

Chapter 21.90
COMMON DEFINITIONS

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21.90.001 Purpose. The following definitions are in addition to definitions found elsewhere in the Leavenworth Municipal Code. Where conflicts or inconsistencies arise between definitions in this title and those in others, the definitions in this title shall supercede those in other titles.

21.90.002 Generally. Except where specifically defined in this chapter, all words used in the Leavenworth Municipal Code shall carry their customary meanings. Words used in the present tense include the future; the plural includes the singular; the word

“shall” is always mandatory; the word “may” denotes a use of discretion in making a decision; the words “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied;” and the words “he” and “she” shall each be considered to mean “he” or “she.” The definition of any word or phrase not listed in these definitions, which is in question when administering the Leavenworth Municipal Code, shall be defined from one of the following sources. Said sources shall be utilized by seeking the desired definition from source number one, and if it is not available there, then source number two may be used and so on. The sources are as follows:

1. Any city of Leavenworth resolution, ordinance, code, regulation, or formally adopted comprehensive plan, shoreline master plan or program, or other formally adopted land use plan;
2. Any statute or regulation of the state of Washington;
3. Legal definitions from Washington common law or a law dictionary; and
4. The common dictionary.

21.90.003 Accessory or secondary use or structure. A use or structure on the same lot with and incidental or subordinate to the primary use or structure, and which may exist only when a primary use is existing on the same lot. The floor area of a secondary use must be less than that devoted to the primary use.

21.90.004 Administrator, city administrator. The city administrator of the city of Leavenworth or his or her designee.

21.90.008 Adult business. Any business which sells, rents, displays, or provides adult stock in trade depicting, describing or relating to specified sexual activities or specified anatomical areas, or engages in or permits specified sexual activities on the premises, and which excludes any person by virtue of age from all or part of the premises.

21.90.012 Adult family home. A residence licensed by the state of Washington where personal care, special care, room, and board are provided for more than one but not more than six adults who are not related by blood or a marriage to the person or persons providing the services, per chapter 70.128 RCW.

21.90.014 Alley. A public thoroughfare or right-of-way used primarily for utility installation, service or delivery access, or for a secondary means of vehicular access for abutting properties that are adjacent to a street.

21.90.016 Alteration. A change, addition, or modification in construction or occupancy, except as otherwise provided for elsewhere in the Leavenworth Municipal Code.

21.90.020 Antenna. A wire or system of wires, rods, poles, or similar devices; or satellite dishes used for the transmission or reception of electromagnetic waves, external to or attached to the exterior of any building.

21.90.024 Applicant. The owner or owners of record of the property subject to an application for development approval from the city, or authorized representative of such owner or owners, except in the case of a legislative matter.

21.90.025 Base flood. The flood having a one percent chance of being equaled or exceeded in any given year; also known as the "100 year flood."

21.90.026 Binding site plan. An alternate method of land division under the following circumstances: (A) the division of land into two (2) or more lots, parcels, or tracts located in a commercial or industrial zoning district; (B) the division of land for lease when no other structure other than mobile homes or recreational vehicles are to be placed on the land; and (C) the division of land into lots or tracts when performed in accordance with RCW 64.32, RCW 64.34, and RCW 58.17.040(7), and complying with the provisions contained in chapter 17.10 LMC.

21.90.028 Block. A group of lots, tracts or parcels within well defined and fixed boundaries, conforming to the standards outlined in section 17.14.030 LMC.

21.90.032 Boundary line adjustment. A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site, and complies with the provisions contained in chapter 17.04 LMC.

21.90.034 Building. Any structure used or intended for supporting or sheltering any use or occupancy.

21.90.035 Building envelope. The buildable area of a lot after applicable setbacks, easements, and other restrictions on the lot are taken into account.

21.90.036 Business visit. An individual trip made for the purpose of conducting business or receiving instruction; or for performing services; or for delivering goods or stock in trade.

21.90.040 City. The city of Leavenworth.

21.90.044 City administrator. The city administrator of the city of Leavenworth or his or her designee.

21.90.048 City council. The city council of the city of Leavenworth.

21.90.052 Closed record appeal. An appeal based on the existing record with no or limited new evidence or information allowed to be submitted and with only appeal argument allowed.

21.90.054 Cluster subdivision. A subdivision technique that allows lot sizes to be reduced and buildings sited closer together, provided that the total densities at the project level do not violate the density limits identified in the comprehensive plan and the applicable zoning district, for the protection of critical areas, to allow for the retention of open space, and to avoid areas with development limitations.

21.90.056 Comprehensive plan. The City of Leavenworth Comprehensive Plan, adopted in 1996, and any subsequent amendments thereto.

21.90.060 Comprehensive plan amendment. An amendment or change to the text or maps of the comprehensive plan.

21.90.064 Conditional use. A use allowed in one or more zones as defined by the zoning code, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

21.90.066 Condominium. Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded in accordance with Chapters 64.32 or 64.34 RCW. Condominiums are not confined to residential units, such as apartments, but also include offices and other types of space in commercial buildings.

21.90.068 Congregate care facility, retirement center. A residential facility designed for and occupied by at least one person per unit who is able to live independently and without 24-hour supervision; and providing centralized services for the residents including meals, recreation, housekeeping, laundry and transportation.

21.90.076 Critical areas. Environmentally sensitive areas, including the following areas and ecosystems: A) wetlands; B) areas with a critical recharging effect on aquifers used for potable water; C) fish and wildlife habitat conservation areas; D) frequently flooded areas; and E) geologically hazardous areas.

21.90.080 Cul-de-sac. A short dead-end street having one end intersecting another street and the other end terminating in a vehicular turnaround space.

21.90.084 Date of decision. The date on which final action occurs and from which the appeal period is calculated.

21.90.088 Dedication. The deliberate appropriation of land by an owner for any general and public use, reserving to the owner no other rights than those which are compatible with the full exercise and enjoyment of the public use to which the property has been devoted.

21.90.092 Density. The number of permitted dwelling units allowed on each acre of land or fraction thereof.

21.90.096 Developer. Any person who proposes an action or seeks a permit regulated by Titles 14, 15, 16, 17 or 18 of the Leavenworth Municipal Code, inclusive.

21.90.100 Development. Any land use permit or action regulated by the Leavenworth Municipal Code, including but not limited to subdivisions, planned developments, rezones, building permits, design review permits, shoreline permits, conditional use permits, or variances.

21.90.104 Development code. The applicable titles of the Leavenworth Municipal Code, including, but not limited to zoning ordinances, critical areas ordinances, subdivision ordinances, shoreline master programs, and official controls, together with any amendments thereto.

21.90.108 Director. The director of community development or his or her designee, unless the title or chapter contained in the LMC refers to the director of another department.

21.90.112 Driving surface. That portion of a street intended for vehicular travel or parking.

21.90.116 Duplex. A single building containing two dwelling units, totally separated from each other by an unpierced wall.

21.90.118 Easement. A recorded grant or permission given by a property owner to another person, public utility, company, or municipality for a specific use of a portion of his/her property.

21.90.120 Easement, access. A private right-of-way which provides vehicular access to a street from no more than three existing or potential lots.

21.90.124 Effective date. The date a final decision or action becomes effective.

21.90.128 Final decision. The final action by the director, hearing examiner or city council.

21.90.129 Flag lot. A lot not meeting minimum frontage requirements and where access to the developed street is by a narrow private right-of-way or driveway.

21.90.130 Floodplain. Any land area susceptible to being inundated by water during a flood. In connection with the National Flood Insurance Program, the term usually refers to the 100-year floodplain. The term is identical to "flood hazard area." The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map, for the City of Leavenworth, as amended, shall determine the extent of the floodplain.

21.90.131 Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map, for the City of Leavenworth, as amended, shall determine the extent of the floodway.

21.90.132 Floor area. The sum of the gross horizontal area of the floor or floors of all the buildings on a building site, measured from the exterior faces of the exterior walls, including elevator shafts and stairwells on each floor and all areas having a ceiling height of seven feet or more; but excluding all parking and loading spaces inside the building, unroofed areas, roofed areas open on two or more sides, areas having a ceiling height of less than seven feet, and basements used exclusively for storage or housing of fixed mechanical equipment or central heating or cooling equipment.

21.90.136 Foster home. A home licensed and regulated by the state and classified by the state as a foster home, providing care and guidance for not more than three unrelated juveniles.

21.90.140 Garage, parking or commercial. A building used for storage, repair or servicing of motor vehicles as a commercial use.

21.90.144 Garage, private. An accessory building or a space within the principal building used for the storage or parking of vehicles.

21.90.148 Greenbelt. An area of vegetation, either native stock or replanted, in public or private ownership.

21.90.150 Gross area. For the purpose of calculating density for chapter 17.16, Cluster Subdivision, the total area of the project site, provided that sloped areas in excess of forty (40) percent slope and designated critical areas, as identified in chapter 16.08, LMC, are credited at fifty (50) percent of their area.

21.90.152 Hazardous waste. All dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), or its successor, except for moderate risk waste as set forth in RCW 70.105.010(17), or its successor.

21.90.156 Hazardous waste storage. The holding of hazardous waste for a temporary period, as regulated by the State Dangerous Waste Regulations, Title 173-303 WAC, or its successor.

21.90.160 Hazardous waste treatment. The physical, chemical, or biological processing of hazardous waste for the purpose of rendering these wastes non-dangerous or less dangerous, safer for transport, amenable for storage, or reduced in volume, as regulated by the State Dangerous Waste Regulations, Title 173-303 WAC, or its successor.

21.90.164 Hazardous waste treatment and storage facility, on-site. Storage and treatment facilities which treat and store hazardous wastes generated on the same property.

21.90.168 Hedge. A fence or boundary formed by a dense row of shrubs or low trees.

21.90.172 Home occupation, group A. A home occupation that meets all of the home occupation minimum standards of section 18.20.030(R) LMC, as amended, and has no nonresident worker. In addition, no customers visit the business. At the discretion of the director, a group A home occupation may be required to obtain a conditional use permit through the public hearing process.

21.90.176 Home occupation, group B. A home occupation that meets all of the home occupation minimum standards of section 18.20.030(R) LMC, as amended, and has a maximum of one nonresident worker. In addition, customers visit the business. Group B home occupations require a conditional use permit.

21.90.178 Infill development. Development designed to occupy scattered vacant parcels of land which remain after the majority of development has occurred in an area.

21.90.180 Irregular lot. A lot which is shaped in such a way that application of setback requirements is difficult. Examples include a lot with a shape which is not close to rectangular, or a lot with no readily identifiable rear lot line.

21.90.184 Kennel. A structure or lot on which four or more domestic animals at least four months of age are kept and deemed to be a public nuisance.

21.90.186 Lot. A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

21.90.187 Lot coverage. The total ground coverage of all buildings or structures on a site measured from the outside of external walls or supporting members. Decks, balconies, and at-grade patios do not count toward lot coverage; however, roofed areas including, but not limited to, porches, breezeways, and covered walkways shall count toward lot coverage.

21.90.188 Lot line, front. The line separating any lot or parcel of land from a street right-of-way. On a through lot, the line abutting the street providing primary access to the lot or the street address of the lot. On a flag lot, it is the interior lot line most parallel to and nearest the street from which access is obtained.

21.90.192 Lot line, rear. A lot line or lines which are opposite and most distant from the front lot line.

21.90.196 Lot line, side. Any lot line that is not a front or rear lot line.

21.90.200 Lot of record. A lot, parcel, or area of land as shown on an officially recorded plat, subdivision, or short subdivision which has been recorded with the Chelan County Auditor and was divided in accordance with all applicable development regulations and laws in force at the time of subdivision; or a lot, parcel, or area of land for which a deed or contract was recorded with the Chelan County Auditor prior to July 1, 1974, when the parent parcel was divided into four (4) lots or less, or prior to May 23, 1969, when the parent parcel was divided into five (5) lots or more.

21.90.204 Mitigation contribution. A cash donation or other valuable consideration offered by the applicant in lieu of: A) a required dedication of land for public park, recreation, open space, public facilities, or schools; or B) road improvements needed to maintain adopted levels of service or to ameliorate identified impacts and accepted on the public's behalf as a condition of approval of a subdivision, plat or binding site plan. The city may accept voluntary contributions.

21.90.208 Nonresident worker. An employee or other person who does not reside in the dwelling but who regularly performs services at the dwelling as part of, in pursuit of, or in furtherance of a home occupation.

21.90.212 Nursing or convalescent home. An establishment which provides full-time care for three or more chronically ill or infirm persons. Such care shall not include surgical, obstetrical or acute illness services.

21.90.214 Off-street parking space. An off-street enclosed or unenclosed impermeable surface area permanently reserved for the temporary storage of one automobile and connected with a street by an impermeable surface driveway which affords ingress and egress for automobiles.

21.90.216 Office. A building or separately defined space within a building used for business. The use of an office does not include on-premises sales or manufacture of goods.

21.90.217 Parking facility, parking lot. An area permanently reserved for the temporary storage of one or more automobiles and connected with a street by a surfaced driveway that affords ingress and egress for automobiles.

21.90.218 Parking structure. A partially or fully enclosed surfaced area, either underground or above ground, permanently reserved for the temporary storage of one or more automobiles and connected with a street by a surfaced driveway that affords ingress and egress for automobiles.

21.90.220 Party of record. Any person who has testified at a hearing or has submitted a written statement related to a development action and who provides the city with a complete address.

21.90.222 Performance bond, surety bond. A binding agreement between the city and a developer or applicant guaranteeing that certain stated work will be accomplished by a specific date.

21.90.224 Personal service. Businesses engaged in providing care of the corporeal person or his apparel, not including health care.

21.90.228 Planned action. A significant development proposal as defined in RCW 43.21C.031, as amended.

21.90.232 Planned unit development, planned development district. A flexible method of land development which accomplishes the purposes of chapter 18.40 LMC, as amended.

21.90.236 Plat. A scale drawing of a subdivision showing lots, blocks, streets or tracts or other divisions or dedications of land to be subdivided.

21.90.237 Plat alteration. The alteration, re-orientation, and/or reconfiguration of lots, or any portions thereof, within a major subdivision or short subdivision that involves a public dedication, provided there is no increase in the overall number of lots, tracts, or parcels, and provided the provisions of chapter 17.06, as amended, are complied with.

21.90.238 Plat certificate. A document prepared by a title company that contains information on the subject property to be platted such as ownership, legal description, easements, liens, etc.

21.90.240 Plat, final. The final drawing of the subdivision (five (5) or more lots) and dedication prepared for filing for record with the Chelan County Auditor and containing all elements and requirements set forth in chapter 58.17 RCW and title 17 LMC, as amended.

21.90.244 Plat, final short. The final drawing of the short subdivision (four (4) lots or less) and dedication prepared for filing for record with the Chelan County Auditor and containing all elements and requirements set forth in chapter 58.17 RCW and title 17 LMC, as amended.

21.90.248 Plat, preliminary. A neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal, as required by chapter 17.12, as amended.

21.90.252 Plat, preliminary short. A neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal, as required by chapter 17.08, as amended.

21.90.258 Plat vacation. To render a plat, short plat, or binding site plan inoperative.

21.90.260 Primary or principal use. The predominant use of the land or building to which all other uses are secondary or accessory.

21.90.262 Private driveway easement. A driveway that is on private property and is used for access to no more than three lots.

21.90.264 Private parking. Parking facilities for the non-commercial use of the occupant and guests of the occupant.

21.90.268 Project. A proposal for development.

21.90.276 Public facilities and utilities. Land or structures owned by or operated for the benefit of the public use and necessity, including but not limited to public facilities defined in RCW 36.70A.030, as amended.

21.90.280 Public hearing. An open record hearing at which evidence is presented and testimony is taken.

21.90.284 Public improvement. Any structure, utility, roadway, or sidewalk for use by the public, required as a condition of development approval.

21.90.288 Recreational facilities. Facilities for recreational uses, including but not limited to swimming pools, athletic clubs, tennis courts, ball fields, play fields, and skate parks.

21.90.289 Resource lands. Lands primarily devoted to commercial forests, commercial agriculture, or containing minerals, as defined in RCW 36.70A.030, as amended.

21.90.290 Right-of-way. Land designated for public use for utility, vehicular and/or pedestrian travel or access to adjoining properties.

21.90.291 Roadway. That portion of an approved street intended for the accommodation of vehicular traffic, generally between curb lines on an improved surface.

21.90.292 Screen, screening. A continuous fence, hedge, landscaping, or combination which obscures vision through eighty percent or more of the screen area, not including drives or walkways.

21.90.300 Setback. The minimum distances required for buildings and structures to be set back from the property lines.

21.90.304 Setback area. The lot area between the lot lines and the setback lines.

21.90.308 Setback line. A line which is parallel to a lot line or access easement located at the distance required by the setback.

21.90.312 Single-family dwelling. A detached residential dwelling unit, other than a manufactured home, designed for and occupied by one family only.

21.90.316 Site plan. A scaled drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces, and other principal development features for a specific parcel of property and other information as required by the applicable sections of the LMC.

21.90.320 Stock in trade. Any item or goods that are kept on hand for sale to customers as part of a business; or that are produced, purchased, processed, finished, or fabricated as part of a home occupation and are intended for resale, or are incorporated into any such item, or are used to make, manufacture, produce, process, finish, or fabricate any such item; provided that it does not include samples.

21.90.324 Street. A public right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley.

21.90.328 Street, developed. A right-of-way improved to the minimum development standards established by the city.

21.90.332 Street, undeveloped or substandard. A right-of-way not improved to the minimum development standards established by the city.

21.90.336 Subdivision code. Title 17, Leavenworth Municipal Code.

21.90.340 Subdivision, major. The division or redivision of land into five (5) or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership, in conformance with chapter 17.12 LMC.

21.90.344 Subdivision, short. The division or redivision of land into four (4) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, in conformance with chapter 17.08 LMC.

21.90.346 Terrain classification. Definitions of terrain classification are as follows:
A. Ordinary terrain means a cross slope range of zero percent to eight percent;
B. Rolling terrain means a cross slope range of eight percent to fifteen percent;
C. Hilly terrain means a cross slope range of over fifteen percent.

21.90.348 Townhouse. A duplex dwelling unit meeting the following criteria: (1) no dwelling unit overlapping another vertically; (2) common side walls joining units; (3) not more than two dwelling units in one structure; and (4) each unit being on its own lot of record.

21.90.352 Vehicle. A device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including mopeds, and excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

21.90.356 Walkway. A hard surfaced portion of a street, right-of-way, trail, or easement intended for pedestrian use.

21.90.360 Watercourse. The course or route followed by waters draining from the land, formed by nature or man and consisting of a bed, banks, sides, and associated wetlands and headwaters. A watercourse shall receive surface and subsurface drainage waters and shall flow with some regularity (but not necessarily continuously), naturally, and normally, in draining from higher to lower lands. The watercourse shall terminate at the point of discharge into a larger receiving body such as a lake. Watercourses shall include sloughs, streams, creeks, and associated wetlands.

21.90.364 Wetland. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

21.90.368 Zone, zoning district. A defined area of the city within which the use of land is regulated and certain uses permitted and other uses excluded as set forth in title 18, LMC.

21.90.372 Zoning code. Title 18, Leavenworth Municipal Code.