

CHAPTER 2

ZONING ORDINANCE--INTRODUCTION¹

SECTION

14-201. Authority.

14-202. Title.

14-203. Purpose.

14-204. Enactment.

14-201. Authority. An ordinance, in pursuance of the authority granted in Tennessee Code Annotated, §§ 13-7-201 through 13-7-401, to provide for the establishment of districts within the corporate limits of Kimball, Tennessee; to regulate within such districts the location, height, and size of buildings and other structures; the percentage of lot which may be occupied; the sizes of yards, courts and other open spaces; the density and distribution of population; and the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes. (Ord. #61, Aug. 1988)

14-202. Title. Chapters 2 through 7 of this title shall be known as The Zoning Ordinance of Kimball, Tennessee, dated 1988. The zoning map shall be referred to as the Zoning Map of Kimball, Tennessee, and all explanatory matter thereon are hereby adopted and made a part of this ordinance, subject to amendment as provided for in § 14-709 of this ordinance. (Ord. #61, Aug. 1988)

14-203. Purpose. The zoning regulations and districts contained in this ordinance have been carefully prepared and defined in accordance with a comprehensive plan for the following purposes:

To protect the public health by providing through setback requirements and other means of adequate light and air between buildings and through density standards the avoidance of extreme concentrations of population.

To provide safety by lessening: 1) Congestion in the streets through adequate access control provisions, 2) Fire hazards through adequate setbacks, and 3) Flood hazards through land use controls for identified flood areas.

To foster convenience by establishing a reasonable relationship of one land use to another and by considering the locational requirements of each land use for highway access and proximity to related uses.

¹Amendments to the zoning map are of record in the office of the recorder.

To promote general livability by calling for the provisions of utilities and other public facilities.

To enhance prosperity and general welfare by preserving the character of existing development through the denial of proposed detrimental uses and through the required use of buffer strips where needed.

These regulations and district boundaries have been made with consideration to the character of each district and its peculiar uses; and with a view of conserving the value of buildings and property and encouraging the most appropriate use of land within the Town of Kimball. (Ord. #61, Aug. 1988)

14-204. Enactment. For the purposes just stated, the Board of Mayor and Aldermen for the Town of Kimball does ordain and enact into law the following articles and sections. (Ord. #61, Aug. 1988)

CHAPTER 3

DEFINITIONS

SECTION

14-301. Scope.

14-302. Definitions.

14-301. Scope. To carry out the provisions and intentions of this ordinance, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied." (Ord. #61, Aug. 1988)

14-302. Definitions. The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this ordinance. Terms not herein defined shall have the meaning customarily assigned to them.

(1) "Access." The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

(2) "Accessory building." A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

(3) "Accessory use." A customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

(4) "Agriculture." The tilling of soil, the raising of crops, horticulture, and gardening, but not including the keeping or raising of domestic animals or fowl, except household pets, and not including agricultural industry or business, such as fruit or vegetable-packing plants, animal hospitals, or similar uses.

(5) "Animal husbandry." The science of breeding, feeding, and tending domestic animals, especially farm animals.

(6) "Automobile wrecking." The dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof. (Also see wrecked auto yard)

(7) "Average ground elevation." The elevation of the mean finished grade at the front of a structure.

(8) "Basement." A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average ground elevation or when subdivided and used for commercial activities.

(9) "Board." Kimball Board of Zoning Appeals.

(10) "Boarding or rooming house." Any dwelling not divided into separate apartments, but in which three or more persons either individually or as families are housed for rent with or without meals.

(11) "Buffer strip." A planted strip thirty feet in width. Such a shall be composed of one row of evergreen trees, spaced not more than 40 feet apart and not less than 2 rows of shrubs or hedges, spaced not more than 5 feet apart within the row and which grow to a height of 5 feet or more after one full growing season and which shrubs will eventually grow to not less than 10 feet. The area of the buffer strip is to be in addition to the setback requirements.

(12) "Building." Any structure having a roof supported by columns or by walls, including mobile homes, and similar structures whether stationary or movable.

(13) "Building inspector." The Kimball Building Inspector or his authorized representative appointed by the mayor or board of aldermen.

(14) "Building, main or principal." A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building of the lot on which it is situated.

(15) "Building setback line." A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided.

(16) "Campground." A parcel of land used or intended to be used or rented for occupancy by campers or for occupancy by travel trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

(17) "Commercial feed lot." Any parcel of land on which 100 or more cattle, fowl, or hogs are being kept and fed for the purpose of slaughter and sale on the commercial food market.

(18) "Country club." A chartered, non-profit membership club with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, horse riding, clubhouse, pool, dining facilities, and cocktail lounge.

(19) "Day nursery." Any place, home or institution, which receives six or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and construction.

(20) "District." Any section or sections of Kimball, Tennessee, for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.

(21) "Dwelling." A building or portion thereof, exclusive of mobile homes as herein defined, used for residential purposes.

(22) "Dwelling, multi-family." A building designed for occupancy by two or more families living independently of each other.

(23) "Dwelling, single-family." A building designed to be occupied exclusively by one family.

(24) "Dwelling units." One or more rooms, a single kitchen, and a bath designed as a unit for occupancy by only one family for cooking, living and sleeping purposes.

(25) "Family." A lot which lies behind the land or lots which front a street. The flag lot takes its access from the street via a narrow strip which is part of the flag lot and is lot shared with any other lot or parcel. The name flag lot derives from the appearance of the lot on a plat, i.e. a flag (building site) with a flag pole (access strip).

(26) "Floor area." The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits or faces of a building or structure.

(27) "Gasoline service station." Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil (but not butane or propane fuels), and automobile accessories, and incidental services including facilities for lubricating, car washing and cleaning or otherwise servicing automobiles, but not including painting or major repair.

(28) "Grade, finished." The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

(29) "Health department." The Marion County Office of the Tennessee Department of Health and Environment.

(30) "Height of building." The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building.

(31) "Home occupation." See Chapter 5, § 14-506.

(32) "Hospital." See Medical facilities.

(33) "Junk yard or salvage yard." A lot, land, or structure, or part thereof, used primarily for the collection, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storing and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof. (In the latter case may include a "wrecked auto yard.")

(34) "Loading space." A space within the main building or on the same lot therewith, providing for the parking, loading or unloading of a vehicle.

(35) "Lot." A piece, parcel or plot of land in one ownership, which may include one or more lots of record, occupied or to be occupied by one principal building and its accessory buildings including the open spaces required under this ordinance.

(36) "Lot area." The total horizontal surface area of land included within the lot lines.

(37) "Lot, corner." A lot of which at least two adjoining sides abut on a street, provided that the interior angles at the intersection of two such sides is less than 135 degrees.

(38) "Lot coverage." The lot area covered by all buildings located therein including the area covered by all overhanging roofs. The maximum coverage area is 55% of the lot.

(39) "Lot depth." The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

(40) "Lot frontage." That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

(41) "Lot, interior." A lot other than a corner lot.

(42) "Lot lines." The boundaries dividing a given lot from the street, an alley, adjacent lots, or public water bodies.

(43) "Lot of record." A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the date of passage of the Kimball Subdivision Regulations.

(44) "Lot width." The width of a lot at the building setback line measured at right angles to its depth.

(45) "Medical facilities." (a) Convalescent, rest, or nursing home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

(b) Dental clinic or medical clinic: A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are kept overnight except under emergency conditions.

(c) Dental office or doctor's office: Same as dental or medical clinics.

(d) Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are an integral part of the facility.

(46) "Minimum floor elevation." The lowest elevation permissible for the construction, erection, or other placement of any floor including a basement floor.

(47) "Mobile home." A housing unit manufactured off-site, 14' wide or less, or forty (40) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation.

(48) "Mobile home park." Any area, tract, site or plot of land whereupon two or more mobile homes as herein defined are placed, located or maintained, or intended to be placed, located, or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

(49) "Mobile home subdivision." A subdivision with individual lot ownership planned for mobile homes and which meet all requirements of the Kimball Subdivision Regulations.

(50) "Modular building unit." (as defined in the 1985 Tennessee Residential Modular Building Act)

A structural unit, or preassembled component unit including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or

erection on a permanent foundation, with or without other specified components, as a finished building and not designed for ready removal to another site. This term applies only to units intended for or used for residential occupancy. "Residential occupancy" shall have the same meaning as that term is defined in the standard building code, as it is or is hereafter amended. (The unit shall resemble a conventionally constructed residence in appearance, size, and width.)

(51) "Non-conforming use." A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated.

(52) "Noxious matter." Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, or chemical reactions or detrimental effects on the social, economic, or psychological well-being of individuals.

(53) "Off-street parking space." A yard, space, or area off the road right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

(54) "Open space." An area on the same lot with a main building which is pen, unoccupied and unobstructed by structures from the ground to the sky except as otherwise provided in this ordinance. Open space lines shall coincide with or be parallel to the building setback lines on the same lot. Driveways and sidewalks can be included in the open space.

(55) "Parking lot." An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

(56) "Parking space." An off-street space available for parking one motor vehicle and having an area of not less than 162 square feet exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

(57) "Planning commission." The Kimball Municipal Planning Commission.

(58) "Plat." A map, plan, layout, or other drawing indicating the location and boundaries of individual properties or lots.

(59) "Principal use." The specific primary purpose for which land or a building is used.

(60) "Public uses." Public parks, schools, and administrative, cultural, and service buildings but not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

(61) "Right-of-way." The strip of public land provided for a public road. The right-of-way is generally wider than the actual road surface.

(62) "Roadway." The actual road surface including necessary road shoulders and drainage facilities including ditches and curbing and guttering, which is utilized to transport motor vehicles.

(63) "Sanitary sewer system." A municipal or community sewage collection, treatment, and disposal system of a type approved by the health department.

(64) "Sanitary landfill." An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the State of Tennessee.

(65) "Setback." The required distance between the front, side, or rear lot lines, and the nearest portion of the principal structure.

(66) "Shopping center or complex." A group of businesses, shops, stores, and/or professional services which were planned, developed and managed as a unit sharing elements such as parking, access drives, and often common walls often developed as a planned development. (PUD)

(67) "Special exception." Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the board that he will meet certain enumerated safeguards or qualifying conditions for the special exception.

(68) "Storm sewer." A municipal or community collection and disposal system for the handling and control of rainwater drainage.

(69) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy or in which the floor area with 8 feet or more of head clearance equals 50 percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with 8 feet or more of head clearance equals less than 50 percent of the floor area of the story next below shall be a "half-story." A basement shall be considered ground level from which the "height of building" is measure or if it is used for commercial purposes.

(70) "Street." Any public or private thoroughfare which is intended for the use of vehicles, and usually also provides access to adjacent property. Types of streets are defined as follows:

(a) "Major thoroughfare." A major street serving as part of the principal network for cross-city and through traffic movement. A major thoroughfare has higher traffic volumes, usually has a wide right-of-way (designated as a major thoroughfare in the Kimball Transportation Plan).

(b) "Collector street." A street that serves a collection and distribution function carrying traffic from the local streets to the major thoroughfares or to other local streets.

(71) "Local street." The network of streets which primarily provide access to abutting property, i.e. neighborhood streets, generally two-lane with low traffic volumes and low traffic speeds.

(72) "Cul-de-sac." A dead-end street, usually a local street.

(73) "Alley." A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

(74) "Structure." Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including among other things, signs, billboards, and fences.

(75) "Townhouse, residential." A single-family residential dwelling of one, or more floors on a lot by itself and having or appearing to have a common wall with an adjacent similar unit or units.

(76) "Toxic materials." Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in very small amounts.

(77) "Travel trailer (recreational vehicle)." A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than 220 square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(78) "Travel trailer park." A parcel or area of land designed and equipped to accommodate travel trailers as defined in T.C.A. 68-36-202(10) for short periods of time, not to exceed 14 days.

(79) "Usable floor space." Floor space used for retail sale or display: including permanent outdoor sales, but excluding outdoor motor vehicle sales areas and outdoor plant sales areas at nurseries.

(80) "Use." The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

(81) "Use permitted on review." See Special exceptions.

(82) "Wrecked auto yard." Any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

(83) "Yard, front." The required open space, unoccupied by buildings, between the road or street right-of-way line and the principal building.

(84) "Yard, rear." The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

(85) "Yard, side." The space, unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard. (Ord. #61, Aug. 1988)

CHAPTER 4

ZONING DISTRICTS

SECTION

- 14-401. Classification of districts.
- 14-402. Zoning district map.
- 14-403. Zoning district boundaries.
- 14-404. Specific district regulations.

14-401. Classification of districts. For the purpose of this ordinance the following zoning districts are hereby established in the Town of Kimball, Tennessee:

<u>Zoning District Name</u>	<u>District Abbreviation</u>
Residential District	R
Highway Business District	C-2
Industrial District	I-1
Flood Hazard District	F-1
Agricultural District	A-1

(Ord. #61, Aug. 1988)

14-402. Zoning district map.¹ The location and boundaries of the zoning districts established by this ordinance are bounded and defined as shown on the map entitled Zoning Map of Kimball, Tennessee. The zoning map or its amendments shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment. Certified copies of the adopted zoning map or zoning map amendment shall be maintained at City Hall in Kimball, Tennessee, and shall be available for inspection by the public at all reasonable times, as long as this ordinance remains in effect. (Ord. #61, Aug. 1988)

14-403. Zoning district boundaries. Unless otherwise indicated on the zoning map or zoning map amendment, the stream tributaries district boundaries are lot lines, center lines of streets, or the corporate limits of the Town of Kimball as they exist at the time of the enactment of this zoning

¹The zoning map and all amendments thereto are of record in the office of the recorder.

ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Kimball Board of Zoning Appeals.

Where a district boundary line divides a lot existing at the time this ordinance takes effect, and the major portion of said lot is in the less restricted district, the regulations relative to that district may extend as well to such portion of said lot as is not more than 20 feet within the more restricted district. (Ord. #61, Aug. 1988)

14-404. Specific district regulations. The following regulations shall apply in the zoning districts established in § 14-401 of this ordinance.

A. Residential district. The residential district is intended to promote and encourage as far as possible the establishment and maintenance of a suitable environment for residences in areas which by location and character are appropriate for such use. One of the important purposes of these districts is to create, as far as possible, adequate standards of development in order to prevent overcrowded and unhealthy conditions in the older established neighborhoods. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload sanitary facilities. Density should be limited to provide adequate light, air, and usable open space for the residents and adequate space for all related structures.

1. R-1 Low Density Residential District. It is the intent of the R-1 Residential District to protect existing residential development and to provide suitable areas for one family detached dwellings at low density.

2. Uses permitted. a. One (1) family detached dwelling (conventional construction).

b. Modular homes.

c. Agricultural uses.

d. Cemeteries.

e. Non-commercial nurseries, garden centers and greenhouses.

f. Churches, provided that:

1. There is a planted evergreen buffer strip at least ten (10) feet wide along the property lines, except the lines bordering the street; and

g. Church schools.

h. Public schools and other public educational institutions.

i. Utility facilities necessary for the provisions of public services.

j. Customary accessory buildings, including private garages and non-commercial workshops.

k. Customary incidental home occupations including professional office (i.e. architect, artist, dentist, engineer, lawyer, physician, and the like, barber, beauty and tailor shops, or the

accommodation of not more than two employees provided that there is no external evidence of such occupation except a two foot square sign.)

1. Municipal, county, state or federal buildings or land use.

3. Uses permitted on review. The following uses are permitted on review with approval by the planning commission in accordance with the provisions of § 14-706.

a. Private schools, provided that:

1. There is a planted evergreen buffer strip along the property lines, except the lines bordering the streets; and

2. The building is not located less than 15 feet from the buffer zone or 45 feet from any property line.

b. Lodge halls, civic organizations, and private clubs, provided that the club's primary activity is not customarily conducted as a business.

c. Radio, television and communication towers.

4. Dimensional regulations. All uses permitted in the R-1 Low Density District shall comply with the following requirements, except as provided in Chapter 6, "Exceptions and Modifications."

a. Front yard. The minimum depth of the front yard shall be 40 feet from the streets right-of-way.

b. Rear yard. The minimum depth of the rear yard shall be 15 feet for the principal structure.

c. Side yard. The side yard shall be a minimum of 10 feet for one and two story structures, plus 5 additional feet of side yard for each additional story over 2.

If the side yard abuts a local street or cul-de-sac, the side yard setback shall be 20 feet.

d. Land area. No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 15,000 square feet in area except where sanitary sewer service is available, in which case the minimum lot area shall be 10,000 square feet. However, where there is an existing lot of record of less than 15,000 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of one single family dwelling provided that the lot in question has a public water supply and sanitary sewer service. In that case, said lot of record shall not be less than 7,500 square feet in area.

e. Lot width. No lot shall be less than 100 feet wide at the building setback line.

f. Height requirement. No building shall exceed 2 1/2 stories or 35 feet in height, except as provided in § 14-603.

5. R-2 High Density Residential District. These areas provide for residences at high densities, including multifamily dwellings. It is the intent of the R-2 Residential District to encourage residential development to maintain this as an area that is desirable in which to live.
6. Uses permitted.
 - a. Any use permitted in the R-1 Residential District.
 - b. Multi-family dwellings.
 - c. Mobile home parks subject to the regulations of § 14-404.
7. Uses permitted on review. The following uses are permitted on review when approved by the planning commission in accordance with the provisions of § 14-706.
 - a. Private schools, provided that:
 1. There is a planted evergreen buffer strip along the property lines, except the lines bordering the streets; and
 2. The building is located not less than 15 feet from the buffer zone or 45 feet from any property lines.
 - b. Lodge halls, civic organizations and private clubs provided that the club's primary activity is not customarily conducted as a business.
8. Dimensional regulations. All uses permitted in the R-2 Height Density Residential District shall comply with the following requirements, except as provided in Chapter 6, "Exceptions and Modifications."
 - a. Front yard. The minimum depth of the front yard shall be 40 feet from the streets right-of-way.
 - b. Rear yard. The minimum depth of the rear yard shall be 10 feet from the principal structure.
 - c. Side yard. The side yard shall be a minimum of 10 feet for one and two story structures, plus 5 additional feet of side yard for each additional story over 2.

If the side yard abuts a local street or cul-de-sac, the side yard setback shall be 20 feet.

If the side yard abuts a major thoroughfare or collector road, the side yard setback shall be 25 feet.
 - d. Land area. No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than 15,000 square feet in area except where sanitary sewer service is available, in which case the minimum lot area shall be 10,000 square feet. However, where there is an existing lot of record of less than 15,000 square feet at the time of adoption of this ordinance, this lot may be utilized for the construction of one single

family dwelling provided that the lot in question has a public water supply and sanitary sewer service. In that case, said lot of record shall not be less than 7,500 square feet in area.

e. Lot width. No lot shall be less than 75 feet wide at the building setback line.

f. Height requirement. No building shall exceed 2 1/2 stories or 35 feet in height, except as provided in § 14-603.

5. Mobile home park restrictions.

a. District description. These guidelines are intended to provide for the development of single-family mobile home parks and for mobile home subdivisions. The purpose is two fold: 1) to provide for adequate mobile home parks where mobile home dwellers can rent a mobile home space, and 2) to provide for new platted mobile home subdivisions where mobile home owners can purchase a lot for their home. Mobile home subdivisions will be regulated by the Kimball Subdivision Regulations as to required improvements and approval procedure and by these zoning regulations for dimensional requirements.

b. Uses permitted. Single-family mobile homes and customary accessory uses such as storage sheds and car ports.

"Public" parks, playgrounds, and community buildings in Mobile Home Subdivisions.

"Private" parks, playgrounds, and community buildings in Mobile Home Subdivisions.

c. Uses prohibited. All uses not allowed under uses permitted.

d. Regulations for mobile home parks. (1) Permit required. No mobile home park shall be established or maintained by any person unless such person holds a valid mobile home park permit from the Town of Kimball. The permit shall not be issued until the Kimball Municipal Planning Commission has approved the site plan, the Marion County Health Department has approved the water and sewerage plans and other features required by the Tennessee trailer Court Act, and the Kimball Building Inspector has certified that the mobile park has been developed in accordance to the approved site plan.

(2) Refer to the Kimball Subdivisions Regulations.

(4) Street requirements. The minimum widths of various private streets within a mobile home park shall comply with the following:

One-way with no on-street parking 10 ft. wide;

Two-way with no on-street parking 16 ft. wide;

Parallel parking on one side 8 ft.
additional width;

Parallel parking on two sides 16 ft.
additional width;

The streets will be constructed in accordance with the requirements in the Kimball Subdivision Regulations.

(5) Parking and buffer area. Each mobile home park shall provide 2 parking spaces per mobile home space. Each parking space shall be at least 9 feet by 18 feet. They may be arranged side-by-side or end-to-end.

(6) Water supply. Water shall be piped directly to each mobile home space or site. The developer of a mobile home park shall at the developer's costs attach to any public water supply located within 1,000 feet of the proposed park. If such a public water supply is available it shall be used exclusively.

(7) Sewage disposal. Each mobile home park shall provide an adequate disposal system approved in writing by the health officer. Each mobile home space shall be equipped with at least 3-inch sewer connection trapped below the frost line and reaching at least 4 inches above the surface of the ground. All trunk sewer lines shall be laid in trenches separated by at least 10 feet horizontally from any drinking water supply line.

(8) Solid waste collection. The storage, collection, and disposal of refuse within a mobile home park shall be so managed as to create no health hazards. All refuse shall be stored in fly-tight, watertight, and rodent-proof containers. Garbage and refuse shall be collected and disposed of no less than one a week. Costs associated with the collection and disposal shall be borne by each user.

(9) No mobile home shall be located closer than ten (10) feet from the boundary line of each mobile home space.

e. Regulations for mobile home subdivision. Mobile home subdivisions, if in the city, shall be located on land which is zoned R and shall be developed in accordance with the Subdivision Regulations regarding platting, design, improvements etc. with the following exceptions:

(1) Lot width shall be a minimum of 50 feet.

(2) Lot depth shall be a minimum of 100 feet.

(3) Lot area shall be a minimum of 5,000 square feet with public water and sewage. (Lots without public water and/or sewage shall have a lot area as prescribed by the Marion County Health Department to accommodate wells and/or individual septic tank systems.

B. C-2 Highway Business District. 1. District description. This district is established along selected portions of major thoroughfares to provide areas for those amusements, specialized sales, and travel accommodation activities which depend on visibility from or proximity to automobiles or traffic, serve regional travelers, cater to local residents in vehicles, or provide services essential to the movement of vehicles. It is intended that such areas have properties with lot sizes, yards, and performance and development standards sufficient to insure that activities performed on any one lot will not unduly impede the flow of traffic, will not adversely affect activities of adjoining zones, and will not infringe on the efficiency of activities or customer attractiveness of adjacent lots. It is further intended to exclude those uses which are not necessary for service to traffic, which are not dependent on traffic, and which could reasonably be located elsewhere thus not contributing to congestion of the major thoroughfares.

2. Uses permitted. The following uses and their accessory uses shall be permitted in the C-2 Highway Business District:

- a. Any retail business or service;
- b. Hotels and motels;
- c. Restaurants, grills, and fast food outlets including those allowing customer service in automobiles;
- d. Tourist services, including tourist information centers, souvenir/gift shops, and hunting/fishing/boating/camping supply shops;
- e. Ambulance and other emergency services;
- f. Gasoline service stations as regulated in § 14-508;
- g. Establishments for the sale, service, or rental of passenger, travel, and recreation vehicles;
- h. Public or private golf courses;
- i. Libraries, art galleries, museums, and the like;
- j. Outdoor recreation facilities;
- k. Clubs, lodges and fraternal organizations;
- l. Utility structures and facilities including storage and parking facilities for equipment and supplies;
- m. Professional offices, financial institutions, insurance agencies, and
- n. Public uses and structures, churches.

3. Uses permitted on review. In the C-2 Highway Business Serving District, the following uses and their accessory uses may be permitted subject to review of the Kimball Municipal Planning Commission in accordance with the provisions of § 14-706:

- a. Truck stops;
- b. Amusement parks, amphitheaters, ballparks, or stadiums, fairgrounds, and group picnic grounds;
- c. Planned unit development such as shopping centers and professional office complexes;
- d. Auditoriums, exhibit halls, field houses, gymnasiums, theaters, and indoor recreation facilities; and,
- e. Cemeteries, subject to the provisions of § 14-509.

4. Dimensional regulations. The following requirements shall apply to all uses permitted in the C-2 Highway Business District:

- a. Lot area:
 - 1.) For those areas served by a sanitary sewer system, there shall be a minimum lot area of not less than 10,000 square feet.
 - 2.) For those areas not served by a sanitary sewer system the lot area requirements shall be determined by the Marion County Health Department, but in no case shall be less than 15,000 square feet.
- b. Front yard. The depth of the front yard shall be 35 feet from the highway right-of-way.
- c. Side yard. The width of any side yard which abuts a residential district shall not be less than 25 feet.
- d. Rear yard. Each lot shall have a rear yard of not less than 10 feet where a commercial building is serviced from the rear here shall be provided a rear yard of not less than 30 feet; the depth of a rear yard which abuts a residential district shall not be less than 25 feet.
- e. Lot width. Each lot shall have a width of not less than 75 feet at the building setback line.
- f. Height restriction. No building or structure shall exceed 3 stories or 40 feet, except as provided in § 14-603.

5. Requirements of buffer strip. Wherever a new use is established on property which abuts at any point upon property zoned the developer of said new use shall provide along the abutment a buffer strip as defined in Chapter 3.

6. Off-street parking requirements. (As regulated in § 14-503)

7. Off-street loading and unloading requirements. (As regulated in § 14-504)

8. Access control. (As regulated in § 14-501)

9. Site plan requirements. (As required in § 14-510)

C. I-1 Industrial District. 1. District description. The I-1 Industrial District is established to provide a suitable area for firms engaged in manufacturing and the storage and distribution of goods, to protect the surrounding land uses, to discourage uses incompatible to light manufacturing, and to protect the existing industries in the district.

2. Uses permitted. In the I-1 Industrial District the following uses and their accessory uses are permitted provided that all building, health, and safety regulations are met:

a. Industries, provided that any industry that may cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that the proposed location, construction and operation will not injure present or prospective industrial development in the district;

b. Wholesaling, warehousing, and those businesses which are incidental, thereto, including storage yards, but excluding storage of any material of any explosive nature;

c. Contractors or construction equipment dealer's yards;

d. Repair or service facilities, including but not limited to automobile repair, appliance repair, machine shops, cabinet shops, carpentry, plumbing, and welding;

e. Sales and service of boats, boat trailers and mobile homes;

f. Agricultural equipment sales and service;

g. Gasoline service stations;

h. Veterinarian hospitals and kennels;

i. Laundry and dry-cleaning establishments;

j. Radio stations and transmission towers;

k. Baking establishments;

l. Bottling and distribution plants;

m. Newspaper and printing plants;

n. Truck terminals;

o. Heavy equipment sales and service;

p. Off-street parking lots and;

q. Public utility structures.

3. Dimensional regulations. All uses permitted in the I-1 Industrial District shall comply with the following requirements, except as provided in Chapter 6.

a. Front yard. The minimum depth of the front yard shall be 30 feet.

b. Rear yard. The minimum depth of the rear yard shall be 30 feet.

c. Side yard. The minimum depth of the side yard shall be 20 feet, except that side yards of industrial lots adjacent to residential districts shall be a minimum of 50 feet.

d. Land area. It is hoped that all industries will be served by public water and sewerage systems. Where public water and sewer service is available, there shall be required a minimum land area of 15,000 square feet.

In areas where only public water is available, the size of the lot shall meet the requirements of the Marion County Health Department based on soil types and septic system design requirements.

e. Lot width. No lot shall be less than 150 feet wide at the building setback line.

f. Height requirement. No building or structure shall exceed 3 stories or 40 feet in height, except as provided in § 14-604.

4. Requirement of buffer strip. Wherever a new use is established on property which abuts at any point upon property zoned, the developer of said new use shall provide along the abutment a buffer strip as defined in Chapter 3.

5. Parking space requirements. (As regulated in § 14-503)

6. Off-street loading and unloading requirements. (As regulated in § 14-504)

7. Access control. (As regulated in § 14-501)

8. Site plan requirements. (As required in § 14-510)

D. F-1 Flood Hazard District. 1. District description. The Flood Hazard District is established for the purpose of meeting the needs of the streams to carry floodwaters and protecting the stream channels and flood plains from encroachment so that flood heights and flood damage will not be appreciably increased; to provide the necessary regulations for the protection of the public health and safety in areas subject to flooding; and to reduce the financial burdens imposed on the community by floods and their overflow.

Open-type uses are permitted in the F-1 Flood Hazard District subject to approval of the planning commission and to such conditions as the planning commission may specify to preserve the character of adjoining districts and to protect the public interest.

2. Uses permitted. In the F-1 Flood Hazard District the following uses are permitted:

a. Agricultural uses including crop, nursery stock and tree farming, truck gardening, livestock grazing and other agricultural uses which are of the same or a closely similar nature.

b. Railroads, streets, bridges and public utility wire and pipelines for transmission and local distribution purposes.

c. Public parks and playgrounds and outdoor private clubs, including but not limited to country clubs, swimming clubs, tennis clubs, provided that no principal building is located in the floodway.

d. Recreational camps, camp grounds and camp trailer parks provided that rest room facilities shall be located and constructed in accordance with the health department requirements.

e. Any other uses customarily accessory or incidental to the above uses.

f. The granting of approval of any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the Town of Kimball or the planning commission or by any officer or employee thereof of the practicality or safety of any structure or use proposed, and shall create no liability upon or cause of action against such public body, officer, or employee for any damage that may result pursuant thereto.

E. A-1 Agricultural District. 1. District description. The A-1 Agricultural District is established to provide a suitable area for farming and animal husbandry.

2. Uses permitted. In the A-1 Agricultural District the following uses and their accessory uses are permitted:

a. Agricultural uses including crop, tree farming, livestock grazing, and other agricultural uses which are of the same or a closely similar nature.

b. Any of the uses permitted in the other districts provided it complies with Chapter 5.

3. Dimensional regulations. All structures permitted in the A-1 Agricultural District shall comply with the following requirements:

a. Front yard. The minimum depth of the front yard shall be 30 feet.

b. Rear yard. The minimum depth of the rear yard shall be 10 feet.

c. Side yard. The minimum depth of the side yard shall be 20 feet. (Ord. #61, Aug. 1988, as amended by Ord. #62, Feb. 1989; Ord. #91, May 1993; Ord. #105, Dec. 1995; Ord. #125, March 1999; and Ord. #136, Sept. 2000)

CHAPTER 5

**SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS
WHERE APPLICABLE**

SECTION

- 14-501. Access control.
- 14-502. Accessory use regulations.
- 14-503. Off-street parking requirements.
- 14-504. Off-street loading and unloading requirements.
- 14-505. Customary home occupations.
- 14-506. General lot restrictions.
- 14-507. Vision at street intersections.
- 14-508. Development standards for wrecked auto yards and junk yards or salvage yards.
- 14-509. Development standards for cemeteries.
- 14-510. Site plan requirements.

14-501. Access control. In order to expedite the movement of traffic, to promote the safety of the motorist and pedestrian, and to minimize traffic congestion and conflict, it is necessary to reduce the points of vehicular contact. Therefore, to effectively control vehicular access onto the streets of Kimball, it is necessary to classify such streets as follows: major thoroughfares; collector streets; and local streets. The classification of each street shall be shown in the Transportation Plan of Kimball, Tennessee, which is kept in town hall.

A. Development requiring access control plan. Developers of commercial and industrial establishments and apartment complexes of three or more dwelling units must file and access control plan which meets all requirements of this section and must have such plan approved by the Kimball Municipal Planning Commission prior to obtaining a building permit. This access control plan is often part of a "site plan" as specified in § 14-510 of this ordinance. However, in the event that such a site plan is not required, an access control plan must still be submitted and approved. Although access control plans are not required for single-family homes and duplexes, the provisions of § 14-501 D 1, 2, and 3 shall, nevertheless, be adhered to for access to these land uses.

B. General access regulations applying to all classifications of streets.

1. Maximum width of all access points. The maximum width of all access points shall be 30 feet measured at the property line; except when the development requiring access generates high overall or high peak traffic volumes, the Kimball Municipal Planning Commission may approve a wider channelized access point to allow various turning movements for greater traffic control and safety.

2. Temporary access ways. Temporary access ways may be granted by the planning commission at the locations other than those specified for permanent access where it is expedient for the purpose of staged development. Temporary access ways shall be closed by the owner when permanent access to the property is completed.

3. Off-street parking lanes entirely independent of public streets. No off-street vehicular storage or parking shall be allowed where the arrangement requires that vehicles back directly into a public street right-of-way.

4. Access for lots fronting on more than one street. In all commercial developments where a lot abuts more than one street, the planning commission may require that the access be from the street of lowest classification when necessary to lessen serious congestion on the major street. If access is allowed onto two or more streets, the number of access points shall conform to those allowed for each classification (see § 14-501).

5. Gasoline service stations. Gasoline service stations shall be allowed two access points onto the same street to allow proper circulation past the gasoline pumps. This is regardless of lot width or street classification provided the required site plan is approved by the Kimball Municipal Planning Commissions.

C. Construction of frontage roads and interior circulation drives. In order to limit the number of individual access points to an arterial or collector street, the Kimball Municipal Planning Commission shall encourage any may require the development of frontage roads and interconnecting interior circulation drives.

1. Frontage roads. Frontage roads are those which parallel the existing street and extend across the entire frontage of a particular large property or group of properties. Frontage roads may be required to provide safe and efficient public access to individual properties, eliminating the traffic congestion which would be caused if each parcel had its own access onto the arterial or collector street.

Access points between the frontage road and the arterial street shall be no closer together than 500 feet and no closer together than 300 feet along collector streets. All frontage roads shall be built to the standards specified in the Kimball Subdivision Regulations and shall be dedicated as public streets and then maintained by the Town of Kimball.

2. Interior circulation drives. Interior circulation drives are needed in large developments which require large parking areas. These drives interconnect all parking lot access points with all buildings and areas of vehicular parking, loading, and servicing. They are constructed to provide safe and efficient vehicular movement between specified access points of a development or a series of developments. The planning commission of adjacent developments be connected to eliminate the need

to use the public streets to drive from one to another. All circulation drives shall be clearly defined and marked appropriately with arrows, etc. to assist public circulation into and out of the property and its parking areas.

An area of land not less than 10 feet deep shall be provided between the public street right-of-way line and the edge of all proposed frontage roads or interior circulation drives. This area will separate the roadways with a minimum turning radius. Such area shall be grassed.

The width, placement and design of frontage roads and interior circulation drives shall be reviewed by the Town of Kimball and the planning staff and shall be approved by the Kimball Municipal Planning Commission.

D. Specific number of access points allowed for each street classification. Wherever topographical features, existing developmental patterns, or other factors make the construction of frontage roads infeasible, the planning commission shall allow direct access to the existing streets according to the following minimum requirements for each street classification.

1. Access points for major thoroughfares. In the absence of a frontage road, all lots having between 100 and 500 feet of frontage shall have no more than one point of access to the public arterial. For lots with over 500 feet of frontage, additional access points shall be allowed provided they are spaced at least 500 feet apart from each other and from the first access point. For development generating high overall or high peak traffic distance between access points to allow improved access provided a carefully planned pattern of internal and external channelization is prepared and approved.

When a lot of record fronting an arterial street has less than 100 feet of frontage, the Kimball Municipal Planning Commission shall first attempt to obtain joint access with either adjacent property or access onto a frontage road. If this is not feasible, one single access point may be allowed.

2. Access points for collector streets. In the absence of a frontage road, all lots less than 300 feet in width shall have no more than one point of access to any one public street. For lots with over 300 feet of frontage, additional access points shall be allowed provided they are spaced at least 300 feet apart from each other and from the first access point.

3. Access points for local streets. All lots of less than 100 feet shall have no more than one point of access to the minor street. For lots with over 100 feet of frontage, additional access points shall be allowed provided they are spaced at least 100 feet apart from each other and from the first access point. (Frontage roads shall also be considered minor streets in order to provide the most lenient access provisions to

developers who construction these beneficial facilities.) (Ord. #61, Aug. 1988)

14-502. Accessory use regulations. The uses of land, buildings, and other structures permitted in each of the districts established by this ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot;
2. Be subordinate to and serve such principal use;
3. Be subordinate in area, intent, and purpose of such principal use; and,
4. Contribute to the comfort, convenience, or necessity of users of such principal use. (Ord. #61, Aug. 1988)

14-503. Off-street parking requirements. Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One passenger vehicle space shall be determined as 162 square feet of parking space and such space shall be provided with vehicular access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below.

1. Dwellings. Not less than two spaces for each family dwelling unit.
2. Board houses and rooming houses. No less than one and one-half spaces for each two rooms occupied by boarders or roomers.
3. Tourist accommodations, hotels or motels. Not less than one space for each room offered for tourist accommodation.
4. Any auditorium, church, stadium, or other place of public assembly. Not less than one space for every 4 seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one space for each 100 square feet of floor space devoted to that particular use shall be provided.
5. Manufacturing or other industrial use. Not less than one space for every 3 persons employed or intended to be employed on a single shift, with a minimum of 6 spaces provided for any establishment.
6. Commercial building or use. One space for each 175 square feet of usable floor space in the C-1 zone. Usable floor space is to be determined by the Kimball Regional Planning Commission based on the nature of the business.
7. Medical or dental clinics and hospitals. Four spaces per doctor, plus one additional space for each employee.

8. Service stations. Five spaces for each grease rack or similar facility, plus one space for each gasoline pump.

9. Offices. One space for 200 square feet of office space.

10. Restaurants. One space per 150 square feet of usable floor area, plus one space for every 2 employees. For drive-in restaurants, one space per 50 square feet of usable floor area.

B. Certification of minimum parking requirements. Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the building inspector to determine whether or not the requirements of this section are met.

C. Combination of required parking space. The required parking space for any number of separate uses may be combined in one lot, but the required spaces assigned to one use may not be assigned to another use except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

D. Remote parking space. If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 500 feet of the main entrance to such principal use provided such land is in the same ownership as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space meeting the requirements of this ordinance has been made for the principal use.

E. Requirements for design of parking lots. 1. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

2. Each parking space shall be no less than 162 square feet in area (9 x 18).

3. Entrances and exits for all off-street parking lots shall comply with the requirements of § 14-501.

4. The parking lot shall be contoured to drain surface water.
(Ord. #61, Aug. 1988)

14-504. Off-street loading and unloading requirements. Every building or structure hereafter constructed and used for industry, or business, or trade in any district shall provide space for the loading and unloading of vehicles off the street or public alley. This space shall not be considered as part of the space requirements for off-street automobile storage.

1. Behind every building or structure used for business or trade, there shall be a rear yard of not less than 20 feet in depth to provide space for loading and unloading vehicles, except as provided in Chapter 4.

2. The board of zoning appeals may hereafter reduce this requirement where unusual or special conditions are due consideration.

3. Temporary building. In any district a temporary use permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one year but may be renewed for 6 month extensions; however, not more than 3 extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project or upon expiration of the temporary use permit, whichever occurs sooner.

4. Real estate sales office. In any district a temporary use permit may be issued for a temporary real estate sales office in any new subdivision which has been approved by the planning commission under the Kimball Subdivision Regulations. Such office shall contain no living accommodations. The permit shall be valid for one year but may be granted two 6 month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the temporary use permit, whichever occurs sooner.

5. Religious tent meetings. In the C-2 district a temporary use permit may be issued for a tent or other temporary structure to house a religious meeting. Such permit shall be issued for not more than a 30 day period.

6. Seasonal sale of farm produce. In the C-2 and I-1 districts a temporary use permit may be issued for the sale of farm produce grown on the premises. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a 5 month period. All structures must be off the right-of-way and set back from the edge of the pavement a minimum of 25 feet.

7. Miscellaneous assemblies. In any district a temporary use permit may be issued for any lawful assembly, such as an outdoor music concert, political rally, etc. Such permit shall be issued for not more than a 7 day period. Noise levels shall be considered when deciding whether to issue the temporary use permit near residences. (Ord. #61, Aug. 1988)

14-505. Customary home occupations. A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. When questions arise regarding the legality of specific home occupations, the board of zoning appeals shall determine whether said home occupation is in compliance with the above restrictions and is compatible with the district in which said home occupation is located. However, activities such as dance instruction, band instrument instruction (except piano instruction), tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the board to be incompatible with the

district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation. (Ord. #61, Aug. 1988)

14-506. General lot restrictions. The following general lot restrictions shall be complied with in all districts.

A. **One principal structure for each lot.** 1. Only one principal building and its customary accessory buildings may be erected on any lot.

2. No building shall be erected on a lot which does not abut at least one street for at least 40 feet, unless the lot is a flag lot in which case it must have at least 20 feet of frontage at the end of an access street which is 20 feet wide throughout its length. Such building shall conform to the lot and yard requirements of the district in which it is located.

3. If an existing lot of record already has one principal structure on the lot and the lot is one acre or more in size and relief is sought from the "one principal structure for each lot" rule, the following concerns must be examined by the planning commission with approval for such relief granted by the board of zoning appeals: (accordance with § 14-706).

a. The location of the additional structure and its sewage disposal system be such that the property could be subdivided in the future without variances; and

b. No objection from the surrounding neighbors; and

c. The additional structure would be allowed in district where proposed; and

d. No more than one additional principal structure proposed for location.

B. **Reduction in lot area prohibited.** No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

C. **Rear yards abuts a public street.** When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street right-of-way line as required for adjacent properties which front on that street. In addition, any structures located within 25 feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street. (Ord. #61, Aug. 1988)

14-507. Vision at street intersections. On a corner lot in any district, within the area formed by the center lines of the intersecting or intercepting

streets and a line joining points on such center lines at a distance of 75 feet from their intersection, there shall be no obstruction to vision between the heights of 3 1/2 feet and a height of 10 feet above the average grade of each street at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall. (Ord. #61, Aug. 1988)

14-508. Development standards for wrecked auto yards and junk yards or salvage yards. Because of the nature and character of their operations, wrecked auto yards, junk yards or salvage yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether land uses, such as those outlined above, have properly minimized their objectionable characteristics.

A. General standards for evaluation. 1. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed or so that they will not constitute a place of places in which rats, mice, or other vermin may be harbored, reared, or propagated.

2. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than 1,000 feet from any established residential zone.

3. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from 8 to 12 feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for screening purposes shall be properly painted or otherwise maintained in good condition.

4. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

B. Off-street parking requirements. (As regulated in § 14-503)

C. Ingress and egress. The number and width of vehicular access driveways permitted on any single street frontage shall be limited to the requirements in § 14-501.

D. Application for wrecked auto yard, junk yard, or salvage yard permit. No person shall own or maintain a new wrecked auto yard, junk, or salvage yard within the Town of Kimball until he has secured approval from the board of zoning appeals for a proposed "use on review" according to § 14-706 of this ordinance.

The written application, plans, and schedules and a statement of approval of the site percolation and drainage characteristics from the Marion County Sanitarian shall be submitted to the Kimball Municipal Planning Commission.

The planning commission shall duly review these materials and make its recommendation in the form of a motion. (Ord. #61, Aug. 1988)

14-509. Development standards for cemeteries. A. Specific requirements. The following standards shall be imposed upon the development and construction of cemeteries in the Town of Kimball:

1. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare via a safe, high-visibility intersection;

2. Any new cemetery shall be located on a site containing not less than 20 acres;

3. A plan showing burial plots and pedestrian and vehicular access ways shall be prepared before lots are sold.

4. All structures, including but not limited to mausoleums, permanent monuments, or maintenance buildings, shall be set back not less than 25 feet from any property line or street right-of-way line;

5. All graves or burial lots shall be set back not less than 25 feet from any property line or street right-of-way; and,

6. All required yards shall be mowed and maintained.

B. Application for cemetery permit. No person shall develop, construct, or maintain a cemetery in the Town of Kimball until he has secured approval from the Kimball Board of Zoning Appeals for a proposed "use on review" according to § 14-706 of this ordinance.

The written application, plans, schedules, and other information as required shall be submitted to the Kimball Municipal Planning Commission. The planning commission shall duly review these materials and make its recommendations in the form of a motion. (Ord. #61, Aug. 1988)

14-510. Site plan requirements. Except as hereinafter provided in this section and in Chapter 6, it shall be unlawful for any person to construct or erect any building or structure on any land within the Town of Kimball until a site plan has been submitted and approved in accordance with the provisions of this chapter. Such plan shall delineate the overall scheme of development of a tract of land, including but not limited to grading; drainage; existing and proposed improvements; size, height, shape, and location of buildings; location and design of parking areas; pedestrian and vehicular circulation on site; and circulation for emergency apparatus.

A. Exceptions. The provisions of this chapter shall not apply to:

1. Single-family dwellings, two-family dwellings, accessory buildings thereto, or to the land on which they are situated or proposed;

2. Farm structures such as barns, equipment sheds, and the like.

3. Additions to buildings where the total gross floor area of the proposed addition does not exceed 1/3 of the total gross floor area of the existing building or 1,000 square feet, whichever is smaller;

4. New buildings where the total gross floor area does not exceed 1,000 square feet; provided there is no alteration of drainage flow of land or grading exceeding cut or fill of one foot, the site is not in a floodplain, and the site is not in excess of 10,000 square feet;

5. Improvements for off-street parking purposes when appurtenant only to existing buildings and where such improvements does not provide more than 10 additional parking spaces; and,

6. Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area provided such grading does not have an adverse effect on surrounding lands by causing ponding, flooding, or erosion.

B. Development according to site plan. It shall be unlawful for any person to construct, erect, or alter any building or structure, or to develop, change, or improve land for which an approved site plan is required by this chapter except in accordance with the approved final site plan.

C. Permits not to be issued without approved site plans. No permit shall be issued to erect or alter any building or structure until a site plan has been submitted and approved in accordance with the provisions of this chapter.

D. Site plan submission. The owner or developer shall submit 3 copies, or as many as may be required by the Kimball Municipal Planning Commission no later than 15 days prior to the next regular meeting of the planning commission. The planning commission shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required; the plans then shall be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the secretary of the Kimball Municipal Planning Commission. One copy of the approved plan shall be retained by the Kimball Municipal Planning Commission.

E. Site plan content. 1. The site plan shall show the following:

- a. Name of development and address;
- b. Name and address of owner of record and the applicant;
- c. Present zoning of the site and abutting property;
- d. Date, scale, and north point;
- e. Courses and distances of all property lines and of all street center lines;
- f. All property setback lines, easements, covenants, reservations, and rights-of-way;
- g. The total land area of site; and,
- h. Topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers,

and buildings and structures. Topography to be shown by dashed line illustrating 50-foot contours as required by the Kimball Municipal Planning Commission and by spot elevations where necessary to indicate flat areas, as based on U. C. and G.S. datum.

2. The site plan shall show the location of the following when existing:

- a. Sidewalks, streets, alleys, easements, and utilities;
- b. Buildings and structures, including signs;
- c. Public sewer systems with line sizes noted;
- d. Slopes, terraces, and retaining walls;
- e. Driveways, entrances, exits, parking areas, and sidewalks;
- f. Water mains with size noted and fire hydrants;
- g. Major tree and shrub areas;
- h. Recreational areas and swimming pools;
- i. Natural and artificial watercourses; and,
- j. Limits of the floodplains.

3. The site plan shall show the location dimensions, size, and height of the following when proposed:

- a. Sidewalks, streets, alleys, easements, and utilities;
- b. Buildings and structures, including signs;
- c. Public sewer systems with line sizes noted;
- d. Slopes, terraces, and retaining walls;
- e. Driveways, entrances, exits, parking areas, and sidewalks;
- f. Water mains with size noted and fire hydrants;
- g. Major tree and shrub areas;
- h. Recreational areas;
- i. Distance between buildings;
- j. Estimates of the following:
 - Number of dwelling units;
 - Number of parking spaces;
 - Number of loading spaces;
 - Square feet of floor space;
 - Plans for collecting storm water and methods of treatment of natural and artificial watercourses; and
 - Proposed grading, surface drainage, terraces, retaining wall heights, grades on paving areas, and ground floor elevations of proposed buildings and structures (proposed topography of site shall be shown by five-foot contours as required by the Kimball Municipal Planning Commission.)

F. Requirements, regulations and restrictions. 1. Any building or structure shall be reasonably accessible to fire, police, emergency, and

service vehicles. When deemed necessary for access by the building inspector, emergency vehicle easements shall be provided. The access for fire, police, and emergency vehicles shall be unobstructed at all times.

2. The width, grade, location, alignment, and arrangement of streets, sidewalks, and alleys shall conform to the Kimball Transportation Plan and/or subdivision regulations.

3. Adequate water mains and fire hydrants shall be provided in accessible places in accordance with sound fire fighting and fire prevention practice acceptable to the Kimball Building Inspector.

4. Adequate provision shall be made for collection and disposition of all on-site and off-site storm water and natural surface water. Natural drainage ways shall be used when it is reasonably practicable to do so, and improvements shall be made to said ways in accordance with good engineering practices.

5. Adequate provision shall be made to control the slippage, shifting, erosion, accretion, and subsidence of soil.

6. Adequate provision shall be made for the collection and disposition of all on- and off-site sanitary sewage.

G. Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the Kimball Municipal Planning Commission has made requests for conformity to standards other than those set forth in this ordinance, the applicant may appeal the decision of the planning commission to the board of zoning appeals as provided in Chapter 7 of this ordinance. (Ord. #61, Aug. 1988, as amended by Ord. #140, June 2001)

CHAPTER 6

EXCEPTIONS AND MODIFICATIONS

SECTION

- 14-601. Scope.
- 14-602. Non-conforming uses.
- 14-603. Exceptions to height limitations.
- 14-604. Lots of record.
- 14-605. Exceptions to front setback requirements.
- 14-606. Absolute minimum lot size.

14-601. Scope. Chapter 6 of this ordinance is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided for in Chapter 4 and Chapter 5. (Ord. #61, Aug. 1988)

14-602. Non-conforming uses. TCA 13-7-208 deals with nonconforming industrial, commercial, and business uses as follows:

"In the event that a zoning change occurs in any land area where such land area was not previously covered by any zoning restrictions of any governmental agency of this state or its political subdivisions, or where such land area is covered by zoning restrictions of a governmental agency of this state or its political subdivisions and such zoning restrictions differ from zoning restrictions imposed after the zoning change, then any industrial, commercial, or business establishment in operation, permitted to operate under zoning regulations or exceptions thereto prior to the zoning changes shall be allowed to continue in operation and be permitted provided that no change in the use of the land is undertaken by such industry or business.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business which were permitted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business subsequent to the zoning change, provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect immediately prior to or subsequent to a change in the zoning of the land area on which such industry or business is located. No building permit or like permission for business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business where such conduct was permitted prior to a change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

The provisions of the preceding three paragraphs shall apply only to land owned and in use by such affected business, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land."

An existing non-conforming use which is NOT an industrial, commercial, or business use shall meet these criteria:

1) An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same or higher classification providing, however, that establishment of another non-conforming use of the same or higher classification shall be subject to the written approval of the board of zoning appeals and subject to such conditions as the board of zoning appeals may require in order to protect the area.

2) A non-conforming use of land shall be restricted to the area occupied by such use of the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.

3) When a non-conforming use of any structure or land, excepting non-conforming mobile home parks, has been discontinued for a period of 6 months, it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance. Immediately upon the removal of a non-conforming mobile home park, the non-conformity of such structure or use of land shall lapse. When a non-conforming mobile home, on an individual lot, has been discontinued for a period of sixty (60) days it shall not be re-established or changed to any use not in conformity with the provisions of this ordinance.

4) Any non-conforming building or non-conforming use which is damaged by fire, flood, wind, or other act of God or man, may be

reconstructed and used as before if it be done within 6 months of such damage, unless more than 60 percent of the structure is damaged in which case any repair, reconstruction, or future use shall be in conformity with the provisions of this ordinance.

5) A non-conforming building or buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety. (Ord. #61, Aug. 1988, as amended by Ord. #119, July 1998)

14-603. Exceptions to height limitations. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, and aerials.

3) Before the building can be occupied, the developer must secure a statement from the building inspector that the fire protection systems have been installed according to the plans and that the systems are functioning properly. (Ord. #61, Aug. 1988)

14-604. Lots of record. The following provisions shall apply to all existing lots of record:

1) Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the board of zoning appeals for a variance from the terms of this ordinance. Such lot may be used as a building site provided, however, that the yard and other requirements of the district are complied with as closely as possible in the opinion of the board of zoning appeals.

2) No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.

3) Where two or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one or more buildings sites meeting the minimum requirements of the district in which they are located. (Ord. #61, Aug. 1988)

14-605. Exceptions to front setback requirements. The front setback requirements of this ordinance for dwellings shall not apply to any lot

where the average depth of existing setbacks on the developed lots located within 100 feet on each side of such lot is less than the minimum required front yard depth. (Ord. #61, Aug. 1988)

14-606. Absolute minimum lot size. In no case shall the board of zoning appeals permit a detached residence to be erected on a lot whose total lot area is less than 7,500 square feet, unless standards found in § 14-708(c) can be applied. (Ord. #61, Aug. 1988)

CHAPTER 7

ADMINISTRATION AND ENFORCEMENT

SECTION

- 14-701. Administration of the ordinance.
- 14-702. The enforcement officer.
- 14-703. Building permits.
- 14-704. Temporary use permits.
- 14-705. Certificate of occupancy.
- 14-706. Procedure for authorizing uses permitted on review.
- 14-707. Board of zoning appeals.
- 14-708. Variances.
- 14-709. Amendments to the ordinance.
- 14-710. Remedies.

14-701. Administration of the ordinance. Except as otherwise provided, no structure or land shall, after the effective date of this ordinance, be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory. (Ord. #61, Aug. 1988)

14-702. The enforcement officer. The provisions of this ordinance shall be administered by the Kimball Building Inspector. The building inspector shall administer and enforce this ordinance and in addition he shall:

1. Issue all building permits;
2. Issue all certificates of occupancy;
3. Issue and renew, where applicable, all temporary use permits; and,
4. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The building inspector shall possess the right to enter upon any premises at reasonable times for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.

The city recorder shall keep and maintain all records; current zoning maps and amendments thereto, and collect all monies pertaining to the administration and enforcement of this ordinance. (Ord. #61, Aug. 1988)

14-703. Building permits. It shall be unlawful to commence the excavation for or the construction of any building or other structure including accessory structures; to commence the moving, alteration, or repair of any structure including accessory structures; or to commence the filling of land or to cause any such work to be done within the corporate limits of Kimball until the building inspector has issued for such work a building permit containing a statement that the plans, specifications, and intended use of such structure in all respects conform to the provisions of this ordinance.

Application for a building permit shall be made in writing to the building inspector on forms provided for that purpose. It shall be unlawful for the building inspector to approve the plans or issue a building permit for any excavation or construction until such plans have been inspected and found to be in conformity with this ordinance. To this end the application for a building permit for excavation, construction, moving, or alteration shall be accompanied by a plan or plat drawn to a scale and showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this ordinance:

1. The actual shape, location, and dimensions of the lot to be built upon;
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot;
3. The existing and intended use of all such buildings or other structures; and,
4. Location and design of off-street parking areas and off-street loading areas; and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If any application for a building permit is not approved the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this ordinance and building permits shall be void after 6 months from date of issue, unless the project has or is 60% complete by that time. (Ord. #61, Aug. 1988, as amended by Ord. #140, June 2001)

14-704. Temporary use permits. It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Kimball Building Inspector as provided for in § 14-505 of this ordinance. Application for a temporary use permit shall be made in writing to the building inspector on forms provided for that purpose. (Ord. #61, Aug. 1988)

14-705. Certificate of occupancy. No land or building or other structure or part thereto hereafter erected, moved, or altered in its use shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within seven days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance; or, if such certificate is refused, to state the refusal in writing with the cause for such refusal in writing with the cause for such refusal. The issuance of a certificate of occupancy shall not be construed as any more than a certification that the use conforms to this ordinance. It is not a representation or warranty of the work, the materials or safety of the use. (Ord. #61, Aug. 1988)

14-706. Procedure for authorizing uses permitted on review and special exceptions. The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals (BZA). The procedure shall be the same whether review is required by this ordinance or whether a review is requested by the building inspector to determine whether a proposed use is potentially noxious, dangerous, or offensive or otherwise not in compliance with this ordinance.

A. **Application.** An application for review shall be filed with the planning commission chairman or secretary. Said application shall show the location and intended used of the site, the names of the property owners and existing land uses within 200 feet, and any other material pertinent to the request which the BZA may require of the planning commission.

B. **Restrictions.** The planning commission may note such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance and provide such recommendations to the BZA.

C. **Validity of plans.** All approved plans, conditions, restrictions, and rules made a part of the review of the planning commission and approval of the board of zoning appeals shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

D. **Time limit.** All applications submitted to the planning commission shall be forwarded to the BZA within 60 days of the date of application, and the applicant shall be notified whether his request was approved or denied. The action shall be noted in the minutes of the meeting of BZA at which the action was taken. (Ord. #61, Aug. 1988)

14-707. Board of zoning appeals (BZA). A Board of Zoning Appeals (BZA) is hereby established in accordance with Tennessee Code Annotated,

§§ 13-7-205 through 13-7-207. The BZA shall consist of 5 members appointed by the board of mayor and aldermen.

A. Procedure. Meetings of the BZA shall be held at the call of the chairman, and at such other times as the BZA may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the BZA shall be open to the public. The BZA shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

B. Appeals to the BZA. An appeal the BZA may be taken by any person, firm or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the BZA a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the BZA all papers constituting the record upon which the action appealed was taken. The BZA shall fix a reasonable time for the hearing of the appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing, any person or party may appear in person, by agent, or by attorney.

C. Powers of the BZA. The BZA shall have the following powers:

1. Administrative review. To hear and decide appeals where it is avowed by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this ordinance.

2. Special exceptions. To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the BZA is authorized to pass;

3. Variances. To hear and decide applications for variances from the terms of this ordinance. (Ord. #61, Aug. 1988)

14-708. Variances. The purpose of the variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application. After written denial of a permit, a property owner may make application for a variance using the standard form made available by the BZA.

B. Hearings. Upon receipt of an application and a \$10 fee, the board of zoning appeals shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The BZA shall consider and decide all applications for variances within 30 days of such hearing and in accordance with the standards provided below.

C. Standards for variances. In granting a variance, the BZA shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the findings of the board, do not apply generally in the district;

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which the request is made;

3. For reasons fully set forth in the findings of the BZA the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land;

4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development; and

5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefor. (Ord. #61, Aug. 1988)

14-709. Amendments to the ordinance. A. General. The board of mayor and aldermen may, from time to time, amend this ordinance by changing the boundaries of districts or by rewriting provisions wherever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment.

B. Initiation of amendment. Amendments may be initiated by the board of mayor and aldermen, the planning commission or by citizens desiring an amendment.

C. Application for amendment from citizens. A request for an amendment shall be in writing and shall also be accompanied by maps, drawings, a petition signed by the owners affected by the proposed amendment, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the Town of Kimball and that public necessity, convenience, and general welfare require the adoption of the proposed amendment. (An accurate legal description shall be prepared in time for notice of any public hearing.)

D. Review and recommendation by the planning commission. The planning commission shall review and make recommendations to the board of mayor and aldermen on all proposed amendments to the zoning ordinance.

E. Grounds for an amendment. The planning commission in its review and recommendation and the board of mayor and aldermen in its deliberations shall make their findings with regard to the following grounds for an amendment:

1. The amendment is in agreement with the general plan for the area;
2. The amendment does not violate the legal grounds for zoning provisions;
3. It has been determined that there will be no adverse effects upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare;
4. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public; and,
5. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan and, consequently, the zoning map.

F. Public hearing and notice of hearing. A public hearing shall be held on all proposed amendments to this ordinance. Notice of such hearing shall be in a newspaper of general circulation within the Town of Kimball at least 15 days prior to the hearing. This notice shall specify the location, date and time of the hearing, the current and proposed zoning classification, and in the case of a proposed boundary change a legal description of the change.

G. Enactment. All amendments recommended by the planning commission must receive the majority vote of the entire membership of the board of mayor and aldermen.

H. Amendments affecting the zoning map. Upon enactment of an amendment to the zoning map which is part of this ordinance, the city commission shall have such amendment placed upon the zoning map, noting thereon the ordinance number and effective date of such amendatory ordinance.

I. Effect of denial of application. Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one year following such denial except in the following cases:

1. Upon initiation by the board of mayor and aldermen or planning commission;
2. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made; or,

3. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan and the general plan has subsequently been amended in a manner which will allow the proposed zoning. (Ord. #61, Aug. 1988)

14-710. Remedies. In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may seek remedy in the courts by instituting injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land. (Ord. #61, Aug. 1988)