) Requirements of storm drainage for the roadway shall be considered when establishing transverse slopes.
- (B) The slope of the pavement from the crown of the street to the edge of pavement, or pan of the gutter if present, shall be one and one quarter percent (1.25%). The slope on shoulders shall be four percent (4%).

10.30.060.090 MINIMUM RADII OF CURVATURE ON THE CENTERLINE

Where a deflection angle of greater than ten degrees in the alignment of a street occurs, a curve shall be introduced as follows:

- 1. Collector Streets: The minimum radii of curvature shall be no less than five hundred (500 feet);
- 2. Local and Industrial Streets: The minimum radii of curvature shall be no less than one hundred and fifty (150) feet.

10.30.060.100 MINIMUM RIGHT-OF-WAY WIDTH

- (A) Where a proposed lot abuts an existing public street with a one-half (1/2) right-of-way width of less than thirty (30) feet on the side of the street on which the lot is located, the owner shall dedicate land as necessary to provide a one-half right-of-way of thirty (30) feet width as a public half right-of-way along the entire property line that abuts the street; except, however, that where the street is a Town, county, state or federal street, the one-half right-of-way dedication shall conform with the county, state or federal requirement for the particular street on which the lot abuts, but shall be not less than thirty (30) feet of total one-half right-of-way width.
- (B) Minimum width of dedicated public right-of-way within a development, including a subdivision shall not be less than:
 - 1. Collector and Commercial or Industrial Streets – seventy (70) feet;
 - 2. Residential Streets - sixty (60) feet;
 - 3. Alleys - sixteen (16) feet;
 - 4. Cul-de-Sac (Residential Streets) – fifty (50) plus a turnaround with an outside diameter of one hundred (100) feet;
 - 5. Cul-de-Sac (Commercial or Industrial Streets) - seventy (70) feet plus a turnaround with an outside diameter of one hundred twenty (120) feet.
- (C) The right-of-way width for streets under county, state or federal control shall be as determined by the owner thereof, but shall be dedicated at not less than the widths mandated herein.

10.30.060.110 ONE-HALF RIGHTS-OF-WAY FOR STREETS AND ALLEYS

Dedication of one-half rights-of-way for streets and alleys shall be prohibited. Where there exists a dedicated or platted one-half right-of-way for a street or alley on an adjacent tract to be developed, and where the minimum right-of-way width for the street or alley and other requirements can be achieved utilizing the existing one-half right-of-way, and subject to Plan Commission approval, the other one-half shall be platted and developed. Otherwise, one-half rights-of-way along the boundary of the land to be developed will be permitted only if the owner of the adjoining undeveloped land simultaneously dedicates the other one-half of the right-of-way as part of the plat.

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE**10.30.060.120 MINIMUM PAVEMENT WIDTH.**

Minimum widths of paved surfaces of streets and alleys shall be:

<u>Street Classification</u>	<u>Width of Pavement Including Curb and Gutter</u>	<u>Width of Pavement without Curb and Gutter***</u>
Industrial or Commercial Street	Thirty-four (34) feet back-to-back of curb and gutter	Thirty (30) feet plus 4-foot paved shoulders
Collector	Forty (40) feet back-to-back of curb and gutter*	Thirty-six (36) feet plus 4-foot paved shoulders
Local residential streets	Thirty (30) feet back-to-back of curb and gutter	Twenty-six (26) feet plus 4-foot paved shoulders
Cul-de-sac: local residential street	Thirty (30) feet back-to-back of curb and gutter plus turnaround of eighty (80) feet back-to-back of curb and gutter	Twenty-six (26) feet plus 4-foot paved shoulders and turnaround of seventy-six (76) feet plus 4-foot paved shoulders
Cul-de-sac: commercial or industrial street	Thirty-four (34) feet back-to-back of curb and gutter plus turnaround of one hundred (100) feet back-to-back of curb and gutter	Thirty (30) feet plus 4-foot paved shoulders and turnaround of ninety-six (96) feet plus 4-foot paved shoulders
Alleys	Ten (10) feet (curb and gutter not required)	Ten (10) feet

* Width of pavement on collector streets may be reduced to thirty two (32) feet including curb and gutter where all abutting uses are residential and each lot that abuts the street has not less than one-half acre of net lot area, and where each lot conforms with the minimum lot dimensions under the Zoning Ordinance.

** Width of pavement on collector streets may be reduced twenty-six (2) feet plus 4-foot paved shoulders where all abutting uses are residential and each lot that abuts the street has not less than one-half acre of net lot area, and where each lot conforms with the minimum lot dimensions under the Zoning Ordinance.

*** Outside of the incorporated area a 4-foot compacted aggregate shoulder may be substituted for the 4-foot paved shoulder.

10.30.060.130 MINIMUM STANDARDS FOR MATERIALS AND MINIMUM PAVING DEPTH

Pavement shall meet: the following standards:

Material	Depth		
	Commercial, Industrial and Collector Street	Local Residential Street	Alleys
Sub-base (under all pavements):			
Compacted aggregate # 53 (95%) density	8 inches if asphalt 6 inches if concrete	8 inches if asphalt 4 inches if concrete	6 inches
Flexible asphalt pavement			
Base, #5	3 inches	3 inches	N/A
Base, #9	2 inches	N/A	N/A
Base, #11	1 inch	1 inch	N/A
Portland cement concrete pavement			
Concrete (3,500 psi or greater as required by traffic load)*	8 inches	6 inches	N/A
Chip and seal pavement	N/A	N/A	Local Standard

*Expansion joints shall be provided at the ends of each radius section and every one hundred and fifty (150) feet. Control joints shall be provided every ten feet. Joints shall be filled with approved expansion or sealing material.

10.30.060.140 CURB AND GUTTER

Concrete curbs and gutters shall be installed on each side of the paved street surface. The type selected shall be either stand-up, rolled or V-curb, constructed as shown in the cross section detail drawing in Appendix "A", Curb and Gutter Details, and according to the following additional specifications:

- (A) *Base.* The base for the curb and gutter shall be three inches of compacted #53 aggregate or #11 stone.
- (B) *Expansion and control joints.* Expansion joints shall be provided at the ends of each radius section and every 150 lineal feet of roadway.. Control joints shall be provided every ten feet. Joints shall be filled with an approved sealing or expansion material.
- (C) *Concrete.* All concrete used in the curb and gutter shall be 3,500 per square inch, or greater as required by the traffic load, and shall meet the Standard Specifications for Curbs and Gutters of the Indiana Department of Transportation.

10.30.060.150 MINIMUM STANDARDS FOR SHOULDERS

Grass-surfaced shoulders with a width of not less than six feet and a slope with a run/rise ratio of 3:1 or flatter shall be installed along and adjacent to each side of a developed street or alley, and shall blend into the adjoining yard or drainage improvements as required.

10.30.060.160 SIDEWALKS

Sidewalks shall be constructed of Portland Cement Concrete not less than four inches thick and five feet wide on three inches of compacted #53 aggregate. The slopes shall have run/rise ratios of 12:1 longitudinal and 50:1 lateral, or flatter. Terminations at streets, alleys and driveways shall be in compliance with the Americans With Disabilities Act (ADA).

10.30.060.170 SIGNS

The petitioner shall provide the development with street signs, including but not limited to stop, warning, street identification, parking control, and information signs, in accordance with the standards the Town of Leavenworth Street Department or other jurisdiction as appropriate, none of which shall be installed to a standard less than the standards in the *Indiana Manual on Uniform Traffic Control Devices for Streets and Highways*, latest edition.

10.30.070 WASTEWATER SERVICE

10.30.070.010 WASTEWATER TREATMENT/SANITARY SEWER STANDARDS

- (A) The petitioner shall design and provide the proposed development with a complete wastewater collection and treatment system in accordance with the design standards that are applicable to the type of system used. Where the system is to be connected to a public wastewater treatment system, the plans shall be certified by a professional engineer registered in Indiana. Where the system will connect to the Town's wastewater facilities, the system shall be designed in accordance with the Town's design standards, the plans shall be approved by the Town's Utility Service Board, and the petitioner shall obtain Indiana Department of Environmental Management construction permits. In all other cases, design and plan approval shall be by the appropriate Town, county, state and federal agencies as required. In certain alternate types of systems proof of a "certificate of convenience and necessity" may be required in accordance with IC 8-1-2-89.
- (B) When in the judgment of the Town's Utility Service Board portions of the sanitary sewer facilities may be utilized as a trunk line (main line) for development beyond the boundaries of the petitioners project, then the Leavenworth Utility Service Board may, at its sole discretion, order changes in the design and construction to that end. The additional cost of implementation of the change, including design costs, shall be a matter for negotiation.

10.30.070.020 ACCEPTANCE OF IMPROVEMENTS

- (A) Where a new system is connected to the Town's wastewater treatment facilities, conforms to the Town's design and construction requirements, is located in a public right-of-way or dedicated public utility easement, and is accepted by the Town Council and/or Utilities Service Board, as appropriate, for maintenance, the petitioner may dedicate the public components of the system to the Town as public improvements after installation. As-built plans for the completed system, as accepted, shall be filed with the Utility Superintendent and the Plan Commission.
- (B) When terrain or other conditions require the use of individual lift stations at each lot then these facilities shall be, and shall remain, the property of the owner of the lot for the owner's installation, operation, and maintenance. "As-Built" plans for the completed systems shall be filed with the Town's Utility Superintendent and the Plan Commission.

10.30.070.030 WASTEWATER TREATMENT OPTIONS

Options for the method of wastewater treatment for a proposed development shall be as follows:

- (A) **First option: Public wastewater collection and treatment system.** Where the mains of a public wastewater collection and treatment system are located within the distance specified under I.C. 36-9-23-30 from any part of a proposed development, the entire development shall connect to that public system according to the specifications in this sub chapter. The petitioner shall be responsible for all costs associated with implementation of the connection but shall not be responsible for upgrading the existing system to handle the additional wastewater.
- (B) **Second Option: Independent Collection System Sewage Pumped to a Main Line.** Where a trunk line forced main is available, and the owner of the trunk line will accept the raw sewage for delivery to a treatment plant for final treatment, then a responsible entity

may own and operate the system and collect and pump the sewage to the main line. Provided; however, the collection and pumping entity must comply with all of the requirements of 10.30.070.030 (A) above, and in addition must have a "certificate of convenience and necessity" in accordance with IC 8-1-2-89.

- (C) **Third option: Independent central collection system.** Where connection to a public wastewater collection and treatment system as described above cannot be provided, a complete, independent, centralized multi-user wastewater collection and treatment system shall be provided by the petitioner in accordance with the minimum requirements of the Indiana State Department of Health and/or the Indiana Department of Environmental Management. Provided; however, the collection and treatment entity must comply with all of the requirements of 10.30.070.030 (A) above, and in addition must have a "certificate of convenience and necessity" in accordance with IC 8-1-2-89.

(D)

10.30.080 WATER SERVICE AND FIRE PROTECTION SERVICE

10.30.080.010 POTABLE WATER SUPPLY SYSTEM STANDARDS

- (A) The petitioner shall ensure the installation of a complete potable water supply system;
- (B) The water supply system shall comply with standards set by the State of Indian for a public potable water supply system;
- (C) If the system connects to an existing water supply utility then the system shall comply with the standards of that utility, including but not limited to:
 - 1. The type and grade of materials used in the construction;
 - 2. The number and location of valves, flushing hydrants and other essential devices required for efficient management of the system;
 - 3. Provided the materials used in the pipes are non metallic, then an approved location wire or other feature shall be installed along with the pipe to facilitate location of the facilities.
 - 4. The specifications of installation such as depth of burial, bedding and backfill of pipes, location of infrastructure on the easement or right-of-way and any other applicable specification;
 - 5. Provided the system will supply water for fire prevention or mitigation then the number, location, type and grade of fire plugs;
- (D) Provided the potable water system connects with, or will later be integrated in, the system of an existing utility, then that utility may require, at the petitioners expense, a qualified, registered Engineer to certify that the potable water system complies with all applicable standards and requirements, including but not limited to, the following:
 - 1. All Federal standards and regulations appertaining;
 - 2. All State of Indiana standards and regulations appertaining;
 - 3. All Local Laws, Standards and regulation appertaining, including the specific requirements of this Ordinance;
 - 4. All required permits, registrations and tests;
- (E) Provided the potable water system connects with, or will later be integrated in, the system of an existing utility, then that utility may require such security as it deems necessary to provide for compliance of standards and the operation and maintenance of the system for a period not less than one (1) year and not to exceed three (3) years following its connection or integration into the system.
- (F) Provided the potable water system connects with, or will later be integrated in, the system of an existing utility, then that utility shall have the right to, order to be done, be a party to, witness and direct, such tests of the system it deems necessary both during and after construction.
- (G) All certifications, registrations, licenses, tests and/or any other costs associated with proof of compliance shall be the petitioner's responsibility and all shall be at the petitioner's expense.
- (H) Accurate "As Built" plans and specifications shall be furnished to the:
 - 1. The Town Engineer and/or the Plan Commission, which ever is applicable;

2. The Utility Service Board;
 3. The Leavenworth Town Council.
- (l) When in the judgment of the Town Council and/or Town Utility Service Board some portions of the potable water facilities may be utilized as a trunk line (main line) for development beyond, or adjacent to, the boundaries of the petitioner's project then the Water Utility may order changes in the design and construction to that end. The additional cost of implementation of the change, including design costs, shall be paid by the Water Utility. The difference in cost shall be a matter of negotiation, or if no agreement can be reached then the matter shall be settled by arbitration. If the parties to the dispute are unable to choose an arbitrator one shall be appointed by the Circuit Court of Crawford County.

10.30.080.020 ACCEPTANCE OF IMPROVEMENTS

Where a new system is connected to the Town's water facilities, conforms to the Town's design and construction requirements, is located in a public right-of-way or a dedicated public utility easement, and is accepted by the Town, the petitioner may dedicate the public components of the system to the Town, as public improvements, after installation. As-built plans for the completed system, as accepted, shall be filed with the Town's Utility Superintendent.. Fire hydrants and their connecting facilities shall be considered part of the water system if they serve the public at large and are not part of a private fire protection system serving a single lot or building.

10.30.080.030 INDIVIDUAL WELLS

The primary choice of water supply systems shall be a public potable water system; however, where connection to a potable water supply system is not possible, an individual water supply, by well, may be provided on each lot in accordance with the standards of the Indiana Department of Natural Resources and the Indiana Department of Health.

10.30.080.040 SEPARATION OF WELL WATER AND POTABLE WATER

Where a lot is supplied by both well water, or other source, and water from the Town's potable water supply system or from a supply system that is in any manner physically connected to the Town's water supply system, then backflow protection shall be provided by the petitioner at their expense. The well and potable water systems shall not be directly connected together. Backflow Prevention facilities must conform to standards set by the Indian Department of Health and approved by the Town's Utility Service Board (Water Department). The Backflow Prevention shall be installed at a location, and in such a manner, that they are conveniently available for inspection.

10.30.080.050 FIRE HYDRANTS (Potable Water Systems)

On any potable water supply system installed in an area currently, served by, or which may be served in the future by, the Town's fire department, a sufficient number of fire hydrants shall be installed by the petitioner at intervals not exceeding 600 feet from any building lot. Fire hydrants shall be dry barrel Class A type approved by the Town's Utility Service Board. Fire hydrants shall be separated from the water main by an operable valve, and shall be installed, operated and maintained in compliance with the standards of the Town's Utility Service Board. Provided that the water facilities are accepted under §150.136 above, then the fire hydrants and their connecting facilities are part of the water system accepted.

10.30.090 ELECTRIC, NATURAL GAS AND COMMUNICATIONS SERVICES

10.30.090.010 ELECTRIC SERVICE

- (A) The petitioner shall arrange for the provision of a complete electric service supply system which provides not less than single phase, three wire, 120/240 volt, 60-cycle electric service, located within dedicated public rights-of-way or public utility easements.
- (B) Within the corporate limits of the Town, provisions shall be included for locating street lights at intersections and as otherwise required under the Town's street light policy.
- (C) Electric Utilities have service territories defined by the Indiana Utility Regulatory Commission. Within their service territory they may establish their own extension and development policies in accordance with rules established by their governing boards. Providing that the policies conform to these rules, and are adopted and published as the Tariff Terms and Conditions of Service, then no language contained in this code (Code10.30) may limit or modify any part of that policy.

10.30.090.020 NATURAL GAS AND COMMUNICATIONS SYSTEMS

The Petitioner shall arrange for the provision of a natural gas distribution system, and telephone, cable television and other communications services provided they are available. Dedicated public rights-of-way or public utility easements shall be provided for these services, whether or not they are available at the time the petition for Secondary Approval is filed.

10.30.100 FIRE SUPPRESSION WATER SYSTEMS (NOT POTABLE WATER)

10.30.100.010 NON POTABLE WATER SYSTEMS FOR FIRE SUPPRESSION

In special circumstances the petitioner may desire to install water suppression systems that are not part of the potable water supply system.

- (A) No part of this system may be connected to the potable water supply system except through an approved backflow-preventer and in accordance with Indiana Department of Health standards and regulations.
- (B) The system shall be designed and certified by a qualified, registered professional Engineer;
- (C) No part of a Private Water System for Fire Suppression will be eligible for acceptance, for maintenance and operation, by a governmental agency except by specific legislative action of that agency.
- (D) The Petitioner (Developer) may dedicate and plat public easements and public right of ways for a Separate Fire Suppression System.

10.30.110 FLOOD HAZARD REGULATIONS AND STORM WATER MITIGATION

10.30.110.010 FLOOD HAZARD REGULATIONS

- (A) No Petition for Primary or Secondary Plat Approval, or approval of any Development Plan, may be granted until the Petitioner has demonstrated compliance with applicable Flood Hazard Regulations for Leavenworth.
- (B) Proof of Compliance with Flood Hazard Regulations shall consist of a certification of a Registered Professional Engineer that the site described in the petition is not within the Flood Plain boundary; or
- (C) Proof of compliance with Flood Hazard Regulations shall consist of a Development Plan, certified by a Registered Professional Engineer that by reason of changes in elevation, contour or proposed drainage mitigation will remove the site from the official description of the Flood Plain.
- (D) Proof of compliance with Flood Hazard Regulations shall consist of a Development Plan, certified by a Registered Professional Engineer, proof that the petitioner has obtained all permits, permissions and certifications necessary from state or federal agencies, and certification that the development plan will comply with all applicable regulations.

10.30.110.020 STORM WATER REGULATIONS:

- (A) No Petition for Primary or Secondary Plat Approval, or approval of any Development Plan, shall be granted until the Petitioner has demonstrated compliance with Leavenworth Zoning Ordinance, in particular but not limited to, Article X Sections 8 and 9.
- (B) Provided that a Town Council, Drainage Utility, Drainage Board, Drainage District, or other similar agency exists as a government unit, having jurisdiction and authority over matters of Flood Hazard and Drainage; then the Petitioner shall provide proof of approval from the agency concerning such matters contained in the Petition. The proof shall have the form and content described herein in the Appendix B-[X].

10.30.110.030 STORM WATER DRAINAGE SYSTEMS ON SITE

- (A) Before a Petition for Primary Approval is accepted the Petitioner (Developer) must perform a Storm Water Mitigation Feasibility Study (Storm Water Drainage Plan), to determine if it is possible to develop the site within the standards set for storm water disposal.
- (B) Provided the site is in the current or future jurisdiction of a Storm Water Utility then the standards set by that Utility shall govern. Provided however there is a conflict with other Ordinances, Statutes, or Regulations then the most restrictive requirements shall govern.
- (C) Provided there is no standard or standards for the development of a Storm Water Mitigation Feasibility Study (Storm Water Drainage Plan) then the Plan Commission may require that the general methods set forth in "A GENERAL ORDINANCE ESTABLISHING STORM WATER CONTROL" document number H-88-5 of Tell City, Indiana shall govern. The Developer may petition for variance from specific elements of this standard, before the Plan Commission, giving full details of the reason for the variance.

- (D) Details of the proposed compliance with Storm Water Mitigation Standards will become a major issue in the Primary Approval of the project.
- (E) The Plan Commission shall require the certification of the Storm Water Utility and/or the certification of a Registered Professional Engineer before Primary Approval is granted.
- (F) The Storm Water Mitigation Feasibility Study (Storm Water Drainage Plan) shall contain:
 - 1. The information required by Zoning Ordinance .
 - 2. The total rate of water delivered off site;
 - 3. A detailed description of the methods used for mitigation;
 - 4. A detailed description, including maps and drawings of the proposed infrastructure;
 - 5. Providing the mitigation plan requires the use of natural drainage then a detailed description of the impact of the development, on the natural drainage shall be included, including but not limited to the necessary changes in contour required;

10.30.110.040 STORM WATER DRAINAGE SYSTEMS PROVISIONS FOR FUTURE DEVELOPMENT

- (A) Feasibility Studies or mitigation proposals done prior to Primary Approval shall include, in the study area, all adjacent or extended areas which may have an impact on storm water management.
- (B) The Petitioner (Developer) will not be responsible for storm water mitigation due to future development in these extended areas. Provided however; the runoff due to the current state of development, in the extended areas, must be included in the study.

10.30.120 ENFORCEMENT & PENALTIES

10.30.120.010 ENFORCEMENT & PENALTIES

- (A) The action of Petitioning for and obtaining Primary Plat Approval shall constitute an Express Contract between the Petitioner and the Town of Leavenworth, by and through its Town Council. The dedication of Rights of Way, Streets, Alleys, Public Lands of Any Type, Utility Easements and Completed Infrastructure shall become final and irrevocable upon Primary Plat Approval. If the Petitioner shall default on this agreement by being adjudged as bankrupt, or shall in any way default on the terms and conditions of this agreement, then any uncompleted infrastructure may be adjudged to be a Public Nuisance and shall be treated accordingly.
- (B) Any person, firm, or corporation violating any of the provisions of this Chapter shall be fined, for each offence, an amount determined by Ordinance of the Council of the Town of Leavenworth. A separate offence shall be deemed committed on each day during or on which a violation occurs, or continues. Imposition of fines shall not be concurrent with actions taken under 10.30.120.010 (A) above.

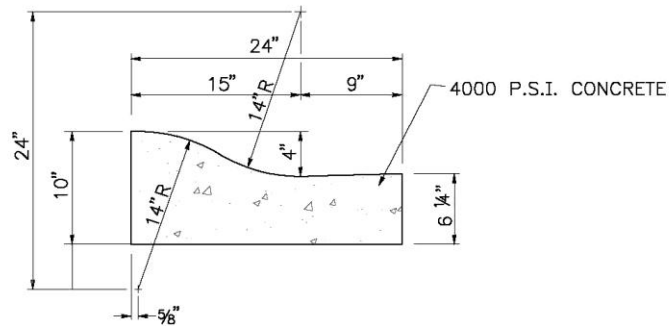
**END OF TEXT
APPENDIX FOLLOWS**

APPENDIX A-1: CURB AND GUTTER DETAILS

The following figures are non-preferred types and are to be used only with the written permission of the Superintendent of the Leavenworth Street Department for cases where matching or maintenance of existing curb and gutter is required. See Appendix A-2 for preferred curb types.

APPENDIX A-2: PREFERRED CURB AND GUTTER DETAILS

Figure 1: Roll Curb

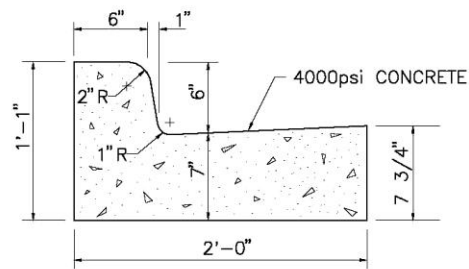


NOTES:

- 1.) 1/2" PREFORMED EXPANSION JOINT MATERIAL AT ALL P.C. & P.T. OF CURB RADIUS & MAX. SPACING OF TANGENT SECTIONS = 90'.
- 2.) TOOLED CONTRACTION JOINTS AT 10'-0" CENTERS. CONTRACTION JOINT TO BE A MINIMUM OF 3" DEEP & 1/8" TO 1/4" WIDE.

**CONCRETE ROLL
CURB AND GUTTER DETAIL**
NOT TO SCALE

Figure 2: Straight Curb with Gutter



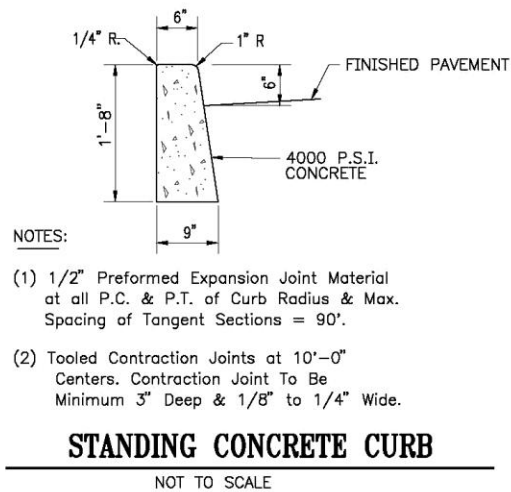
NOTES:

1. 1/2" PREFORMED EXPANSION JOINT MATERIAL AT ALL PC AND PT OF CURB RADIUS AND MAX. SPACING OF TANGENT SECTIONS = 90'.
2. TOOLED CONTRACTION JOINTS AT 10'-0" CENTERS, CONTRACTION JOINT TO BE MINIMUM 3" DEEP AND 1/8" TO 1/4" WIDE.

CONCRETE CURB & GUTTER

NOT TO SCALE

Figure 3: Free Standing Curb



Note: Height of Curb may vary depending on special conditions such as incidence of rock, or other underground obstruction. Permission for variance of height may only be granted in writing, by the Superintendent of the Leavenworth Street Department or his delegate.

APPENDIX B-1

PROOF OF AGREEMENTS TO FURNISH AND MAINTAIN INFRASTRUCTURE OR SERVICES

The policies of utilities or government agencies may vary widely when furnishing or accepting public infrastructure for a new development. Some utilities or providers of infrastructure may require the developer to install the infrastructure at the developer's expense and to maintain the infrastructure for a fixed period of time before acceptance. Other providers of infrastructure will install the infrastructure at their own expense but may require an Aid to Construction Deposit or other security, which may be either re-fundable or non re-fundable according to their particular policy.

It is not the duty of the Plan Commission to negotiate or define agreements between the developer and the utility or other provider of infrastructure or services. It is; however, the duty of the Plan Commission to ensure that utility, transportation and other commonly required or desired infrastructure is provided under conditions acceptable to potential future owners of properties within the development. To that end the developer will secure certifications appropriately issued and signed by a responsible officer or "attorney in fact" of the entity issuing the certification. The certification shall contain the following information:

1. The name of the Developer of Record before the Plan Commission;
2. The Docket Number of the case before the Plan Commission;
3. The Name of the Development before the Plan Commission;
4. The Name of the entity issuing the certification;
5. A certification that the utility or other infrastructure or service has the regulatory jurisdiction over the geographical area of the development;
6. An adequate description of the infrastructure and/or service to be provided;
7. A certification that the construction standards are in accordance with the standard policies of the utility or other provider of infrastructure or services, provided that in no case shall the construction standards be less than those required by the Indiana Utility Regulatory Commission, the Indiana Health Department, any statutory standards or the Leavenworth Code 10.30.and/or ;
8. A certification that the subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth;
9. A certification that the subject infrastructure or service will be furnished in due course for the use of future owners of the development;
10. A certification that the service or infrastructure will be provided under standard policies of the entity and that services will be provided under the standard tariffs of the entity without any surcharge or special fees directly related to this case and location. A certification that the signatory is fully advised of the premises and understands the requirements of the certification;
11. A certification that the person or persons executing the certification are authorized to execute the certification. Alternately the signatory may attach a Power of Attorney in Fact or similar legal document.
12. Certifications shall be in the general form as provided as example wording in Appendix B-2, B-3, B-4, B-5 or B-6 or other certification and forms that may be required.

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE

APPENDIX B-2

STANDARD WORDING FOR PROOF OF AGREEMENT PRIMARY PLAT APPROVAL (Entity Providing its Own Infrastructure)

[BEFORE THE LEAVENWORTH ADVISORY PLAN COMMISSION]
[Docket 200X-XXXX-PP]
[Muddy Creek Realty Company Inc.]
[Ribber Bend North Phase II]

"Leavenworth Electric Department, a Municipal Electric Department under Indiana Code 8-1.5-3-3(a)(3) hereby certifies that it has jurisdiction to furnish electric service to the development area described in Plan Commission Docket 200X-XXXX-PP known as Ribber Bend North. Ribber Bend North is a Residential Addition to the Town of Leavenworth, Indiana.

We hereby further certify that there is a binding agreement between the Leavenworth Electric Department and Muddy Creek Realty Company Inc., an Indiana Corporation, to provide Electric services and other incidental service, in accordance with the following requirements:

1. Leavenworth Electric Department will accept ownership of and/or construct in due course all necessary infrastructure required to provide its tariff services to lots X9 through Lots X 99 in the development; provided, that the development receives Secondary Approval, under Leavenworth Code 10.30, and is duly recorded; provided further:
 - a. The construction standards shall be in accordance with the standard policies of the utility or other provider of infrastructure or services provided that in no case shall the construction standards be less than those required by Leavenworth Code 10.30 or by the current version of the National Electric Safety Code;
 - b. The subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth, or customers of the utility, unless a cooperative contribution is required to provide infrastructure sufficient to provide service to other current or future developments not incorporated in this particular case;
 - c. The subject infrastructure and/or service will be furnished and delivered in due course for the use of future owners of the development and customers of the utility;
 - d. The subject service or infrastructure will be provided under standard policies of the Leavenworth Electric Department, and the subject services will be provided under its standard tariffs without any surcharge or special fees directly related to this case and location.
2. Leavenworth Electric Department will ensure that maintenance of the infrastructure is adequate and continuous during construction and for a suitable period thereafter.
3. The design of the subject infrastructure has given due consideration to capacity and location, including easements, for adjacent properties whether currently developed or likely to be developed in the future.

As signatory to this document I understand that this document is intended as material proof of a binding agreement with the developer to be relied on by the Plan Commission in its deliberations in the subject Case/Docket.

As signatory to this document I hereby certify that I am fully informed of the premises and understand the requirements. I further certify that I have full and unrestricted authority to execute this document.

[A duly executed resolution of the Board of Directors of Bibber Bend Electric Department is attached and it authorizes me to sign this document]

Executed _____, 200X
John Doe, Superintendent
Leavenworth Electric Department"

**APPENDIX B-3
STANDARD WORDING FOR PROOF OF AGREEMENT
PRIMARY PLAT APPROVAL
(Entity Accepting Infrastructure Provided by the Developer)**

[BEFORE THE LEAVENWORTH ADVISORY PLAN COMMISSION]

[Docket 200X-XXXX-PP]

[Muddy Creek Realty Company Inc.]

[Ribber Bend North Phase II]

“Leavenworth Water Department, a Municipal Water Department under Indiana Code 8-1.5-3-3(a)(2) hereby certifies that it has jurisdiction to furnish potable Water service to the development area described in Plan Commission Docket 200X-XXXX-PP known as Ribber Bend North. Ribber Bend North is a Residential Addition to the Town of Leavenworth, Indiana.

We hereby further certify that there is a binding agreement between the Leavenworth Water Department and Muddy Creek Realty Company Inc., an Indiana Corporation, to provide potable Water services and other incidental service, in accordance with the following requirements:

1. Leavenworth Water Department will accept ownership and in due course of all necessary infrastructure required to provide its tariff services to lots X9 through Lots X 99 in the development; provided, that the development receives secondary approval and is duly recorded; provided further:
 - a. The construction standards shall be in accordance with the standard policies of the utility or other provider of infrastructure or services provided that in no case shall the construction standards be less than those required by Leavenworth Code 10.30 or ;
 - b. The subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth, or customers of the utility, , unless a cooperative contribution is required to provide infrastructure sufficient to provide service to other current or future developments not incorporated in this particular case;
 - c. The subject infrastructure and/or service will be furnished and delivered in due course for the use of future owners of the development and customers of the utility;
 - d. The subject service or infrastructure will be provided under standard policies of the Leavenworth Water Department, and the subject services will be provided under its standard tariffs without any surcharge or special fees directly related to this case and location.
2. Leavenworth Water Department will ensure that maintenance of the infrastructure is adequate and continues during construction and for a suitable period thereafter.
3. The design of the subject infrastructure has given due consideration to capacity and location, including easements, for adjacent properties whether currently developed or likely to be developed in the future.

As signatory to this document I understand that this document is intended as material proof of a binding agreement with the developer to be relied on by the Plan Commission in its deliberations in the subject Case/Docket.

As signatory to this document I hereby certify that I am fully informed of the premises and understand the requirements. I further certify that I have full and unrestricted authority to execute this document.

[A duly executed resolution of the Board of Directors of Bibber Bend Water Department is attached and it authorizes me to sign this document]

Executed _____, 200X

John Doe, Superintendent
Leavenworth Water Department”

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE

APPENDIX B-4 STANDARD WORDING FOR PROOF OF AGREEMENT PRIMARY PLAT APPROVAL (Entity Accepting Infrastructure Provided by the Developer)

[BEFORE THE LEAVENWORTH ADVISORY PLAN COMMISSION]

[Docket 200X-XXXX-PP]

[Muddy Creek Realty Company Inc.]

[Ribber Bend North Phase II]

"Leavenworth Sewer Department, a Municipal Sewer Department under Indiana Code 8-1.5-3-3(a) (1) hereby certifies that it has jurisdiction to furnish Sanitary Sewer and Waste Water Service to the development area described in Plan Commission Docket 200X-XXXX-PP known as Ribber Bend North. Ribber Bend North is a Residential Addition to the Town of Leavenworth, Indiana.

We hereby further certify that there is a binding agreement between the Leavenworth Sewer Department and Muddy Creek Realty Company Inc., an Indiana Corporation, to provide Sanitary Sewer and Waste Water Services and other incidental service, in accordance with the following requirements:

1. Leavenworth Sewer Department will accept ownership and in due course of all necessary infrastructure required to provide its tariff services to lots X9 through Lots X 99 in the development; provided, that the development receives secondary approval and is duly recorded; provided further:
 - a. The construction standards shall be in accordance with the standard policies of the utility or other provider of infrastructure or services provided that in no case shall the construction standards be less than those required by Leavenworth Code 10.30 or ;
 - b. The subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth, or customers of the utility, , unless a cooperative contribution is required to provide infrastructure sufficient to provide service to other current or future developments not incorporated in this particular case;
 - c. The subject infrastructure and/or service will be furnished and delivered in due course for the use of future owners of the development and customers of the utility;
 - d. The subject service or infrastructure will be provided under standard policies of the Leavenworth Sewer Department, and the subject services will be provided under its standard tariffs without any surcharge or special fees directly related to this case and location.
2. Leavenworth Sewer Department will ensure that maintenance of the infrastructure is adequate and continues during construction and for a suitable period thereafter.
3. The design of the subject infrastructure has given due consideration to capacity and location, including easements, for adjacent properties whether currently developed or likely to be developed in the future.

As signatory to this document I understand that this document is intended as material proof of a binding agreement with the developer to be relied on by the Plan Commission in its deliberations in the subject Case/Docket.

As signatory to this document I hereby certify that I am fully informed of the premises and understand the requirements. I further certify that I have full and unrestricted authority to execute this document.

[A duly executed resolution of the Board of Directors of Bibber Bend Sewer Department (The Leavenworth Town Council) is attached and it authorizes me to sign this document]

Executed _____, 200X

John Doe, Superintendent

APPENDIX B-5

LEAVENWORTH SUBDIVISION CONTROL ORDINANCE

STANDARD WORDING FOR PROOF OF AGREEMENT PRIMARY PLAT APPROVAL (Entity Accepting Infrastructure Provided by the Developer)

[BEFORE THE LEAVENWORTH ADVISORY PLAN COMMISSION]

[Docket 200X-XXXX-PP]

[Muddy Creek Realty Company Inc.]

[Ribber Bend North Phase II]

In the absence of a storm water utility in the Town of Leavenworth the function of Storm Water Control is incorporated in the jurisdiction of the Town Council by and through the Sewer Department of Leavenworth , organized pursuant to Indiana Code 8-1.5-3-3(a) (1) and the Street Department of Leavenworth organized under Indiana Codes 36-4-4-3, 36-4-9-2 and 36-4-9-5(1). These entities have joint and several responsibilities for the control of storm water within the Town of Leavenworth. Therefore the Leavenworth Town Council certifies that it has jurisdiction to furnish Sanitary Storm Water Services to the development area described in Plan Commission Docket 200X-XXXX-PP known as Ribber Bend North. Ribber Bend North is a Residential Developed Addition to the Town of Leavenworth, Indiana.

The undersigned hereby further certifies that there is a binding agreement between the Leavenworth Town Council and Muddy Creek Realty Company Inc., an Indiana Corporation, to provide Storm Water Services and other incidental service, in accordance with the following requirements:

1. Leavenworth Town Council will accept ownership of and in due course provide all necessary infrastructure required to provide storm water services to lots X9 through Lots X 99 in the development; provided, that the development receives secondary approval and is duly recorded; provided further:
 - a. The construction standards shall be in accordance with the standard policies of the entities named above or other provider of infrastructure or services provided that in no case shall the construction standards and services be less than those required by Leavenworth Code 10.30 and or ;
 - b. The subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth, or customers of the utility, , unless a cooperative contribution is required to provide infrastructure sufficient to provide service to other current or future developments not incorporated in this particular case;
 - c. The subject infrastructure and/or service will be furnished and delivered in due course for the use of future owners of the development.;
 - d. The subject service or infrastructure will be provided under standard policies of the entities under the jurisdiction of the Town Council, and the subject services will be provided under its standard tariffs without any surcharge or special fees directly related to this case and location.
2. Entities under the jurisdiction of the Town Council will ensure that maintenance of the infrastructure is adequate and continues during construction and for a suitable period thereafter.
3. The design of the subject infrastructure has given due consideration to capacity and location, including adequate easements, for adjacent properties whether currently developed or likely to be developed in the future.

As signatory to this document I understand that this document is intended as material proof of a binding agreement with the developer to be relied on by the Plan Commission in its deliberations in the subject Case/Docket.

As signatory to this document I hereby certify that I am fully informed of the premises and understand the requirements. I further certify that I have full and unrestricted authority to execute this document.

[A duly executed resolution of the Board of The Leavenworth Town Council is attached and it authorizes me to sign this document]

John/Jane Doe Chairman

Leavenworth Town Council Executed _____, 200X

**APPENDIX B-6
STANDARD WORDING FOR PROOF OF AGREEMENT
PRIMARY PLAT APPROVAL
(Entity Accepting Infrastructure Provided by the Developer)**

[BEFORE THE LEAVENWORTH ADVISORY PLAN COMMISSION]

[Docket 200X-XXXX-PP]

[Muddy Creek Realty Company Inc.]

[Ribber Bend North Phase II]

"Leavenworth Street Department Department, a Municipal Street Department Street Department of Leavenworth organized under Indiana Codes 36-4-4-3, 36-4-9-2 and 36-4-9-5(1), is designated and has the duty to own, operate and maintain designated streets and alleys within the Town of Leavenworth . Therefore the Leavenworth Street Department certifies that it has jurisdiction to furnish Street and Alley Services to the development area described in Plan Commission Docket 200X-XXXX-PP known as Ribber Bend North. Ribber Bend North is a Residential Developed Addition to the Town of Leavenworth, Indiana.

The undersigned hereby further certifies that there is a binding agreement between the Leavenworth Street Department and Muddy Creek Realty Company Inc., an Indiana Corporation, to provide Street and Alley Services and other incidental service, in accordance with the following requirements:

1. Leavenworth Town Council will accept ownership of and in due course provide all necessary infrastructure required to provide street and alley services to lots X9 through Lots X 99 in the development; provided, that the development receives secondary approval and is duly recorded; provided further:

- a. The construction standards shall be in accordance with the standard policies of the entities named above or other provider of infrastructure or services provided that in no case shall the construction standards and services be less than those required by Leavenworth Code 10.30 and or ;
- b. The subject infrastructure will be provided without any additional cost to the tax payers of the Town of Leavenworth, or customers of the utility, , unless a cooperative contribution is required to provide infrastructure sufficient to provide service to other current or future developments not incorporated in this particular case;
- c. The subject infrastructure and/or service will be furnished and delivered in due course for the use of future owners of the development;
- d. The subject service or infrastructure will be provided under standard policies of the Street Department, and the subject services will be provided without any surcharge or special fees directly related to this case and location.

2. Entities under the jurisdiction of the Town Council will ensure that maintenance of the infrastructure is adequate and continues during construction and for a suitable period thereafter.

3. The design of the subject infrastructure has given due consideration to capacity and location, including adequate easements, for adjacent properties, whether currently developed or likely to be developed in the future.

As signatory to this document I understand that this document is intended as material proof of a binding agreement with the developer to be relied on by the Plan Commission in its deliberations in the subject Case/Docket.

As signatory to this document I hereby certify that I am fully informed of the premises and understand the requirements. I further certify that I have full and unrestricted authority to execute this document.

[A duly executed resolution of the Board of The Leavenworth Town Council is attached and it authorizes me to sign this document]

John Doe, Superintendent

Leavenworth Street Department Executed _____, 200X