

**THE  
KIMBALL  
MUNICIPAL  
CODE**

Prepared by the

**MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE**

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

September 1999

Change 5, November 1, 2018

**TOWN OF KIMBALL, TENNESSEE**

**MAYOR**

Rex Pesnell

**VICE MAYOR**

Jerry D. Case

**ALDERMEN**

Teresa Lofty  
John Matthews  
Clarence Sisk, Jr.

**RECORDER**

Tonia May

## PREFACE

The Kimball Municipal Code contains the codification and revision of the ordinances of the Town of Kimball, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the town's ordinance book or the recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy. G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Consultant

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
TOWN CHARTER**

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)
  
2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

TITLE 1

GENERAL ADMINISTRATION<sup>1</sup>

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. RECORDER/TREASURER.
3. CITY ATTORNEY.
4. CODE OF ETHICS.

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<sup>1</sup>Charter references

See the charter index, the charter itself and footnote references to the charter in the front of this code.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN<sup>1</sup>

SECTION

1-101. Compensation of mayor and aldermen.

1-101. Compensation of mayor and aldermen. The position of Mayor of the Town of Kimball shall be paid by the Town of Kimball a salary in the amount of fourteen hundred fifty dollars (\$1,450.00) per month.

Each Alderman of the Town of Kimball shall receive compensation in the amount of six hundred dollars (\$600.00) per month.

The compensation for mayor and aldermen as mandated herein shall continue so long as the Town of Kimball shall remain in good financial standing. In the event it becomes necessary to layoff town employees due to financial difficulties, the compensation specified herein shall be suspended until such financial difficulties are resolved and the town has regained good financial standing. The determination of the financial standing of the town shall be made by the board of mayor and aldermen, and the compensation established herein shall not be effected by layoffs necessitated by lack of work. (Ord. #90, May 1993, as amended by Ord. #94, Nov. 1993; Ord. #114, Sept. 1997; and Ord. #117, March 1998, and replaced by Ord. #160, Jan. 2005, and Ord. #164, June 2005)

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<sup>1</sup>Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City Administrator: § 6-4-101.

Compensation: § 6-3-109.

Duties of Mayor: § 6-3-106.

Election of the board: § 6-3-101.

Oath: § 6-3-105.

Ordinance procedure

Publication: § 6-2-101.

Readings: § 6-2-102.

Residence requirements: § 6-3-103.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

## CHAPTER 2

RECORDER<sup>1</sup>/TREASURER

## SECTION

- 1-201. Appointment.
- 1-202. Recorder's functions at board meeting.
- 1-203. Custody of official records.
- 1-204. Copies of records and ordinances.

1-201. Appointment. The board shall appoint a city recorder, who shall also be appointed to the positions of finance director and treasurer. The compensation of the recorder shall be set annually by the board of mayor and aldermen and the recorder shall serve at the pleasure of the board of mayor and aldermen.

1-202. Recorder's functions at board meeting. The recorder or his designee shall be present at all meetings of the board, and keep a full and accurate record of all business transacted by the board to be preserved in permanent form.

1-203. Custody of official records. (1) The recorder or the recorder's designee shall have custody of, and preserve in the recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds (except the recorder's bond, which shall be in the custody of the mayor), and all other bonds, oaths and affirmations and all other records, papers, and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

(2) All such records shall be the property of the municipality.

1-204. Copies of records and ordinances. (1) The recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers and documents in the recorder's office.

(2) Fees for copying and certification shall be charged as established by ordinance.

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<sup>1</sup>Charter references

City recorder: § 6-4-201 et seq.

Recorder as treasurer: § 6-4-401(c).

Recorder as judge: § 6-4-301(b)(1)(C).

## CHAPTER 3

CITY ATTORNEY

## SECTION

- 1-301. Office created.
- 1-302. Appointment and term of office.
- 1-303. Qualifications.
- 1-304. Powers and duties.
- 1-305. Compensation.

1-301. Office created. There is hereby created for the Town of Kimball, Tennessee, the office of city attorney. (Ord. #7, April 1965)

1-302. Appointment and term of office. The office shall be filled by appointment by proper resolution or motion of the board of mayor and aldermen, and the holder of such office shall serve at the pleasure of the Board of Mayor and Aldermen of the Town of Kimball, Tennessee. (Ord. #7, April 1965)

1-303. Qualifications. The holder of said office shall be a person with administrative training or experience in business or municipal affairs, and must be duly licensed and authorized to practice law in the State of Tennessee. (Ord. #7, April 1965)

1-304. Powers and duties. The holder of said office shall represent the Town of Kimball in all legal matters and proceedings in which the town is interested, or in which any of its officers are officially interested; attend such meetings of the board of mayor and aldermen as he may be requested to attend; advise the board of mayor and aldermen and other officials of the town as to legal questions affecting the town's interests; approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the town; and perform such other duties as may from time to time be designated by the board of mayor and aldermen. (Ord. #7, April 1965)

1-305. Compensation. The salary of the office of city attorney shall be set by the board of mayor and aldermen. (Ord. #7, April 1965, modified)

CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #181, April 2007)

1-402. Definition of "personal interest." (1) For purposes of § 1-403 and 1-404, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person of organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #181, April 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting

at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #181, April 2007)

1-404. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #181, April 2007)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #181, April 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #181, April 2007)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #181, April 2007)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #181, April 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #181, April 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) As otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #181, April 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #181, April 2007)

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.<sup>1</sup>**

**CHAPTER**

**1. PARKS AND RECREATION BOARD.**

**CHAPTER 1**

**PARKS AND RECREATION BOARD.**

**SECTION**

2-101. Parks and recreation board.

2-102. Powers of the parks and recreation board.

**2-101. Parks and recreation board.** (1) Appointment. The board of mayor and aldermen shall appoint a parks and recreation board for the purpose of establishing and running a parks and recreation department in the Town of Kimball, Tennessee. The board of shall consist of six (6) citizens and one (1) member of the board of mayor and aldermen.

(2) Qualifications. The citizens appointed to the board shall at all times be residents within the municipal borders of the Town of Kimball, Tennessee. If a board member lives outside of the municipal limits, he shall automatically lose his position on the board and a replacement will be appointed by the board of mayor and aldermen.

(3) Meetings and length of terms. The members of the board shall serve terms as established by the board of mayor and aldermen. Any meetings of the board will be called by the mayor and published within sufficient notice to the public and to each board member of the time and place of each meeting.

(4) Conduct at meetings. The meetings of the board shall be conducted pursuant to the latest edition of Roberts Rules of Order. The board shall elect such officers as it deems necessary but at a minimum shall elect a chairman, vice-chairman, and a secretary. The secretary shall be responsible for keeping the minutes of the meeting. The president shall run the meeting pursuant to the above-described rules. (as added by Ord. #168, Nov. 2005)

**2-102. Powers of the parks and recreation board.** The parks and recreation board shall have no independent authority. The board shall make

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<sup>1</sup>Municipal code reference

Board of sewer commissioners--created; composition and term of office:  
§§ 18-101--18-102.

such recommendation as it deems necessary and appropriate to the board of mayor and aldermen who shall have authority to approve or deny said recommendations. The board will have no authority to bind the Town of Kimball to any contract, either verbal or written, nor expend any funds of the Town of Kimball without the express approval of the board of mayor and aldermen at a regular or specially called meeting. (as added by Ord. #168, Nov. 2005)

## TITLE 3

MUNICIPAL COURT<sup>1</sup>

## CHAPTER

1. TOWN JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

## CHAPTER 1

TOWN JUDGE

## SECTION

- 3-101. Town judge.
- 3-102. Jurisdiction.

3-101. Town judge. (1) Appointment. The town judge designated by the charter to handle judicial matters within the town shall be appointed by the board of mayor and aldermen and shall serve at the will and pleasure of the board. Vacancies in the office of the town judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner and for the same term prescribed for the appointment of the town judge.

(2) Qualifications. The town judge shall be a minimum of (21) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Marion County. If the town judge for any reason removes his domicile from Marion County after his appointment, the removal of his domicile shall automatically create a vacancy in the office of town judge.

(3) Judge pro tem.<sup>2</sup> During the absence of the town judge from his duties for any reason or at any time the office of the town judge is vacant, the board of mayor and aldermen may appoint a town judge pro tem to serve until the town judge returns to his duties or the office of town judge is no longer vacant. The town judge pro tem shall have all the qualifications required, and powers, of the town judge.

(4) Salary. The salary of the town judge shall be set annually by the board of mayor and aldermen.

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<sup>1</sup>Charter reference

Town Judge--Town Court: § 6-4-301.

<sup>2</sup>Charter reference

Appointment of temporary judge: § 6-4-301(b)(2).

3-102. Jurisdiction. The town judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty not to exceed \$500.

## CHAPTER 2

COURT ADMINISTRATION

## SECTION

3-201. Town court established.

3-202. Maintenance of docket.

3-203. Imposition of penalties and costs.

3-204. Disposition and report of penalties and costs.

3-205. Disturbance of proceedings.

3-201. Town court established. There is hereby established a town court for the Town of Kimball, Tennessee. (Ord. #19, June 1973)

3-202. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information that may be relevant. (Ord. #19, June 1973)

3-203. Imposition of penalties and costs. All penalties and costs shall be imposed and recorded by the municipal judge on the municipal court docket. Upon a finding of guilt, penalties shall be imposed by the municipal judge at his discretion in accordance with the provisions of the ordinances of the Town of Kimball. On all cases heard by him, the municipal judge shall tax in the bill of costs, which costs shall be determined as of the date of trial before the municipal judge.

There shall be a maximum amount of court costs assessable of seventy-five dollars (\$75.00), which shall include the amount of litigation tax required to be remitted by the town to the State of Tennessee, which amount is currently thirteen and 75/100 dollars (\$13.75). The balance of sixty-one and 25/100 dollars (\$61.25) will be referred to and retained by the town as its litigation fee.

The municipal judge may at the trial of the case for good cause shown suspend a penalty and/or costs, but may at a subsequent date, upon violation of the terms of such suspension, reinstate such penalties and/or costs. (Ord. #71, May 1990, as amended by Ord. #85, May 1992, and Ord. #101, April 1995)

3-204. Disposition and report of penalties and costs. All funds coming into the hands of the town judge in the form of penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body a report accounting for the

collection or non-collection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year. (Ord. #19, June 1973)

3-205. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (Ord. #19, June 1973)

## CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

## SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.<sup>1</sup> Only the town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (Ord. #19, June 1973)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (Ord. #19, June 1973)

3-303. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (Ord. #19, June 1973)

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

## CHAPTER 4

BONDS AND APPEALS

## SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

3-401. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, or may in the discretion of the ranking police officer be released without bond to appear before the town judge at a day and time certain, provided such alleged offender is not drunk or otherwise in need of protective custody. (Ord. #19, June 1973)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, Sundays and legal holidays excepted, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (Ord. #19, June 1973)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place.

An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. (Ord. #19, June 1973)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. MISCELLANEOUS.
2. SOCIAL SECURITY.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. TRAVEL REIMBURSEMENT REGULATIONS.
5. INFECTIOUS DISEASE CONTROL POLICY.

CHAPTER 1

MISCELLANEOUS

SECTION

4-101. Employee bonuses.

4-101. Employee bonuses. It shall be unlawful to pay Town of Kimball employees a bonus, unless they have at least one year of continuous employment with the town and then not over one (1) weeks regular pay. (Ord. #31, Jan. 1975)

## CHAPTER 2

SOCIAL SECURITY

## SECTION

- 4-201. Policy and purpose as to coverage.
- 4-202. Necessary agreements to be executed.
- 4-203. Withholdings from salaries or wages.
- 4-204. Appropriations for employer's contributions.
- 4-205. Records and reports to be made.
- 4-206. Exclusions.

4-201. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Kimball, Tennessee, to extend, as of the date hereinafter set forth, to the employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the Town of Kimball, Tennessee, shall take such action as may be required by applicable state or federal laws or regulations. (Ord. #20, June 1973)

4-202. Necessary agreements to be executed. The mayor of the Town of Kimball, Tennessee, is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the Director of Old Age and Survivors Insurance Agency, State of Tennessee, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (Ord. #20, June 1973)

4-203. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #20, June 1973)

4-204. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions; which shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #20, June 1973)

4-205. Records and reports to be made. The Town of Kimball shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #20, June 1973)

4-206. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the said town or any employee, official or position not authorized to be covered under applicable state or federal laws or regulations. (Ord. #20, June 1973)

## CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

## SECTION

4-301. Created.

4-302. Title.

4-303. Fire chief designated program director.

4-304. Program standards.

4-305. Effective date of plan.

4-301. Created. There be and is hereby created a safety and health program for employees of the Town of Kimball, Tennessee, as follows. (Ord. #24, March 1974)

4-302. Title. This chapter shall be known as the "Occupational Safety and Health Program for the Employees of the Town of Kimball, Tennessee." (Ord. #24, March 1974)

4-303. Fire chief designated program director. The Town of Kimball hereby designates the fire chief hereinafter referred to as the "director," to establish a safety and health program in compliance with the requirements of the Tennessee Occupational Safety and Health Act of 1972 and he is hereby given the authority to implement a plan which shall encompass the issues and standards which have been promulgated by applicable state standards. (Ord. #24, March 1974)

4-304. Program standards. This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant or other area, workplace or environment where work is performed in the Town of Kimball; and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment and materials therein, and to question privately any supervisor or employee.

(2) The director may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath for the purpose of confirming or supplementing his findings.

(3) The director shall provide for education and training of personnel for the administration of the program, and he shall provide for the education and training of all employees of the town to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.

(4) All employees shall be informed of the policies and the standards set forth by the Tennessee Occupational Safety and Health Act.

(5) All employees of the town shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.

(6) The director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall take appropriate action to correct the situation.

(7) Any employee shall be given the right to participate in an investigation or inspection which involves a safety and/or health situation which concerns his work area.

(8) The director shall establish a safety and health training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment.

(9) The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon after the fatality as possible but not to exceed 48 hours.

(10) The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the town does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible.

(11) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(12) The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the Town of Kimball.

(13) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the Town of Kimball in its Occupational Safety and Health Program.

(14) The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees. (Ord. #24, March 1974)

4-305. Effective date of plan. The plan, upon its approval by the board of mayor and aldermen, shall become effective to the Town of Kimball and at

this time shall become a part of this chapter as fully and completely as if set out herein. (Ord. #24, March 1974)

CHAPTER 4

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-401. Enforcement.

4-402. Travel policy.

4-403. Travel reimbursement rate schedules.

4-404. Administrative procedures.

4-401. Enforcement. The Mayor for the Town of Kimball, Tennessee shall be responsible for the enforcement of travel reimbursement regulations set forth herein. (Ord. #127, Aug. 1999, as replaced by Ord. #169, Jan. 2006)

4-402. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Whenever possible, all travel expenses shall be paid in advance by the town recorder. The approved travel expense reimbursement forms shall be used to document all expense claims whether paid in advance of or after the time of travel.

(4) To qualify for reimbursement, all travel expenses must be directly related to the conduct of town business for which travel was authorized, and be actual, reasonable and necessary under the circumstances. The mayor may make exceptions for unusual circumstances; however, any expenses considered excessive are not allowed.

(5) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement. (Ord. #127, Aug. 1999, as replaced by Ord. #169, Jan. 2006)

4-403. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates unless otherwise set forth herein. The town's reimbursement rates will automatically change when the state rates are adjusted. The town may pay directly to the provider for expenses such as meals, lodging, registration fees for conferences, conventions, seminars and other education programs. (Ord. #127, Aug. 1999, as replaced by Ord. #169, Jan. 2006)

4-404. Administrative procedures. The town adopts and incorporates the following administrative procedures with regard to lodging, transportation, meals and entertainment. A copy of the administrative procedures will be on file in the office of the town recorder and will be submitted to the Comptroller of the Treasury of the State of Tennessee.

(1) General provisions. (a) Only authorized travelers' expenses shall be reimbursed. Any expenses incurred for the entertainment, meals, or other matters for individuals not employed by the Town of Kimball, Tennessee shall be reimbursed only upon proof by their authorized traveler that the expenses were incurred in furtherance of the business of the Town of Kimball and upon approval by the mayor.

(b) Registration fees for meetings, conferences, or training sessions shall be paid by the town recorder in advance.

(c) Travel reimbursements need to be turned in to the authorized traveler's supervisor within forty eight (48) hours of return. The supervisor shall have twenty four (24) hours to turn the forms and documentation in to the town recorder who will forward the information to the mayor who will make the decision with regard to reimbursement.

(d) The travel sheets required to be used shall be obtained by the authorized traveler from their supervisor prior to departure.

(e) The advancement of costs other than those paid directly to the provider by the town recorder or for the authorized traveler must be approved by the mayor.

(f) No expenses shall be reimbursed for the purchase of alcohol or tobacco products or for the use of any pornographic or any illegal material. The use of any of these items while on town business will result in disciplinary action up to and including termination of employment.

(g) Should it be determined by the mayor and board of aldermen that any authorized traveler has abused this travel policy as a result of fraudulent or illegal activity, disciplinary action up to and including termination of employment.

(2) Lodging. Whenever feasible, all lodging will be paid by the town recorder in advance. The town will use the reimbursement rates set forth by the State of Tennessee if at all possible. If meetings, conferences, training sessions, or events are at a designated motel and the costs of such designated motel is more than the state rate, the town will pay for the person or persons to stay at

the designated site. However, more moderately priced accommodations should be requested whenever possible. Any requests for lodging must be turned in at least one week before the deadline set for reservations for rooms, meetings, conferences, training sessions or other events.

(3) Transportation. (a) Whenever possible, town vehicles shall be used while on town business. Said vehicles shall be filled with fuel at the town's facility prior to departure. Any fuel purchased during travel by the authorized traveler shall be reimbursed. Proper documentation is necessary for reimbursement.

(b) In the event that a town vehicle is not available for use, the use of a personal vehicle will be allowed upon prior approval of the mayor. The owner of the vehicle shall be reimbursed at the maximum rate allowed by state or federal regulations. In order to receive reimbursement for mileage, the vehicle owner must provide documentation to the town recorder to determine the amount allowed for reimbursement. The owner of the vehicle shall record the beginning odometer reading at the time of departure and record the ending odometer reading upon return.

(c) Fines for traffic and parking violations will not be reimbursed by the town. If the traveler is involved in an automobile accident, the supervisor and the town recorder must be notified immediately. Any person involved in a traffic accident will be required to submit to drug and alcohol testing upon request.

(d) The following expenses will be reimbursed upon receipt of supporting documentation:

(i) Tolls.

(ii) Parking lot tickets.

(iii) Taxi/limousine/public transportation fares provided as direct travel between the lodging quarters, airport, bus station, train stations, meetings, conference, training, event sites, and meals.

(e) No authorized travelers shall use a town owned vehicle for the transportation of his family or acquaintances unless said person is directly related to the event being attended. If the employee desires to take family or friends with him, he shall use his personal vehicle and will be reimbursed as stated above for the mileage incurred.

(f) If a town vehicle breaks down during travel, the traveler shall immediately contact their supervisor, the town recorder, or the mayor to determine what, if any, repairs shall be made and if any alternative transportation requirements may be necessary. At no time will personal vehicle repairs be reimbursed.

(4) Meals. Meals will be provided to authorized travelers when said travelers are sent out of town to attend meetings, conferences, training sessions or any other business of the town. In order to receive reimbursement for meals,

the authorized traveler shall have proper documentation showing the actual expenses incurred. Meal expenses shall be reimbursed on the following schedule:

(a) Overnight travel. Authorized travelers shall be reimbursed for actual meal expenses up to and including the amount of sixty dollars (\$60.00). Any amount over sixty dollars (\$60.00) shall not be reimbursed.

(b) Day travel. Authorized travelers shall be reimbursed for actual meal expenses up to and including the amount of twenty dollars (\$20.00). Any expense over twenty dollars (\$20.00) will not be reimbursed.

(c) If any meal is included in the cost of the meeting, conference, training sessions, events, or the hotel bill, the maximum allowed expenditure will be reduced by one third (1/3).

(d) Incidentals for each day including tip shall never exceed fifteen percent (15%) of the cost of the meal. (Ord. #127, Aug. 1999, as replaced by Ord. #169, Jan. 2006)

## CHAPTER 5

INFECTIOUS DISEASE CONTROL POLICY

## SECTION

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Definitions.
- 4-505. Policy statement.
- 4-506. General guidelines.
- 4-507. Hepatitis B vaccinations.
- 4-508. Reporting potential exposure.
- 4-509. Hepatitis B virus post-exposure management.
- 4-510. Human immunodeficiency virus post-exposure management.
- 4-511. Disability benefits.
- 4-512. Training regular employees.
- 4-513. Training high risk employees.
- 4-514. Training new employees.
- 4-515. Records and reports.
- 4-516. Legal rights of victims of communicable diseases.

4-501. Purpose. It is the responsibility of the Town of Kimball to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Kimball, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB).

4-502. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Paramedics and emergency medical technicians;
- (2) Occupational nurses;
- (3) Housekeeping and laundry workers;

- (4) Police and security personnel;
- (5) Firefighters;
- (6) Sanitation and landfill workers; and
- (7) Any other employee deemed to be at high risk per this policy and an exposure determination.

4-503. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen.

4-504. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other potentially infectious materials to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with potentially infectious materials to be protected as though such body fluid were HBV or HIV infected.

4-505. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood.

4-506. General guidelines. General guidelines which shall be used by everyone include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other potentially infectious materials which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other potentially infectious materials to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp

items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The town will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

- (a) While handling an individual where exposure is possible;
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. **NOTE:** Sharp objects must be placed in an impervious container and shall be properly disposed of.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up.

4-507. Hepatitis B vaccinations. The Town of Kimball shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator.

4-508. Reporting potential exposure. Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided.

4-509. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized.

4-510. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure.

4-511. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303.

4-512. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.

4-513. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy.

4-514. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work.

4-515. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers.

4-516. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the town attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the town attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or town attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not

make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil/and/or criminal prosecution.

**TITLE 5****MUNICIPAL FINANCE AND TAXATION<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. OCCUPANCY TAX.
5. PRIVILEGE TAX ON CARNIVALS, CIRCUSES AND TRAVELING SHOWS.
6. PURCHASING POLICY.

**CHAPTER 1****MISCELLANEOUS****SECTION**

5-101. Official depository for town funds.

**5-101. Official depository for town funds.** The Citizens State Bank, with headquarters in Jasper, Tennessee, is hereby designated as the official depository for all town funds. (Ord. #82, Aug. 1991, as amended by Ord. #104, Oct. 1995)

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<sup>1</sup>Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

## CHAPTER 2

### PROPERTY TAXES

#### SECTION

- 5-201. Tax levied.
- 5-202. Tax rate.
- 5-203. Due and payable.
- 5-204. Assessment.
- 5-205. Recorder to collect.
- 5-206. Collection.

**5-201. Tax levied.** There is hereby levied and enacted a tax on all property within the boundaries of the Town of Kimball, which is taxable by municipalities under the laws of the State of Tennessee. (Ord. #36, July 1978)

**5-202. Tax rate.** The property tax rate in the Town of Kimball, Tennessee, shall be \$0.11 per each \$100.00 of assessed property valuation. (Ord. #74, May 1990, modified)

**5-203. Due and payable.** The tax shall become a lien upon all property on and after January 1st of each year, shall become due and payable on and after October 1st, next following, shall become delinquent on and after March 1st, of the year following the date it becomes due and payable, and shall bear interest and penalties as provided by laws of the State of Tennessee pertaining to municipal taxes. (Ord. #36, July 1978)

**5-204. Assessment.** In accordance with Tennessee Code Annotated, § 6-55-603, for the purposes of said tax and determination of the amounts due thereunder, the assessment made by the County Tax Assessor of Marion County, Tennessee, upon property within the boundaries of the Town of Kimball, Tennessee, shall be used and hereby adopted until said time as the said town may by appropriate action provide separate means of assessment and provided that where property lying partly within the town and partly outside the town shall be assessed in one assessment by the county tax assessor without allocation of value as to the portion lying within the town, in such event, the Board of Mayor and Aldermen of the Town of Kimball shall have full power and authority to determine what part of such assessed value is properly allocable to property within said town.

Utilities and carriers shall be assessed by the means and in the manner provided by state law for assessment of such property. (Ord. #36, July 1978)

**5-205. Recorder to collect.** The taxes herein levied shall be paid to the Recorder of the Town of Kimball, Tennessee, or such other official or employee as the town may by ordinance or resolution designate. (Ord. #36, July 1978)

**5-206. Collection.** The taxes herein levied may be collected in the same manner as is provided for collection of delinquent municipal taxes by the laws of the State of Tennessee and any ordinance, or ordinances, of the Town of Kimball, Tennessee. (Ord. #36, July 1978)

**CHAPTER 3****PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

5-303. Penalty.

**5-301. Tax levied.** There is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed and set forth by Tennessee Code Annotated, title 67, chapter 4. (Ord. #42, July 1980)

**5-302. License required.** No person shall exercise any such privilege within the Town of Kimball without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions adopted by the board of mayor and aldermen of the Town of Kimball and payment of the appropriate privilege tax. (Ord. #42, July 1980)

**5-303. Penalty.** Failure to pay the tax as prescribed by state law and this chapter incurs the maximum penalty set forth in Tennessee Code Annotated, § 67-5809. (Ord. #42, July 1980)

**CHAPTER 4****OCCUPANCY TAX****SECTION**

5-401. Levied.

5-402. Recorder to collect.

5-403. Penalty.

**5-401. Levied.** In accordance with Priv. Acts 1981, ch. 51, § 2, there is hereby levied a privilege tax upon all transients residing in any hotel, a tax in the amount of 5% of the consideration charged by the operator of the hotel. (Ord. #45, May 1981)

**5-402. Recorder to collect.** The City Recorder of the Town of Kimball is charged with the duty of collecting the privilege tax levied herein in full accordance with Priv. Acts 1981, ch. 51, which is incorporated herein for purposes of definition of all terms and for reference to all other specific matters of collection and record-keeping. (Ord. #45, May 1981)

**5-403. Penalty.** Failure to pay the taxes imposed herein by any operator shall subject said operator to the provisions of Priv. Acts 1981, ch. 51, § 7, and shall be considered a violation of the ordinances of the Town of Kimball and punishable by a fine of \$50.00 for each occurrence wherein the taxes imposed herein are either:

- (1) Not collected by the operator; or
- (2) Not remitted by said operator to the City Recorder of the Town of Kimball. (Ord. #45, May 1981)

## CHAPTER 5

PRIVILEGE TAX ON CARNIVALS, CIRCUSES, AND TRAVELING SHOWS

## SECTION

5-501. License required; definition.

5-502. Tax levied.

**5-501. License required; definition.** Every person who exhibits performances in a side show, dog or pony (or either) show, trained animal show, carnival, circus, menageries, and circuses, or any other show, exhibition or performance similar thereto shall procure a license therefor.

For the purpose of this chapter a "carnival" shall mean an aggregation of shows, amusements, concessions, eating places and riding devices, without a menagerie, or any of them, operated together on one (1) lot or street, under one (1) management or on contiguous lots or streets, moving from place to place, whether the same are owned by separate persons or not.

|                            |         |
|----------------------------|---------|
| On carnivals for each week | \$25.00 |
|----------------------------|---------|

(Ord. #10, May 1966)

**5-502. Tax levied.** There shall be paid for each day's performance or exhibition of a circus, or circuses and menagerie, or wild west (or like) show, or trained animal (or like) show, and dog or pony (or either or like) show, a tax for each day or part thereof as follows:

|   |          |
|---|----------|
| On circuses, menageries, etc., traveling or railroads requiring transportation of one (1) to twenty (20) cars (all railroad cars included), inclusive | \$100.00 |
|---|----------|

|  |          |
|--|----------|
| Over twenty (20) cars (all railroad cars included) | \$200.00 |
|--|----------|

On such shows traveling overland by automobile or conveyance, the tax for each day's performance or exhibition shall be based upon the automobile or conveying capacity, including all cars, passenger, truck, or trailer, loaded or unloaded, as follows:

On such shows requiring:

|   |         |
|---|---------|
| One (1) or two (2) vehicles               | \$5.00  |
| Three (3) to five (5) vehicles, inclusive | \$8.00  |
| Six (6) to ten (10) vehicles, inclusive   | \$15.00 |

|  |         |
|--|---------|
| Eleven (11) to twenty (20) vehicles, inclusive     | \$20.00 |
| Twenty-one (21) to thirty (30) vehicles, inclusive | \$30.00 |
| Thirty-one (31) to fifty (50) vehicles, inclusive  | \$40.00 |
| Over fifty (50) vehicles                           | \$50.00 |

|   |         |
|---|---------|
| On each side show, curiosity show, or similar show exhibiting on the same or contiguous lots with a circus and owned by a person other than the owner of the circus, the tax shall be per day | \$30.00 |
|---|---------|

No additional license shall be required for the privilege of selling soft drinks, confections, food, souvenirs and novelties on the grounds on which such shows are exhibited.

The provisions of this chapter shall not be construed to allow, without payment of the tax imposed by law, performance for charitable or benevolent purposes by a company, association or persons, or a corporation, who make it their business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons, or corporation for benevolent or charitable purposes, it being the intent and meaning of this chapter that every company, association or persons, or corporations, which make its business that of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay a license tax prescribed by law.

Every person who exhibits or gives a performance of any of the shows above described in this chapter, without the license required by law, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense. The police authorities of the town or county shall not allow any such performance to open until the license required by law is exhibited to them.

It is specifically provided that the privilege taxes herein set out shall not apply to or be charged against any game, show, or privilege operated within the fair grounds, and in connections with, or under the auspices of any agricultural fair, where said fair is conducted as a public welfare institution for educational purposes and not for profit.

Provided that the prohibiting of privilege taxes as above provided shall apply only for and during the period during which such fairs are operated or conducted, and not otherwise.

Traveling or temporary shows, whether exhibiting as legitimate shows, dramas, musical comedies, lectures, exhibitions, minstrels, etc., or whether operating moving pictures, or both, where admission is charged, shall pay for each week as follows:

|  |         |
|--|---------|
| Those having a seating capacity of less than 1,000 | \$10.00 |
| Those having a seating capacity of 1,000 or more   | \$20.00 |

(Ord. #10, May 1966)

## CHAPTER 6

### PURCHASING POLICY

#### SECTION

- 5-601. Appointment of purchasing agents.
- 5-602. Purchases less than \$1,500.00.
- 5-603. Purchases less than \$5,000.00.
- 5-604. Purchases in excess of \$5,000.00.
- 5-605. Purchases in excess of \$10,000.00.
- 5-606. Written agreement may be required.
- 5-607. Price quotations.

**5-601. Appointment of purchasing agents.** The mayor and city recorder are hereby appointed the purchasing agents for the Town of Kimball, Tennessee. (Ord. #121, July 1998, as replaced by Ord. #155, March 2004)

**5-602. Purchases less than \$1,500.00.** Any purchase in an amount less than one thousand five hundred dollars (\$1,500.00) shall not require authorizations by the board of mayor and aldermen. Any purchase in excess of one thousand five hundred dollars (\$1,500.00) shall be pre-approved by the board of mayor and aldermen or ratified subsequent to any emergency purchase at the next business meeting. (Ord. #121, July 1998, as replaced by Ord. #155, March 2004)

**5-603. Purchases less than \$5,000.00.** Any purchase in an amount less than five thousand dollars (\$5,000.00) shall require the use of a prenumbered purchase order. Said purchase orders are to be approved by a purchasing agent who is required to indicate that there is a sufficient balance in the unexpended appropriation to allow the expenditure and to indicate that the expenditure is in accordance with the appropriation. (Ord. #121, July 1998, as replaced by Ord. #155, March 2004)

**5-604. Purchases in excess of \$5,000.00.** Any purchase in excess of five thousand dollars (\$5,000.00) shall be made by the competitive bid process. When competitive bids are necessary, the following procedures must be followed prior to any purchase or expenditure:

- (1) Written specifications shall be prepared and included in any advertisement for bid;
- (2) Upon receipts of any bids, the city recorder shall mail copies of these specifications to prospective bidders;
- (3) The city recorder shall maintain complete records of any bids or bid deposits received;

(4) All bids shall be advertised in the local newspaper at least one week prior to the scheduled announced. (Ord. #121, July 1998, as replaced by Ord. #155, March 2004)

**5-605. Purchases in excess of \$10,000.00.** Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00), except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (as added by Ord. #200, March 2009)

**5-606. Written agreement may be required.** Upon the receipt of a successful bid, the mayor and board of aldermen may require the successful bidder to sign the written agreement after the contract has been awarded. A copy of said contract should be maintained in the town's file. Any unsuccessful bid deposits shall be returned to said unsuccessful bidders after the contract is signed, unless provided for otherwise in the bid. (Ord. #121, July 1998, as replaced by Ord. #155, March 2004, and renumbered by Ord. #200, March 2009)

**5-607. Price quotations.** If competitive bidding is unnecessary, the purchasing agent who is authorized to make purchases should obtain price quotations from as many available sources as possible and avoid any purchase contract that may involve any potential or actual conflict of interest on the part of any public official or the town. A written record of any price quotations shall be kept in the town's files. (as added by Ord. #155, March 2004, and renumbered by Ord. #200, March 2009)

TITLE 6

LAW ENFORCEMENT

[RESERVED FOR FUTURE USE]

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS<sup>1</sup>**

**CHAPTER**

1. FIRE CODE.
2. FIREWORKS.
3. FIRE DEPARTMENT.

**CHAPTER 1**

**FIRE CODE**

**SECTION**

- 7-101. Fire code adopted.
- 7-102. Codification.
- 7-103. Permit required.
- 7-104. Available in recorder's office.
- 7-105. Violation.
- 7-106. Appointment.
- 7-107. Penalty.

**7-101. Fire code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, § 6-54-501, et seq., and for the purposes of regulating fire control apparatus within the Town of Kimball, Tennessee, the International Fire Code,<sup>2</sup> as adopted by the International Code Council, 2012 edition, as prepared, is hereby adopted and incorporated by reference as part of this code and is hereinafter referred to as the fire code. (Ord. #72, May 1990, as amended by Ord. #76, Nov. 1990, modified, as replaced by Ord. #172, June 2006, and amended by Ord. #253, March 2018)

**7-102. Codification.** Any reference in the fire code that refers to the chief administrator shall be deemed to be a reference to the governing body of the municipality. When the building official and director of public works is named, it shall, for purposes of the fire code, be deemed the building inspector as appointed by the board of mayor and aldermen. (Ord. #76, Nov. 1990, as replaced by Ord. #172, June 2006)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

**7-103. Permit required.** No person or corporation shall install or construct a fire-saving apparatus without obtaining a permit for such construction or installation as required by the International Fire Code. (as added by Ord. #172, June 2006)

**7-104. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one copy of the International Fire Code has been placed on file in the recorder's office and should be kept there for the use and inspection of the public. (as added by Ord. #172, June 2006)

**7-105. Violation.** It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. (as added by Ord. #172, June 2006)

**7-106. Appointment.** The building inspector as appointed by the board of mayor and aldermen shall be responsible for enforcing the provisions in the code herein adopted by reference. The building inspector shall have all of the powers and duties described in the adopted code, and shall receive such compensation as the board of mayor and aldermen may prescribe. (as added by Ord. #172, June 2006)

**1-107. Penalty.** Any person, firm, corporation or agent who shall violate or fail to comply with any provisions of the code herein adopted by reference shall be punishable in city court, and any civil penalty of not more than fifty dollars (\$50.00) for each offense and each day of violation or noncompliance continue shall constitute a separate offense. Said violators shall also be responsible for all costs of enforcement including but not limited the costs of bringing the matter up to code. (as added by Ord. #172, June 2006)

## CHAPTER 2

### FIREWORKS

#### SECTION

7-201. Sale or store prohibited; exception.

7-202. Fireworks defined.

7-203. Violation and penalty.

**7-201. Sale or store prohibited; exception.** It shall be unlawful for any person, corporation, partnership or other business establishment of any kind or character to sell fireworks, or store fireworks within the corporate limits of the Town of Kimball, Tennessee, except at a fixed business location which must be at least 1,000 feet from any church and which must be located in an area where a majority of the buildings are used for commercial purposes. (Ord. #16, May 1970)

**7-202. Fireworks defined.** The word "fireworks" as used in this chapter shall have the same meaning and definition as that set out in Tennessee Code Annotated, § 68-104-101 et seq. (Ord. #16, May 1970)

**7-203. Violation and penalty.** The violation of any section, part or provision of this chapter is hereby described to be a civil offense, punishable upon conviction, by a civil penalty of not more than five hundred dollars (\$500.00). (Ord. #16, May 1970, modified)

## CHAPTER 3

### FIRE DEPARTMENT

#### SECTION

- 7-301. Establishment, equipment and membership.
- 7-302. Operational funds.
- 7-303. Objectives.
- 7-304. Organization, rules and regulations.
- 7-305. Records and reports.
- 7-306. Disciplinary action.
- 7-307. Chief responsible for training and maintenance.
- 7-308. Chief to be assistant to state officer.
- 7-309. Use of equipment outside the corporate limits.

**7-301. Establishment, equipment and membership.** There is hereby established the Kimball Fire Department to be supported and equipped from appropriations by the board of mayor and aldermen and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased in accordance with municipal purchasing requirements and shall be and remain the property of the town. The fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firemen as may be recommended by the fire chief. The fire department shall consist of volunteers in addition to the fire chief and all officers and any paid firefighters shall be provided for in the annual operating budget of the city. (as added by Ord. #180, Oct. 2006)

**7-302. Operational funds.** The board of mayor and aldermen shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department auxiliary, if one is created, or by any individual or group of volunteer firemen may be accepted by the board of mayor and aldermen. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the Town of Kimball. The board of mayor and aldermen may reject any gift or contribution it deems not to be in the best interest of the Town of Kimball. (as added by Ord. #180, Oct. 2006)

**7-303. Objectives.** The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

- (7) To serve as the emergency management agency of the town.
- (8) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow.
- (9) To work with the water department to insure that adequate water supplies for fire protection are available.
- (10) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (as added by Ord. #180, Oct. 2006)

**7-304. Organization, rules and regulations.** The chief of the Town of Kimball Fire Department shall, under the direction of the board of mayor and aldermen, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (as added by Ord. #180, Oct. 2006)

**7-305. Records and reports.** The chief of the Town of Kimball Fire Department shall prepare the annual departmental budget to be approved by the board of mayor and aldermen, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the mayor as the mayor requires. The mayor shall submit such written reports to the board of mayor and aldermen as the board of mayor and aldermen requires. (as added by Ord. #180, Oct. 2006)

**7-306. Disciplinary action.** The chief of the Town of Kimball Fire Department shall have the authority to suspend or dismiss any other member of the fire department when he deems such action to be necessary for the good of the department. The board of mayor and aldermen shall dismiss the fire chief. (as added by Ord. #180, Oct. 2006)

**7-307. Chief responsible for training and maintenance.** The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the board of mayor and aldermen. Each volunteer firefighter and/or officer shall receive no less than forty (40) hours of in-service firefighter training annually, after an initial training period consisting of no less than sixteen (16) hours of basic firefighter training during the first ninety (90) days of his membership in the fire department. Paid firefighters shall be trained in accordance with the standards of the Tennessee Commission on Firefighter Standards and Education. (as added by Ord. #180, Oct. 2006)

**7-308. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the State Commissioner of Commerce and Insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (as added by Ord. #180, Oct. 2006)

**7-309. Use of equipment outside the corporate limits.** Personnel and/or equipment of the Town of Kimball Fire Department may be used for fighting any fire outside the town limits if:

(1) In the opinion of the fire chief, the fire is in such hazardous proximity to property owned or located within the town as to endanger the town property; or

(2) The board of mayor and aldermen has developed policies for providing emergency services outside of the town limits or entered into a contract mutual aid agreement pursuant to the authority of

(1) The Local Government Emergency Assistance Act of 1987, as amended, codified in Tennessee Code Annotated, § 58-2-601 et seq.,

(2) Tennessee Code Annotated, § 12-9-101 et seq. or

(3) Tennessee Code Annotated, § 6-54-601. (as added by Ord. #180, Oct. 2006)

**TITLE 8**

**ALCOHOLIC BEVERAGES<sup>1</sup>**

**CHAPTER**

**1. BEER.**

**CHAPTER 1**

**BEER<sup>2</sup>**

**SECTION**

- 8-101. Beer board established; power to revoke permits.
- 8-102. Permit required for engaging in beer business.
- 8-103. License required.
- 8-104. Interference with public health, safety, and morals prohibited.
- 8-105. Prohibited conduct or activities by beer permit holders.
- 8-106. Hours of sale.
- 8-107. Privilege tax.
- 8-108. Civil penalty in lieu of suspension.
- 8-109. Revocation of beer permits.
- 8-110. Distance requirements.
- 8-111. Violation and penalty.

**8-101. Beer board established; power to revoke permits.** There is hereby created a board to be known as the Beer Board of the Town of Kimball, Tennessee, said board to consist of the mayor and aldermen of said town. Said beer board shall be vested with full and complete authority to issue, suspend and/or revoke permits for the sale of beer or other beverages of like alcoholic content (hereinafter referred to as beer and referring to all such beverages) within the corporate limits of the Town of Kimball, Tennessee. (Ord. #78, Jan. 1991)

**8-102. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Kimball, Tennessee. Each applicant must be a person of good moral character and he must certify that he/she has read and is familiar with the provisions of this chapter. (Ord. #97, June 1994)

**8-103. License required.** Each applicant granted a permit to sell, manufacture or distribute beer as provided herein shall, before engaging in such sale, manufacture or distribution, secure from the Town of Kimball, Tennessee, a license as provided in Tennessee Code Annotated, § 57-5-106. (Ord. #78, Jan. 1991)

**8-104. Interference with public health, safety, and morals prohibited.** No beer permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other public health, safety, and welfare concerns. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within one thousand (1,000) feet of any school, church or other similar place of public gathering. Said measurement shall be made along the nearest highway or street right of way. (Ord. #78, Jan. 1991)

**8-105. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

- (1) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (2) Make or allow any sale or other distribution of beer to any person under twenty-one (21) years of age. The burden of ascertaining the age of a potential purchaser shall rest solely upon the permit holder.
- (3) Allow any minor person under twenty-one (21) years of age to loiter in or about the permit holder's place of business. The burden of ascertaining the age of such persons shall rest solely upon the permit holder.
- (4) Make or allow any sale of beer to any intoxicated, feeble-minded, insane, or otherwise mentally incapacitated person. The burden of ascertaining the condition of such persons shall rest solely upon the permit holder.
- (5) Allow drunk or disreputable persons to loiter about the premises of said permit holder. It shall be the permit holder's duty to ascertain the condition and reputation of such persons.
- (6) Serve, sell, or allow the consumption on his/her premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #78, Jan. 1991, modified)

**8-106. Hours of sale.** It shall hereafter be unlawful for any person, firm, corporation or association to sell or distribute beer for on-premise consumption within the corporate limits of the Town of Kimball, Tennessee, between the hours of 12:00 midnight and 6:00 A.M. on weekdays and Saturdays, and between the hours of 12:00 midnight and 12:00 noon on Sundays.

The sale of beer for off-premise consumption shall be allowed twenty-four (24) hours per day, seven days per week, by all properly permitted and licensed persons, firms, corporations or associations, within the corporate limits of the Town of Kimball, Tennessee. (Ord. #78, Jan. 1991)

**8-107. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Kimball, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #97, June 1994)

**8-108. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #97, June 1994)

**8-109. Revocation of permit.** The beer board shall have the power to revoke any beer permit issued under this chapter upon a finding that any of the above sections have been violated by a permit holder. (Ord. #78, Jan. 1991)

**8-110. Distance requirements.** (1) No business or establishment selling liquor by the drink shall be located within one thousand feet (1,000') of any school, church, or other place of public gathering, measured along the nearest highway or street right-of-way, nor shall any such business or establishment be located at any site that may cause congestion of traffic or interfere with school, church, or other public, health, safety and morals.

(2) The board recognizes that licensing and regulation of businesses and establishments selling liquor by the drink are the responsibility of the State of Tennessee, Alcoholic Beverage Commission, and that said commission is urged and requested to honor and enforce said distance requirement. (as added by Ord. #199, March 2009)

**8-111. Violation and penalty.** Violations of any provision of this chapter shall be deemed a civil offense and, upon conviction, shall be punished by a civil penalty of not more than \$500.00 for each violation. Violation of more than one provision shall be deemed and punishable as separate offenses. (Ord. #78, Jan. 1991, modified, as renumbered by Ord. #199, March 2009)

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>**

**CHAPTER**

1. FRUIT STANDS, ETC.
2. CABLE TELEVISION.
3. ROAD BLOCKS.
4. ADULT-ORIENTED ESTABLISHMENTS.
5. PEDDLERS AND SOLICITORS.

**CHAPTER 1**

**TEMPORARY VENDORS AND/OR FRUIT STANDS**

**SECTION**

- 9-101. Transient vendor.
- 9-102. Taxes to be collected.
- 9-103. License required.
- 9-104. Revocation of permits.
- 9-105. Permits to be exhibited.
- 9-106. Penalties.

**9-101. Transient vendor.** "Transient vendor" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell merchandise to the public. For purposes of this section, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place, including a hotel, rooming house, store room, building or part of a building, tent, vacant lot, railroad car or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at that premises for more than six (6) consecutive months or has occupied the premises at the person's permanent residence for more than six (6) consecutive months. (Ord. #32, Dec. 1975, as replaced by Ord. #162, April 2005)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Liquor and beer regulations: title 8.

Zoning: title 14.

**9-102. Taxes to be collected.** Transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in which such vendors sell or offer to sell merchandise or for which they are issued a business license. Such tax shall be paid prior to the first day of engaging in the business, and the vendor shall not be liable for taxation based on the gross income of the transient vendor. (Ord. #32, Dec. 1975, Dec. 2000, as replaced by Ord. #162, April 2005)

**9-103. License required.** It shall be the duty if the town recorder to issue all business licenses set forth in other provisions of the Kimball Municipal Code and/or state regulations. (Ord. #32, Dec. 1975, Dec. 2000, as replaced by Ord. #162, April 2005)

**9-104. Revocation of permits.** Permits issued under this chapter may be revoked at any time by the board of mayor and aldermen. Ord. #32, Dec. 1975, Dec. 2000, as replaced by Ord. #162, April 2005)

**9-105. Permits to be exhibited.** Permits must be exhibited upon request of any town official or police officer. (Ord. #32, Dec. 1975, Dec. 2000, as replaced by Ord. #162, April 2005)

**9-106. Penalties.** Failure to acquire and/or display the appropriate business license will subject the vendor to a fine of fifty dollars (\$50.00) for each day of operation without said license. (As added by Ord. #137, Dec. 2000, and replaced by Ord. #162, April 2005)

**CHAPTER 2**

**CABLE TELEVISION**

**SECTION**

9-201. To be furnished under franchise.

**9-201. To be furnished under franchise.** Cable television service shall be furnished to the Town of Kimball and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Kimball and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement, see Ord. #37, June 1978, as amended by Ord. #40, Nov. 1979, Ord. #99, Aug. 1994, Ord. #107, June 1996, Ord. #127A, May 1999, Ord. #173, May 2006, and Ord. #174, May 2006 in the office of the recorder.

### CHAPTER 3

#### ROAD BLOCKS

##### SECTIONS

9-301. Road blocks.

9-302. Permit procedure.

**9-301. Road blocks.** Road blocks may be conducted by a solicitor for charitable purposes provided the following are complied with:

(1) "Solicitor for charitable or religious purposes" means an organization which solicits contributions from the public, either on the streets of the Town of Kimball or on public property within the town for any charitable, religious or school purpose, and which does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets all of the following conditions:

(a) It has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended or is a public school organization or church.

(b) It is organized for charitable, religious or school purposes.

(c) It has been in continued existence as a charitable, religious or school organization for a period of two (2) years prior to the date of its application for registration under this chapter.

(d) Any person soliciting for the organization for such charitable, religious or school purpose must be properly permitted as set forth hereinafter and must be sixteen (16) years of age or older.

(e) Any charitable, religious or school organization shall have immediate local connection by either being based within twenty-five (25) miles of the Town of Kimball, Tennessee, benefit directly a citizen or resident of Marion County, Tennessee, or a nationally recognized charitable organization.

(f) All roadblocks conducted under this section shall be held between the hours of 8:00 A.M. and 3:00 P.M. Central time on Saturdays, and at no other time unless agreed upon by the Board of Mayor and Aldermen of the Town of Kimball, Tennessee. Roadblocks shall be limited to one (1) per Saturday, and same shall be held only at the intersection of Main Street and Dixie Lee Center Drive, at the traffic light in front of the Kimball Municipal Building. (As added by Ord. #137, Dec. 2000, as amended by Ord. #177, Jun 2006, re-enacted and relocated by Ord. #183, May 2007, and amended by Ord. #222, May 2013)

**9-302. Permit procedure.** (1) A sworn application containing the following information shall be completed and filed with the town recorder at least ten (10) days before the requested activity by each applicant for a permit and by each applicant for a permit as a solicitor for charitable or religious purposes:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

(c) The dates, times and locations which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the town.

(e) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit shall submit with his application a nonrefundable fee of fifteen dollars (\$15.00).

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the town recorder shall issue a permit and provide a copy of the same to the applicant; however, the permit shall be subject to such additional conditions and requirements as imposed thereon by the chief of police as he deems necessary for the safety and well being of the public.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the town recorder, the recorder shall submit to the chief of police a copy of the application form and the permit; and the chief of police shall place such additional conditions and requirements thereon as he deems necessary for the safety and well being of the general public. Upon failure of the permittee to comply with the conditions and requirements imposed by the chief of police or failure to comply with any other provisions of this chapter, the permit may be suspended and/or revoked by the town recorder. (As added by Ord. #137, Dec. 2000, as re-enacted and relocated by Ord. #183, May 2007)

**CHAPTER 4****ADULT-ORIENTED ESTABLISHMENTS****SECTION**

- 9-401. Purpose.
- 9-402. Definitions.
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**9-401. Purpose.** It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the town. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (as added by Ord. # 187, Oct. 2007)

**9-402. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member,

when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of mayor and aldermen" means the board of mayor and aldermen of the Town of Kimball, Tennessee.

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. # 187, Oct. 2007)

**9-403. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Kimball without first obtaining a license to operate issued by the Town of Kimball.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. No license shall be issued for a location if the premises is located within one and one-half (1.5) miles of any school, church or similar place of local gathering. Said measurement shall be made along the nearest highway or street right-of-way. (as added by Ord. # 187, Oct. 2007)

**9-404. Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the police chief of the Town of Kimball. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the town recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, town or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business

entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or town ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the Town of Kimball, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the town manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Kimball Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held

pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the town attorney shall institute suit for declaratory judgment in the Chancery Court of Marion County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. # 187, Oct. 2007)

**9-405. Standards for issuance of license.** (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (a) If the applicant is an individual:
  - (i) The applicant shall be at least eighteen (18) years of age.
  - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
  - (iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.
- (b) If the applicant is a corporation:
  - (i) All officers, directors and stockholders required to be named under § 9-603 shall be at least eighteen (18) years of age.
  - (ii) No officer, director or stockholder required to be named under § 9-603 shall have been found to have previously

violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Kimball Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (as added by Ord. # 187, Oct. 2007)

**9-406. Permit required.** In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. # 187, Oct. 2007)

**9-407. Application for permit.** (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the town recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other town or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or town ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the Town of Kimball, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Kimball Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. # 187, Oct. 2007)

**9-408. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution,

obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Kimball Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. # 187, Oct. 2007)

**9-409. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. # 187, Oct. 2007)

**9-410. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Kimball Police Department, or any person designated by the board of mayor and aldermen. (as added by Ord. # 187, Oct. 2007)

**9-411. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the town recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Kimball Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the town recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Kimball Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (as added by Ord. # 187, Oct. 2007)

**9-412. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the town council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the town council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise,

to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Marion County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. # 187, Oct. 2007)

**9-413. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Kimball Police Department, the Marion County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate. (as added by Ord. # 187, Oct. 2007)

**9-414. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Kimball Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Kimball Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or

other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by the Town of Kimball Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. # 187, Oct. 2007)

**9-415. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. # 187, Oct. 2007)

**9-416. Penalties and prosecution.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. # 187, Oct. 2007)

## CHAPTER 5

### PEDDLERS AND SOLICITORS

#### SECTION

- 9-501. Definitions.
- 9-502. Registration and permit required.
- 9-503. Permit and fee duration.
- 9-504. Identification.
- 9-505. Hours of operation.
- 9-506. No soliciting signs compliance.
- 9-507. Use of streets, parks or rights-of-way.
- 9-508. Exemptions.
- 9-509. Enforcement and penalties.
- 9-510. Prior ordinances.
- 9-511. Severability.

**9-501. Definitions.** (1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business; place to place, or from street to street, taking or attempting to take orders for any goods, wares, or merchandise, or personal property of any nature whatever, for future delivery.

(3) "Registered solicitor" means and includes any person, firm or corporation which has obtained a valid certificate or registration as provided in this chapter. (as added by Ord. #207, May 2010)

**9-502. Registration and permit required.** It is unlawful and a nuisance for any person, firm or corporation to engage in commercial or business solicitation and/or canvassing or calling at residences without the previous consent of the occupant for purposes of soliciting orders, sales, subscriptions or business commercial information without first having registered in and obtained a permit from the office of the town recorder. The applicant shall provide a written, sworn and signed application stating:

- (1) The complete name, permanent address, telephone number, and contact person for the principal applicant;
- (2) The nature of the products or services involved, the names of the manufacturers, if any, and a brief description of the type of business and the goods to be sold;
- (3) The proposed method of operation in the town;

(4) Dates, times, and locations in which the applicant intends to do business or make solicitations;

(5) A list of persons who will solicit or canvass in the town, including each person's name, address and telephone number, and a general description of each person;

(6) The make, model, complete description, and license tag number and state of issue of each vehicle to be used to make sales or solicitation, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person;

(7) Tennessee state sales tax number, if applicable; and

(8) Any other information required by the town. (as added by Ord. #207, May 2010)

**9-503. Permit fee and duration.** Each applicant for a permit hereunder shall submit with its application a non-refundable fee of one hundred dollars (\$100.00) for each person or entity engaged in the activities described herein. There shall be no fee for an application for a permit by a solicitor for charitable or religious purposes. All permits issued hereunder shall be valid for a period of thirty (30) days from the date of issuance. (as added by Ord. #207, May 2010)

**9-504. Identification.** No peddler, solicitor or registered solicitor shall conduct business within the town limits without possessing a valid copy of their solicitor/peddler permit at all times. (as added by Ord. #207, May 2010)

**9-505. Hours of operation.** Peddlers, solicitors or registered solicitors as defined herein shall not operate within the town limits of Kimball between the hours of 4:00 P.M. and 8:00 A.M. without a prearranged appointment. (as added by Ord. #207, May 2010)

**9-506. No soliciting signs compliance.** No peddler, solicitor or registered solicitor shall contact any residence that is posted by signage that such contacts are not desired by the residents. (as added by Ord. #207, May 2010)

**9-507. Use of streets, parks or rights-of-way.** No peddler, solicitor or registered solicitor shall have any exclusive right to any location in the public streets, parks or public rights-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a law enforcement officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced. (as added by Ord. #207, May 2010)

**9-508. Exemptions.** Except where noted, the following shall be exempt from all provisions of this chapter:

(1) Officers, employees or agents of the town, county, state or federal government, or any subdivision thereof when on official business;

(2) Charitable, religious, nonprofit organizations, any political campaign on behalf of (or in opposition to) any candidate for public office or other similar civic, charitable or non-profit organizations shall be exempt from all provisions hereof except the section pertaining to compliance with "No Soliciting" signage. Upon request of the town, any organization or person claiming status as a "charitable" or "religious" organization shall demonstrate its eligibility to claim such status by showing that it meets all of the following conditions:

(a) It has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Code, as amended, or as a public school organization or church.

(b) It is organized for charitable, religious or school purposes.

(c) It has been in continued existence as a charitable, religious, or school organization in the Town of Kimball for a period of one (1) year prior to the date of its application for registration under this chapter.

(3) The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bonafide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products who, in fact, themselves produced the products being sold. (as added by Ord. #207, May 2010)

**9-509. Enforcement and penalties.** Violation - penalty: Violation of this chapter shall be punished by a fine not to exceed fifty dollars (\$50.00) per offense, plus court costs. Each violation of this chapter shall be deemed a separate offense and punishable as herein provided. (as added by Ord. #207, May 2010)

**9-510. Prior ordinances.** Any prior ordinances or parts of ordinances in conflict with the terms of this chapter are preempted, superceded, and replaced by the terms and provisions of this chapter. (as added by Ord. #207, May 2010)

**9-511. Severability.** Should any section, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances. (as added by Ord. #207, May 2010)

**TITLE 10****ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS.

**CHAPTER 1****IN GENERAL****SECTION**

- 10-101. Swine allowed roaming distance.
- 10-102. Running at large prohibited.
- 10-103. Pen or enclosure to be provided.
- 10-104. Violations.

**10-101. Swine allowed roaming distance.** Swine (hogs) shall not be kept or allowed to roam within 1000 feet of a residence or commercial building within the corporate limits of the Town of Kimball; except such buildings which may be owned by those keeping such animals.

Those persons now keeping swine (hogs) or allowing same to roam within the distance of a residential or commercial building specified above shall comply with this section no later than 25th day of August, 1974. (Ord. #27, July 1974)

**10-102. Running at large prohibited.** It is hereby declared to be a violation of the laws and the ordinances of the Town of Kimball for any person, business, corporation, proprietorship, or other business or personal entity, to permit the running at large of any domestic animal, including by way of illustration and not limitation, chickens, ducks, geese, cows, horses, pigs, goats and animals of like kind within the corporate limits of the Town of Kimball. (Ord. #53, April 1984)

**10-103. Pen or enclosure to be provided.** Each owner as hereinabove set forth in § 10-102 shall be required to provide adequate enclosures or restraints on such animals sufficient to prevent the same from escaping from, leaving, or moving off the premises of the owner. (Ord. #53, April 1984)

**10-104. Violations.** Each person charged with violation of this chapter shall be subject to a civil penalty of not more than five hundred dollars (\$500.00) for each such violation.

For the purpose of this chapter, each day that a violation of this chapter continues shall be deemed a separate violation for the purpose of imposition of punishment therefor. (Ord. #53, April 1984, modified)

## CHAPTER 2

### DOGS

#### SECTION

- 10-201. Running at large prohibited.
- 10-202. Pen or enclosure to be kept clean.
- 10-203. Rabies vaccination and registration required.
- 10-204. Dogs to wear tags.
- 10-205. Confinement of dogs suspected of being rabid.
- 10-206. Vicious dogs.
- 10-207. Noisy dogs prohibited.
- 10-208. Keeping in such manner as to become a nuisance prohibited.
- 10-209. Inspections of premises.
- 10-210. Seizure and disposition of dogs.
- 10-211. Issuance of orders and notices.
- 10-212. Punishment for violation of this chapter.

**10-201. Running at large prohibited.**<sup>1</sup> It shall be unlawful for any person to knowingly or negligently permit any dog owned by him or her or under his or her control to run at large within the corporate limits of the Town of Kimball. (Ord. #64, July 1989)

**10-202. Pen or enclosure to be kept clean.** All pens or enclosures used to house or confine dogs kept within the corporate limits shall at all times be maintained in a clean and sanitary condition. (Ord. #64, July 1989)

**10-203. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the dog duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (Ord. #64, July 1989)

**10-204. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (Ord. #64, July 1989)

**10-205. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, any authorized health officer,

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

animal control officer, rabies control officer, or police officer may cause such dog to be confined or isolated for such time as is deemed reasonably necessary to determine if such dog is rabid. (Ord. #64, July 1989)

**10-206. Vicious dogs.** (1) Definitions.

(1) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

(2) "Vicious dog" means:

(1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

(2) Any dog which because of its size, physical nature, and vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this section; or

(3) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

(5) Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.

(3) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides which shall be made of eleven (11) gauge wire, or stronger and inspected and approved by the animal control officer or the codes and health administrator. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(2) Confinement. The owner of a vicious dog shall not permit the dog to go unconfined.

(1) Leash and muzzle. The owner of a vicious dog shall not permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the

physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(3) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(4) Insurance. Owners of vicious dogs must provide proof to the finance director of liability insurance in the amount of at least one million dollars (\$1,000,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(5) Animal control officer. Any police officer of the Town of Kimball, Tennessee shall have the authority to enforce this chapter without a warrant if he observes a violation occurring in his presence. He shall also have the authority to impound animals as authorized in the municipal code.

(6) Impoundment and destruction. The city judge may order the impoundment and destruction of a dog where:

(1) The dog has attacked, bitten or injured a human being or domestic animal or;

(2) The dog is a vicious dog as defined herein and the owner has failed to comply with the requirements and conditions for keeping a vicious dog as defined herein, or;

(3) All fines or costs imposed under this section have become final orders, and remain unpaid or;

(4) The dog poses a threat of serious harm to the public health or safety.

(7) Notice of impoundment. Within five (5) days after impoundment, the animal control officer shall notify, if possible, the dog's owner in writing of the impoundment.

(8) Hearing on impoundment/destruction.

(1) The owner of an impounded dog shall have the right to file, within five (5) days after receiving notice, a written request for a hearing to contest the impoundment.

(2) The hearing shall be before the city judge within fifteen (15) business days after receipt of the request. The animal control officer shall provide notice of the date, time and location of the hearing to the dog owner by certified mail, and to the complainant by regular mail. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.

(3) After considering all of the relevant evidence, the city judge shall issue a decision and may order the destruction of the impounded dog, or may release the dog to its owner conditioned on the owner

complying with the requirements set forth in this chapter or with any other requirements necessary to protect the public health or safety.

(4) If the owner of an impounded dog fails to appear at a hearing, or fails to request a hearing within the allotted time, the dog may be destroyed.

(9) Change of ownership.

(1) (1) Any owner of a vicious dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within ten (10) business days after the change of ownership or residence, provide written notification to the Kimball Police Department of the name, address and telephone number of the new owner.

(2) The person transferring ownership or custody of the dog must provide written notification of the dog's classification as vicious to the person receiving the dog. The previous owner shall furnish a copy of such notification to the police department along with written acknowledgment by the new owner of its receipt of the notification.

(3) The chief of police shall notify the mayor and board of commissioners and the police department of any changes in ownership, custody or residence of the dog within three business days after receiving the required information from the previous dog owner.

(2) A person receiving a dog classified as vicious must obtain the required proof of insurance and method of confinement prior to acquisition of the dog.

(10) Penalties. Whoever violates any provision of this section shall be guilty of a misdemeanor and may be punished by a fine not to exceed fifty dollars (\$50.00) per day for each violation in addition to other penalties that may be imposed by the city judge. (Ord. #64, July 1989, as replaced by Ord. #176, June 2006, and amended by Ord. #189, January 2008)

**10-207. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (Ord. #64, July 1989)

**10-208. Keeping in such manner as to become a nuisance prohibited.** No dog shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (Ord. #64, July 1989)

**10-209. Inspections of premises.** For the purpose of insuring compliance with the provisions of this chapter, the health officer, animal control officer, rabies control officer, or policeman of the Town of Kimball shall be authorized to enter and inspect, at any reasonable time, any premises where a

dog is allegedly kept within the corporate limits of said town. (Ord. #64, July 1989)

**10-210. Seizure and disposition of dogs.** Any dog found running at large may be seized by the health officer, animal control officer, rabies control officer, or policeman of the Town of Kimball and placed in a pound provided or designated by the board of mayor and aldermen.

If the owner of an impounded dog can be identified, then such owner shall be notified by a post card addressed to the owner's last known address to appear within five (5) days and redeem said dog by paying a fee and costs as established by the rules and regulations governing the operation of the above-designated pound. If said owner fails to appear within the five (5) day period after date of said postcard, then said dog may be destroyed, sold, given away, or otherwise disposed of in a humane manner. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any health officer, animal control officer, rabies control officer, or policeman of the Town of Kimball.<sup>1</sup> (Ord. #64, July 1989)

**10-211. Issuance of orders and notices.** In addition to the rights of impoundment and destruction as authorized above, any health officer, animal control officer, rabies control officer, or police officer of the Town of Kimball is hereby authorized to issue orders requiring the removal of a dog from within the corporate limits of said town when the keeping of such a dog is in violation of this chapter, and at all times when the keeping of such a dog may constitute a hazard to the public health. If said orders are not complied with, those persons in violation of the orders and this chapter shall be cited to appear before the Municipal Judge of the Town of Kimball. (Ord. #64, July 1989)

**10-212. Punishment for violation of this chapter.** Any person or persons violating the provisions of this chapter shall be deemed guilty of a civil offense and punished by a civil penalty of not more than five hundred dollars (\$500.00) for each offense, and each day of continued violation shall constitute a separate offense. The municipal judge may, also, order the removal and/or destruction of the involved dog. (Ord. #64, July 1989, modified)

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<sup>1</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

**TITLE 11**

**MUNICIPAL OFFENSES<sup>1</sup>**

**CHAPTER**

1. ALCOHOL.
2. FIREARMS.
3. CRUISING AND LOITERING.
4. SYNTHETIC DRUGS PROHIBITED.

**CHAPTER 1**

**ALCOHOL<sup>2</sup>**

**SECTION**

- 11-101. Drinking beer, etc., on streets, etc.  
11-102. Open containers on public highways, etc.  
11-103. Open containers in motor vehicles.  
11-104. Violation and penalty.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to possess or consume any alcoholic beverage on or in the premises of any property belonging to the Town of Kimball, Tennessee. Said prohibition shall apply to both open and closed containers of alcoholic beverages. (Ord. #70, March 1990, as replaced by Ord. #175, June 2006)

**11-102. Open containers on public highways, etc.** It shall be unlawful to possess an open container of any alcoholic beverage or to consume any alcoholic beverage while on any public highway, sidewalk, shopping center,

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<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

<sup>2</sup>Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

- See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

public parking lot or any property frequented by the public. (Ord. #70, March 1990, modified, as replaced by Ord. #175, June 2006)

**11-103. Open containers in motor vehicles.** It shall be unlawful for any person, while a passenger in any motor vehicle, to possess an open container of any alcoholic beverage or beer or consume any alcoholic beverage or beer while on any public highway, sidewalk, shopping center, public parking lot or any area frequented by the public within the boundaries of the Town of Kimball, Tennessee. (as added by Ord. #175, June 2006)

**11-104. Violation and penalty.** Any person found to be in violation of this chapter shall be guilty of a civil offense and shall, upon conviction, be fined a civil penalty in an amount not more than fifty dollars (\$50.00) for each offense. The municipal judge may also order the suspension of any person convicted of § 11-101 from using the town's recreational and community facilities. (as added by Ord. #175, June 2006)

## CHAPTER 2

### FIREARMS

#### SECTION

11-201. Firearms and dangerous weapons.

11-202. Violation and penalty.

**11-201. Firearms and dangerous weapons.** (1) It shall be unlawful for any person within the corporate limits of the Town of Kimball, Tennessee, to shoot, fire or discharge any shot gun, rifle, pistol, air pistol, air rifle, "BB" gun or sling shot capable of discharging a metal bullet or pellet whether propelled by spring, compressed air, expanding gas, explosive or other force-producing means or method.

(2) This chapter shall not apply to any person lawfully engaged in the act of "hunting" as said term is defined by Tennessee Code Annotated, § 70-1-101(a)(19). (Ord. #12, Oct. 1968, modified, as replaced by Ord. #201, April 2009)

**11-202. Violation and penalty.** (1) Any person in violation of any section, part or provision of this chapter shall upon conviction be fined in the amount of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00).

(2) Should any part of this chapter be held invalid by a court of competent jurisdiction, the remaining parts shall be severable and shall continue to be in full force and effect.

(3) All ordinances or parts of ordinances conflicting with the provisions of this chapter are hereby repealed insofar as the same affect this chapter. (Ord. #12, Oct. 1968, modified, as replaced by Ord. #201, April 2009)

## CHAPTER 3

### CRUISING AND LOITERING

#### SECTION

11-301. Business owners authorized to post signs prohibiting cruising and/or loitering.

11-302. Cruising defined.

11-303. Hours prohibited.

11-304. Loitering defined.

11-305. Violations.

**11-301. Business owners authorized to post signs prohibiting cruising and/or loitering.** The owners and operators of shopping centers or any other business having public parking areas are hereby authorized to post signs on and about the parking areas and private roadways on their properties giving notice that cruising and/or loitering on the property is prohibited. (Ord. #57, Feb. 1987)

**11-302. Cruising defined.** The term "cruising" as used in this chapter is defined as the continual, repeated, and aimless operation of a motor vehicle, through, over, around or within the parking areas and private roadways of any business or shopping center without parking the motor vehicle to enter the business or shopping center served by such parking areas and/or private roadway. (Ord. #57, Feb. 1987)

**11-303. Hours prohibited.** Cruising, as hereinabove defined, and loitering, as hereinafter defined, are prohibited between the hours of 8:00 P.M. and 8:00 A.M. And, provided further, such conduct is prohibited during normal business hours when the conduct interferes with, impedes or prevents bona fide customers from being able to enter and exit any business or shopping center. (Ord. #57, Feb. 1987)

**11-304. Loitering defined.** The term "loitering" shall be defined as parking and congregating around a vehicle or vehicles in the aforesaid prohibited areas for the purpose of hanging out, partying, drinking or socializing. (Ord. #57, Feb. 1987)

**11-305. Violations.** Violation of the provisions of this chapter shall be deemed a trespass and upon conviction, the violator(s) shall be subject to a civil penalty of not more than five hundred dollars (\$500.00) and court costs. The court may, in its discretion, impose, in addition to civil penalty and costs, a sentence of not more than two (2) days of public or community service with said

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service to be performed on two (2) consecutive Saturdays or at such other times as the court may direct. (Ord. #57, Feb. 1987, modified)

**CHAPTER 4****SYNTHETIC DRUGS PROHIBITED****SECTION**

- 11-401. Definitions.
- 11-402. Prohibited conduct.
- 11-403. Exception.
- 11-404. Civil penalty.

**11-401. Definitions.** (1) "Synthetic drug" as used in this section shall mean:

(a) Any substance, however denominated, and no matter the common street brand or trade name of such substance, containing one (1) or more of the following chemicals:

(i) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(ii) (6 a R , 10 a R) - 9 - ( h y d r o x y m e t h y l ) - 6 , 6 d i m e t h y l - 3 ( 2 m e t h y l o c t a n 2 y l ) - 6 a , 7 , 10 , 10a-tetrahydrobenzo[c]chromen- 1 -o1 (some trade or other names being: HU-210);

(iii) 1-Pentyl-3-(1-naphthoyl) indole (some trade or other names being: JWH-018);

(iv) 1-Butyl-3-(Inaphthoyl) indole (some trade or other names being: JWH-073);

(v) 1-(3 {trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);

(vi) 3,4 - methylenedioxypropylvalerone (MDPV), (some trade or other names being; MDPK);

(vii) 4 - methylmethcathinone (Mephedrone);

(viii) 3,4 - methylenedioxymethcathinone (Methylone);

(ix) 3, - methoxymethcathinone;

(x) 4 - methoxymethcathinone;

(xi) 3 - fluoromethcathinone;

(xii) 4 - fluoromethcathinone;

(b) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinoids), to include, but not limited to, "bath salts,"

"plant food," "incense," or "insect repellent," but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(2) "Deliver" or "delivery" as used in this section shall mean the actual, constructive, or attempted transfer from one (1) person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(3) "Manufacture" as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

(a) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(b) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(4) "Administer" as used in this section shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(5) "Agent" as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(6) "Dispense" as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) "Distribute" as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(8) "Practitioner" as used in this section shall mean:

(a) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(9) "Person" as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(10) "Sell" or "sale" as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(11) "Production" as used in this section shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(12) "Possess" or "possession" as used in this section shall mean either actual possession or constructive possession.

(a) "Actual possession" as used in this section shall mean the exercise of direct physical control or dominion over an object.

(b) "Constructive possession" as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object.

Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances. (as added by Ord. #217, Jan. 2012)

**11-402. Prohibited conduct.** (1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the town corporate limits.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the town corporate limits. (as added by Ord. #217, Jan. 2012)

**11-403. Exception.** An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a "practitioner" as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede

any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted. (as added by Ord. #217, Jan. 2012)

**11-404. Civil penalty.** Any Town of Kimball sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he/she cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in Kimball Municipal Court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the municipal court. The municipal court judge shall determine whether a defendant has committed a violation of this section. The town shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the municipal court judge, the municipal court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the municipal court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the town in an amount sufficient to recoup the cost incurred by the town's law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (as added by Ord. #217, Jan. 2012)

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. ENERGY CONSERVATION CODE.
7. AMUSEMENT DEVICE CODE.
8. EXCAVATION AND GRADING CODE.
9. SWIMMING POOL CODE.
10. UNSAFE BUILDING ABATEMENT CODE.
11. MECHANICAL CODE.
12. EXISTING BUILDINGS CODE.

**CHAPTER 1**

**BUILDING CODE**<sup>1</sup>

**SECTION**

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations.
- 12-105. Enforcement.
- 12-106. Penalty.

**12-101. Building code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

International Building Code,<sup>1</sup> 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (Ord. #67, Jan. 1990, as amended by Ord. #76, Nov. 1990, modified, as amended by Ord. #172, June 2006, Ord. #206, March 2010, and Ord. #253, March 2018)

**12-102. Modifications.** (1) Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the governing body of the municipality. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the municipal governing body shall have appointed or designated to administer and enforce the provisions of the building code.

Within the building code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the named official in the building code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. Section 107 of the building code is hereby deleted.

The recommended schedule of permit fees set forth in Appendix "B" of the building code is adopted.

Section 103 PERMITS of the International Building Code as adopted herein, be and the same is hereby amended so that the language contained within said International Building Code Section 103 PERMITS is hereby deleted in its entirety and the following language is substituted in lieu thereof:

#### 103 PERMITS

A person, firm or corporation shall not erect, construct, enlarge or move any building or structure in the applicable jurisdiction, or cause the same to be done, without first obtaining a building permit for such building or structure from the Building Official.

(2) All commercial remodeling projects shall be charged a permit fee as set forth below:

#### TOTAL VALUATION

\$10,000 and less

#### PERMIT FEE

No fee, unless inspection is required, in which case a \$15.00 fee for each inspection shall be charged

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

|                        |   |
|------------------------|---|
| \$10,000 to \$50,000   | \$15.00 for the first \$10,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00    |
| \$50,000 to \$100,000  | \$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00  |
| \$100,000 to \$500,000 | \$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00 |
| \$500,000 and up       | \$1,600.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.                             |

(Ord. #22, March 1974, as amended by Ord. #76, Nov. 1990, Ord. #100, April 1995, Ord. #172, June 2006, and Ord. #188, Oct. 2007)

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #22, March 1974)

**12-104. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (Ord. #22, March 1974)

**12-105. Enforcement.** The board of mayor and aldermen shall appoint a building inspector who shall be responsible for enforcing the provisions of the code herein adopted by reference. The building inspector shall have all the powers and duties prescribed for the "Building Official" in the adopted code and shall receive such compensation as the board of mayor and aldermen may prescribe. (Ord. #22, March 1974)

**12-106. Penalty.** Any person, firm, corporation or agent who shall violate or fail to comply with any provision of the code herein adopted by reference shall be punishable in the city court by a civil penalty of not more than five hundred dollars (\$500.00) for each offense and each day a violation or non-compliance continues shall constitute a separate offense. (Ord. #22, March 1974, modified)

## CHAPTER 2

### PLUMBING CODE<sup>1</sup>

#### SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations.

**12-201. Plumbing code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the town water or sewerage system, the International Plumbing Code,<sup>2</sup> 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (Ord. #76, Nov. 1990, modified, as amended by Ord. #172, June 2006, Ord. #206, March 2010, and Ord. #253, March 2018)

**12-202. Modifications.** Within the plumbing code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the named official in the plumbing code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-203. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-204. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified.

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<sup>1</sup>Municipal code references

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 3

### ELECTRICAL CODE<sup>1</sup>

#### SECTION

- 12-301. Electrical code adopted.
- 12-302. Permit required for doing electrical work.
- 12-303. Available in recorder's office.
- 12-304. Violations.
- 12-305. Enforcement.
- 12-306. Fees.
- 12-307. Penalty.

**12-301. Electrical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,<sup>2</sup> 1999 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (Ord. #69, March 1990, modified)

**12-302. Permit required for doing electrical work.** No electrical work shall be done within this municipality until a permit therefor has been issued by the municipality. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (Ord. #23, March 1974)

**12-303. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #23, March 1974)

**12-304. Violations.** It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under

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<sup>1</sup>Municipal code references

Fire protection, fireworks and explosives: title 7.

<sup>2</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (Ord. #23, March 1974)

**12-305. Enforcement.** The electrical inspector shall be such person as the municipal governing body shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (Ord. #23, March 1974)

**12-306. Fees.** The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (Ord. #23, March 1974)

**12-307. Penalty.** Any person, firm, corporation or agent who shall violate or fail to comply with any provision of the code herein adopted by reference shall be punishable in the city court by a civil penalty of not more than five hundred dollars (\$500.00) for each offense and each day a violation or non-compliance continues shall constitute a separate offense. (Ord. #23, March 1974, modified)

## CHAPTER 4

### FUEL GAS CODE

#### SECTION

- 12-401. Title and definitions.
- 12-402. Purpose and scope.
- 12-403. Use of existing piping and appliances.
- 12-404. Bond and license.
- 12-405. Gas inspector and assistants.
- 12-406. Powers and duties of inspector.
- 12-407. Permits.
- 12-408. Inspections.
- 12-409. Certificates.
- 12-410. Fees.
- 12-411. Violations and penalties.
- 12-412. Nonliability.
- 12-413. Modifications.

**12-401. Title and definitions.** This chapter and the code herein adopted by reference shall be known as the gas code of the town. The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the mayor.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

**12-402. Purpose and scope.** The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall

conform to the requirements of this chapter and to the International Fuel Gas Code,<sup>1</sup> 2012 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the recorder for the use and inspection of the public. (Ord. #76, Nov. 1990, modified, as amended by Ord. #172, June 2006, Ord. #206, March 2010, and Ord. #253, March 2018)

**12-403. Use of existing piping and appliances.** Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code.

**12-404. Bond and license.** (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the mayor a good and sufficient bond in the penal sum of \$10,000, with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**12-405. Gas inspector and assistants.** To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen.

**12-406. Powers and duties of inspector.** (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration.

**12-407. Permits.** (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the mayor; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the recorder may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved the gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system.

**12-408. Inspections.** (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping.

**12-409. Certificates.** The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service.

**12-410. Fees.** The permit fee schedule as recommended in Appendix "B" of the gas code is hereby adopted.

**12-411. Violations and penalties.** Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed.

**12-412. Nonliability.** This chapter shall not be construed as imposing upon the municipality any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector.

**12-413. Modifications.** Within the gas code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the gas code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**CHAPTER 5****RESIDENTIAL CODE****SECTION**

- 12-501. Residential code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations.
- 12-505. Enforcement.
- 12-506. Penalty.

**12-501. Residential code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Residential Code,<sup>1</sup> 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the residential code. (Ord. #68, March 1990, as amended by Ord. #76, Nov. 1990, modified, as amended by Ord. #172, June 2006, Ord. #206, March 2010, and Ord. #253, March 2018)

**12-502. Modifications.** Wherever the residential code refers to the "Building Official" it shall mean the person appointed or designated by the municipal governing body to administer and enforce the provisions of the residential code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the municipal governing body.

Within the residential code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the residential code shall be deemed to be the responsible official insofar as enforcing the provisions of the residential code are concerned.

An automatic residential fire sprinkler system shall not be required if a two (2) hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common wall. (Ord. #21, March 1974, as amended by Ord. #76, Nov. 1990, Ord. #206, March 2010, Ord. #249, Oct. 2017, and Ord. #253, March 2018)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**12-503. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #21, March 1974)

**12-504. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. (Ord. #21, March 1974)

**12-505. Enforcement.** The board of mayor and aldermen shall appoint a housing inspector who shall be responsible for enforcing the provisions of the code herein adopted by reference. The housing inspector shall have all the powers and duties prescribed for the "Building Official" in the adopted code and shall receive such compensation as the board of mayor and aldermen may prescribe. (Ord. #21, March 1974)

**12-506. Penalty.** Any person, firm, corporation or agent who shall violate or fail to comply with any provision of the code herein adopted by reference shall be punishable in the city court by a civil penalty of not more than five hundred dollars (\$500.00) for each offense and each day a violation or non-compliance continues shall constitute a separate offense. (Ord. #21, March 1974, modified)

## CHAPTER 6

### ENERGY CONSERVATION CODE<sup>1</sup>

#### SECTION

- 12-601. Energy conservation code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violation and penalty.

**12-601. Energy conservation code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Energy Conservation Code,<sup>2</sup> 2012 edition, with the exclusion and exception of section 402.4.2.1 thereof (the "blower door test") and section 403.2.2 thereof (the "duct tightness test"), as created by the International Code Council, be and the same is hereby adopted for application and enforcement within the town. (as amended by Ord. #241, Aug. 2016, and Ord. #253, March 2018 )

**12-602. Modifications.** (1) Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Kimball. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

(2) 2016 Tennessee Public Chapter No. 378 and Tennessee Code Annotated, § 68-120-101(a)(8)(C)(I), which provides that fire sprinkler systems

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

shall not be required for the construction of townhouses, is hereby acknowledged and adopted for application and enforcement within the town.

Excepting: One and two family dwellings and townhouses, amendments to the 2012 IECC as follows:

Section 402.4.1.2, testing option deleted

Section 403.2.2, sealing method deleted

Table R402.1.1 Insulation and Fenestration Requirements by Component, is amended by adding the following footnote "I". Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a fenestration V-factor of .50 or lower is used, a skylight V-factor of .65 or lower is used, a glazed fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used. (as amended by Ord. #241, Aug. 2016, and Ord. #253, March 2018)

**12-603. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-604. Violation and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 7

### AMUSEMENT DEVICE CODE<sup>1</sup>

#### SECTION

12-701. Amusement device code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violations.

**12-701. Amusement device code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,<sup>2</sup> 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #76, Nov. 1990)

**12-702. Modifications.** Within the amusement device code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the amusement device code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-703. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the amusement device code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-704. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 8

### EXCAVATION AND GRADING CODE<sup>1</sup>

#### SECTION

- 12-801. Excavation and grading code adopted.
- 12-802. Modifications.
- 12-803. Application.
- 12-804. Plans and specifications.
- 12-805. Issuance of permit.
- 12-806. Engineering review fees.
- 12-807. Available in recorder's office.
- 12-808. Violations.

**12-801. Excavation and grading code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of setting forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments, the Standard Excavation and Grading Code,<sup>2</sup> 1975 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the excavation and grading code. (Ord. #76, Nov. 1990)

**12-802. Modifications.** Within the excavation and grading code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the excavation and grading code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-803. Application.** (1) To obtain a permit the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every application shall:

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(a) Identify and describe the work to be covered by the permit for which application is made;

(b) Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

(c) Be accompanied by plans and specifications as required in this code;

(d) State the estimated quantities of work involved;

(e) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;

(f) Give such other information as reasonably may be required by the building official which may include:

(i) Temporary cover during the grading and development period.

(ii) Permanent grass and vegetative cover for the area.

(iii) Stabilization by means of mulching (non-vegetative materials).

(iv) Sodding the area subject to erosion

(v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.

(vi) Constructing diversionary channels and terraces across the slope.

(vii) Construction of structures that will stabilize the grade in water channels.

(viii) Sediment basins constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.

(ix) Use of grassed waterways for the safe disposal of run-off water.

(x) Staging development to avoid having large areas in an erosive condition at one time.

(xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.

(xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.

(2) Information on plans. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information:

- (a) General vicinity of the proposed site.
- (b) Property limits and accurate contours of existing ground and details of terrain and area drainage.
- (c) Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and relating construction.

(d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated run-off of the area served by any drains. Upstream drainage must be considered and explained in any adverse effect is possible. Plans for removal, recontouring or other final disposition of sediment basins or other structural improvements or devices included in the plan. If a sediment basin is required, it should be designed by registered engineers in accordance with property guidelines.

(e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.

Specifications shall contain information covering construction and material requirements.

(f) All elevations must be stated in mean sea level datum and this fact indicated in a note on the plan sheet.

(g) Location of areas of proposed paving.

(h) Limits of vegetative clearing.

(i) Estimates of exposed time of denuded land.

(j) Plans for vegetation reestablishment.

(k) A schedule for performance of all earthwork, earth stabilization, and reclamation activities.

(l) A soil erosion control plan which shall consider the following items:

(i) Minimize grading - The plan should relate to the specific site conditions, and should keep land grading and land disturbance to a minimum under the circumstances.

(ii) Storm drainage - Both surface and underground storm water drainage systems should be integrated to accommodate the increased runoff incurred during land grading.

(iii) Cover - Existing and future protective vegetative cover should be emphasized, and grading operations and sediment control measures should minimize land exposure to erosion.

(iv) Sediment basins - Sediment basins for high sediment producing areas should be planned, installed, and maintained as safety devices to catch and trap excessive sediment from the development site.

- (v) Use of low-growing plants, vines, shrubs or other ground covers to stabilize sediment-producing areas.
- (vi) Constructing diversionary channels and terraces across the slope.
- (vii) Construction of structures that will stabilize the grade in water channels.
- (viii) Sediment basins shall be designed and constructed in such manner that failure of the structure would not result in loss of life or interruption of use or service of public utilities.
- (ix) Use of grassed waterways for the safe disposal of run-off water.
- (x) Staging development to avoid having large areas in an erosive condition at one time.
- (xi) Utilization of existing topography in planning development to minimize erosion, such as planning roadways parallel to contours.
- (xii) Leaving critical areas in an undisturbed condition or correction of critical areas which cause erosion hazard.
- (xiii) Within any sinkhole, no fill shall be used without approval of the city engineer.

**12-804. Plans and specifications.** When required by the building official, each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and engineering geology report. The plans and specifications shall be prepared and signed by a civil engineer when required by the building official. The building official shall obtain recommendations from the town's consulting engineer, prior to approving such plans and issuing a cut and fill permit.

**12-805. Issuance of permit.** The application, plans and specification filed by an applicant for a permit shall be checked by the building official. Such plans shall be reviewed by the towns' consulting engineer to check compliance with all applicable laws and ordinances. If the building official is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, he shall issue a permit therefor to the applicant.

When the building official issues the permit, he shall endorse in writing or stamp on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

**12-806. Engineering review fees.** The building official shall submit the application, plans, and specifications filed by the applicant to the town's, consulting engineer for evaluation and recommendations. The town's consulting engineer shall also make the necessary site inspection(s) and make appropriate recommendations thereof, prior to the issuance of a cut and fill permit. All costs engendered by the town's consulting engineer in the performance of the duties specified herein shall be borne by the project applicant. The building official shall act as the agent through which all engineering fees are collected.

**12-807. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard excavation and grading code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-808. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the standard excavation and grading code as herein adopted by reference and modified.

**CHAPTER 9****SWIMMING POOL CODE**<sup>1</sup>**SECTION**

12-901. Swimming pool code adopted.

12-902. Modifications.

12-903. Available in recorder's office.

12-904. Violations.

**12-901. Swimming pool code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,<sup>2</sup> 1994 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #76, Nov. 1990, modified)

**12-902. Modifications.** Within the swimming pool code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the swimming pool code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-903. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

**12-904. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

## CHAPTER 10

### UNSAFE BUILDING ABATEMENT CODE

#### SECTION

12-1001. Unsafe building abatement code adopted.

12-1002. Modifications.

12-1003. Available in recorder's office.

12-1004. Violations.

**12-1001. Unsafe building abatement code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the town, the Standard Unsafe Building Abatement Code,<sup>1</sup> 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe building abatement code. (Ord. #76, Nov. 1990)

**12-1002. Modifications.** Within the unsafe building abatement code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the unsafe building abatement code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-1003. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

**12-1004. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified.

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

## CHAPTER 11

### MECHANICAL CODE<sup>1</sup>

#### SECTION

- 12-1101. Mechanical code adopted.
- 12-1102. Modifications.
- 12-1103. Available in recorder's office.
- 12-1104. Violations.

**12-1101. Mechanical code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,<sup>2</sup> 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #76, Nov. 1990, modified, as amended by Ord. #172, June 2006, and Ord. #253, March 2018)

**12-1102. Modifications.** Within the mechanical code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the mechanical code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-1103. Available in recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

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<sup>1</sup>Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**12-1104. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

## CHAPTER 12

### EXISTING BUILDINGS CODE<sup>1</sup>

#### SECTION

12-1201. Existing buildings code adopted.

12-1202. Modifications.

12-1203. Available in recorder's office.

12-1204. Violations.

**12-1201. Existing buildings code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-516, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the Existing Buildings Code,<sup>2</sup> 2012 edition, as prepared by the Southern Building Code Congress International, Inc., is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the existing buildings code. (Ord. #76, Nov. 1990, modified, as amended by Ord. #253, March 2018)

**12-1202. Modifications.** Within the existing buildings code when reference is made to the duties of certain officials named therein that designated official of the Town of Kimball who has duties corresponding to those of the names official in the existing buildings code shall be deemed to be the responsible official insofar as enforcing the provisions of the building code are concerned. (Ord. #76, Nov. 1990)

**12-1203. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

**12-1204. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the existing buildings code or any final order made pursuant thereto. Such violation is declared an offense against the town

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

and for which punishment shall be a fine of not more than \$50 for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the town by any person, firm or corporation found to be in such violation.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. ABANDONED, UNAUTHORIZED AND JUNK VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

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<sup>1</sup>Municipal code references

Animal control: title 10.

Toilet facilities in beer places: § 8-105(7).

13-104. Overgrown and dirty lots.<sup>1</sup> (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Kimball Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

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<sup>1</sup>Municipal code reference

Section 13-103 applies to cases where the town wishes to prosecute the offender in town court. Section 13-104 can be used when the town seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up but not to prosecute the owner in town court.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of the register of deeds in Marion County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the town recorder and dispose of such animal in such manner as the town recorder shall direct.

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

13-107. Violations and penalty. Violations of this chapter shall be subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

## CHAPTER 2

SLUM CLEARANCE<sup>1</sup>

## SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of order.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

(3) "Municipality" shall mean the Town of Kimball, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he

shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Marion County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been

joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Marion County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Kimball to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Kimball. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Marion County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the town in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the town.

Violations of this section shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

ABANDONED, UNAUTHORIZED AND JUNK VEHICLES

SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Notice of hearing.
- 13-306. Responsibility.
- 13-307. Costs of removal of junk vehicles, etc.
- 13-308. Removal of vehicle, etc.
- 13-309. Fine for violation.

13-301. Definitions. (1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partial or totally disassembled essential interior parts, including but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (as added by Ord. #144, April 2002)

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle for more than twenty (20) days. (as added by Ord. #144, April 2002)

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or

from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord. #144, April 2002)

13-304. Enforcement. Any police officer, upon his becoming aware thereof, shall provide notice by personal service or certified mail, return receipt requested, to the last registered property owner of record, that a hearing may be requested and that if no hearing is requested the vehicle shall be removed. (as added by Ord. #144, April 2002)

13-305. Notice of hearing. If a request for hearing is received, notice giving the time, date, location and date of the hearing on the question of abatement and removal of the vehicle, or part thereof, as a public nuisance shall be mailed by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment role, and to the last registered legal owner of record unless the vehicle is in such condition that the identifications are not available to determine ownership, and unto any other person, known to have an interest in either the real property or the vehicle. (as added by Ord. #144, April 2002)

13-306. Responsibility. The owner of the land on which the vehicle is located may appear in person at the hearing and deny responsibility for the presence of the vehicle on the land, with reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without consent of the landowner and that he has not subsequently acquiesced in its presence, then the court shall not assess cost of the administration or removal of the vehicle against the property upon which the vehicle is located, or otherwise attempt to collect the costs from the owner of the land. (as added by Ord. #144, April 2002)

13-307. Costs of removal of vehicles, etc. Costs of removal of junk vehicles, or parts thereof, under this section shall be assessed against the last registered owner of the vehicle or automobile hulk if the identity of the owner can be determined, or the costs may be assessed against the owner of the

property on which the vehicle is stored, unless the property owner establishes the facts set forth above in § 13-306. (as added by Ord. #144, April 2002)

13-308. Removal of vehicle, etc. After notice has been given of the city's attempt to dispose of the vehicle and after the hearing, if requested, has been held, the vehicle, or parts thereof, shall be removed at the request of a police officer and be disposed of to a licensed motor vehicle wrecker with notice to the Tennessee Department of Public Safety that the vehicle has been wrecked. (as added by Ord. #144, April 2002)

13-309. Fine for violation. In addition to the remedies provided above, every person violating this chapter shall be deemed to have committed a civil infraction and shall be subject to a fine of up to \$50.00, plus court costs for each day that the violation continues to occur after appropriate notice and hearing. (as added by Ord. #144, April 2002)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE--INTRODUCTION
3. DEFINITIONS.
4. ZONING DISTRICTS.
5. SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS WHERE APPLICABLE.
6. EXCEPTIONS AND MODIFICATIONS.
7. ADMINISTRATION AND ENFORCEMENT.
8. FLOOD DAMAGE PREVENTION ORDINANCE.
9. SIGN REGULATIONS.
10. MOBILE HOMES.

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (Ord. #106, March 1996, as amended by Ord. #113, Sept. 1997, modified)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13.

**14-103. Additional powers.**<sup>1</sup> Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

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<sup>1</sup>To make this section effective the municipality should request the State Planning Office, under authority granted by Tennessee Code Annotated, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

## CHAPTER 2

### ZONING ORDINANCE--INTRODUCTION<sup>1</sup>

#### 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.

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

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<sup>1</sup>Amendments to the zoning map are of record in the office of the recorder.

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." 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. This shall include front, side, and rear areas of a property with front setbacks being determined to be the area of the property abutting a public or private road providing access to the property. For the purpose of these regulations the term, "building" shall be defined as a structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. The term, "structures," shall include but is not limited to closed/unenclosed porches, decks, porticos, entry landings, sheds, out-buildings, portable buildings (anchored or not), carports, accessory buildings, pools, hot-tubs, gazebos, and other similar structures; however, it shall not include fences or retaining walls.

(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 permanent building or portion thereof used for residential purposes, which contains at least a kitchen, bathroom facilities, and a sleeping area. In no case shall the term dwelling include any of the following: motor homes, travel trailers, portable buildings, trailer coaches, storage buildings, single-wide modular homes regulated elsewhere in this ordinance, or any other structure not designed specifically for permanent residential dwelling.

(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 open, 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) "Planned unit development - commercial." A commercial planned unit development is a completely planned commercial land use, professionally designed as a unit, and approved by the Kimball Municipal Planning Commission, in a C-2 Zone.

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

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

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

(61) "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.

(62) "Retail sales establishment - commercial." A commercial establishment that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

(63) "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.

(64) "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.

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

(66) "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.

(67) "Setback." See definition for "building setback."

(68) "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)

(69) "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.

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

(71) "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 measured or if it is used for commercial purposes.

(72) "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.

(73) "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.

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

(75) "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.

(76) "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.

(77) "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.

(78) "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.

(79) "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.

(80) "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.

(81) "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.

(82) "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.

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

(84) "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.

(85) "Yard, front." The required open space measured from the road or street right-of-way line/property line that is unoccupied by buildings or other structures as defined by the definition for building setbacks found in this section.

(86) "Yard, rear." The required open space measured from the rear property line that is unoccupied by buildings or other structures as defined by the definition for buildings setbacks found in this section.

(87) "Yard, side." The required open space measured from the side property line that is unoccupied by buildings or other structures as defined by the definition for buildings setbacks found in this section. (Ord. #61, Aug. 1988, as amended by Ord. #186, Oct. 2007, Ord. #234, July 2015, and Ord. #245, May 2017)

**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.**<sup>1</sup> 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 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

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

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.

(1) 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.

(a) 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.

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

(i) Modular homes.

(ii) Agricultural uses.

(iii) Cemeteries.

(iv) Non-commercial nurseries, garden centers and greenhouses.

(v) Churches, provided that:

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

(vi) Church schools.

(vii) Public schools and other public educational institutions.

(viii) Utility facilities necessary for the provisions of public services.

(ix) Customary accessory buildings, including private garages and non-commercial workshops.

(x) 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.)

(xi) Municipal, county, state or federal buildings or land use.

(c) 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.

(i) Private schools, provided that:

(A) There is a planted evergreen buffer strip along the property lines, except the lines bordering the streets; and

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

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

(iii) Radio, television and communication towers.

(d) 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."

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

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

(iii) 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.

(iv) 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.

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

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

(vii) Required street frontage and orientation of principal structures. All principal structures shall be positioned on the lot so that the front facade and front door face a dedicated local street for which an E911 address can be given. On corner lots, one of the streets shall be designated as the front street, and the principal structure shall face this street or shall be angled toward the intersection of both streets. Under no condition shall the back of the principal structure face or angle toward a street or be visible from the street providing access except as provided above for corner lots. In no case shall an accessory structure be located in the front yard or closer to any street than the principal structure. Accessory structures shall be located to the side or rear of the principal structure and are subject to all building setbacks.

(viii) Minimum square footage requirements for residential structures and dwelling units. Single-family dwellings in the R -1 Low Density Residential Zoning District shall have a gross floor area of not less than eight-hundred (800) square feet of living space. Custom built homes and permitted modular homes shall be required to have a permanent foundation.

(ix) Minimum square footage requirements for residential structures and dwelling units. Detached single-family dwellings and multi-family dwellings in the R-2 High Density Residential Zoning District shall have a gross floor area of not less than six-hundred (600) square feet of living space per dwelling unit. Custom built homes, multi-family residential structures, and permitted modular homes shall be required to have a permanent foundation.

(e) 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.

(f) Uses permitted. (i) Any use permitted in the R-1 Residential District.

(ii) Multi-family dwellings.

(iii) Mobile home parks subject to the regulations of § 14-404.

(g) 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.

(i) Private schools, provided that:

(A) There is a planted evergreen buffer strip along the property lines, except the lines bordering the streets; and

(B) The building is located not less than 15 feet from the buffer zone or 45 feet from any property lines.

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

(h) 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."

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

(ii) Rear yard. The minimum depth of the rear yard shall be 10 feet from the principal structure.

(iii) 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.

(iv) 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.

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

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

(vii) Required street frontage and orientation of principal structures. All principal structures shall be positioned on the lot so that the front facade and front door face a dedicated local street for which an E911 address can be given. On corner lots, one of the streets shall be designated as the front street, and the principal structure shall face this street or shall be angled toward the intersection of both streets. Under no condition shall the back of the principal structure face or angle toward a street or be visible from the street providing access except as provided above for corner lots. In no case shall an accessory structure be located in the front yard or closer to any street than the principal structure.

Accessory structures shall be located to the side or rear of the principal structure and are subject to all building setbacks.

(i) Mobile home park restrictions.

(i) 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.

(ii) 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.

(iii) Uses prohibited. All uses not allowed under uses permitted.

(iv) Regulations for mobile home parks. (A) 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.

(B) Refer to the Kimball Subdivisions Regulations.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

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

(v) 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:

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

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

(C) 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.

(2) C-2 Highway Business District. (a) 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.

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

- (i) Any retail business or service;
- (ii) Hotels and motels;
- (iii) Restaurants, grills, and fast food outlets including those allowing customer service in automobiles;
- (iv) Tourist services, including tourist information centers, souvenir/gift shops, and hunting/fishing/boating/camping supply shops;
- (v) Ambulance and other emergency services;
- (vi) Gasoline service stations as regulated in § 14-508;
- (vii) Establishments for the sale, service, or rental of passenger, travel, and recreation vehicles;
- (viii) Public or private golf courses;
- (ix) Libraries, art galleries, museums, and the like;
- (x) Outdoor recreation facilities;
- (xi) Clubs, lodges and fraternal organizations;
- (xii) Utility structures and facilities including storage and parking facilities for equipment and supplies;
- (xiii) Professional offices, financial institutions, insurance agencies, and
- (xiv) Public uses and structures, churches.

(c) 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:

- (i) Truck stops;

- (ii) Amusement parks, amphitheaters, ballparks, or stadiums, fairgrounds, and group picnic grounds;
  - (iii) Planned unit development such as shopping centers and professional office complexes;
  - (iv) Auditoriums, exhibit halls, field houses, gymnasiums, theaters, and indoor recreation facilities; and,
  - (v) Cemeteries, subject to the provisions of § 14-509.
- (d) Dimensional regulations. The following requirements shall apply to all uses permitted in the C-2 Highway Business District:
- (i) Lot area:
    - (A) For those areas served by a sanitary sewer system, there shall be a minimum lot area of not less than 10,000 square feet.
    - (B) 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.
  - (ii) Front yard. The depth of the front yard shall be 35 feet from the highway right-of-way.
  - (iii) Side yard. The width of any side yard which abuts a residential district shall not be less than 25 feet.
  - (iv) 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.
  - (v) Lot width. Each lot shall have a width of not less than 75 feet at the building setback line.
  - (vi) Height restriction. No building or structure shall exceed 60 feet, except as provided in § 14-603.
- (e) 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.
- (f) Off-street parking requirements. (As regulated in § 14-503)
  - (g) Off-street loading and unloading requirements. (As regulated in § 14-504)
  - (h) Access control. (As regulated in § 14-501)
  - (i) Site plan requirements. (As required in § 14-510)
- (3) Commercial Planned Unit Development (PUD). (a) Purpose. The purpose of the Commercial Planned Unit Development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and

program professionally prepared. The Commercial PUD is intended to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well being of the inhabitants.

(b) Classification. A Commercial PUD shall be allowed only in the C-2 Commercial Zoning District.

(i) Permitted principal and accessory uses and structures:

(A) College and university-owned facilities (classroom facilities, administration facilities, dormitories, sports related facilities, libraries, cafeterias and maintenance buildings).

(B) Commercial parking lots.

(C) Professional, medical or dental offices or clinics.

(D) Laboratories and research centers.

(E) Real estate offices.

(F) Retail sales establishments.

(G) Accessory uses for the above permitted uses.

(H) Private and semi-public recreation clubs and attendant uses and facilities, including: golf, swimming and spa, athletic and health, tennis, croquet, skating, country clubs and similar clubs as may be approved in conjunction with the master plan.

(ii) Minimum site area, yard requirements and density. The width, frontage, and yard requirements otherwise applying to individual buildings lots do not apply within a planned commercial development. Yard requirements are limited to the following standards; however, building layout must be approved by the planning commission.

(A) Minimum setback from an arterial street - thirty-five (35) feet.

(B) Minimum setback from collector street - thirty (30) feet.

(C) Minimum setback requirement from periphery boundary of the development - twenty-five (25) feet.

(D) Where a side yard is proposed between two structures, the minimum width shall be ten (10) feet between structures.

(iii) Height regulations. The height restrictions of the C-2 zoning district shall apply within planned unit developments.

(iv) Access. All lots shall be served from properly dedicated public street(s), per the requirements of the Kimball Municipal Subdivision Regulations.

Each building lot within the development shall front a public street for a minimum of twenty-five (25) feet, or as required in the Subdivision Regulations.

(v) Utilities. No planned development will be approved unless public sewer is available. Availability of sewer will be determined by the Town of Kimball.

(vi) Parking and loading. The provisions of §§ 14-503 and 14-504 of this ordinance shall apply.

(viii) Buffers. Buffer strips, as defined in chapter 3 of this ordinance, are required at district boundaries and to separate dissimilar uses within the PUD.

(c) Application and general procedures. (i) Preliminary plat. Before initiating construction, fill or grading of a tract of land for a planned commercial planned unit development, the owner or lessee of the site shall submit to the planning commission a preliminary plat (plan) for the use and development of the entire tract that conforms to the preliminary plat specifications.

(ii) Final plat. Within one year after approval of the preliminary plat (plan), the owner or lessee shall present a final plat (plan) to the planning commission. The final plat (plan) shall substantially conform to the preliminary plat (plan). If a final plat (plan) is disapproved by the planning commission, the applicant may resubmit a final plat (plan) which substantially conforms to the approved preliminary plat (plan), or the applicant may request an amendment to the approved preliminary plat (plan) from the planning commission.

The final plat submitted must be in substantial conformance with the preliminary plat. Plats containing minor changes from the approved preliminary plat may be found to be in substantial conformity and approved for further processing and final action. Any increase in density or intensity of use, any decrease in common areas, or shifting of structures within the development shall be deemed to be a substantial deviation and shall require an amendment of the preliminary plat prior to further action by the planning commission.

(iii) Site plan. A site plan of the complex, including the information as required under § 14-510 of this ordinance shall be submitted to the planning commission for approval.

(4) I-1 Industrial District. (a) 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.

(b) 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:

(i) 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;

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

(iii) Contractors or construction equipment dealer's yards;

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

(v) Sales and service of boats, boat trailers and mobile homes;

(vi) Agricultural equipment sales and service;

(vii) Gasoline service stations;

(viii) Veterinarian hospitals and kennels;

(ix) Laundry and dry-cleaning establishments;

(x) Radio stations and transmission towers;

(xi) Baking establishments;

(xii) Bottling and distribution plants;

(xiii) Newspaper and printing plants;

(xiv) Truck terminals;

(xv) Heavy equipment sales and service;

(xvi) Off-street parking lots;

(xvii) Public utility structures; and

(viii) Self-storage mini-warehouses rented or leased for the storage of personal goods.

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

(i) Front yard. The minimum depth of the front yard shall be 30 feet.

(ii) Rear yard. The minimum depth of the rear yard shall be 30 feet.

(iii) 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.

(iv) 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.

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

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

(d) 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.

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

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

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

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

(5) F-1 Flood Hazard District. (a) 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.

(b) Uses permitted. In the F-1 Flood Hazard District the following uses are permitted:

(i) 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.

(ii) Railroads, streets, bridges and public utility wire and pipelines for transmission and local distribution purposes.

(iii) 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.

(iv) 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.

(v) Any other uses customarily accessory or incidental to the above uses.

(vi) 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.

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

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

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

(ii) Any of the uses permitted in the other districts provided it complies with Chapter 5.

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

(i) Front yard. The minimum depth of the front yard shall be 30 feet.

(ii) Rear yard. The minimum depth of the rear yard shall be 10 feet.

(iii) 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; Ord. #136, Sept. 2000, Ord. #153, Sept. 2003, Ord. #159, Nov. 2004, Ord. #186, Oct. 2007, Ord. #232, July 2015 Ord. #233, July 2015, and Ord. #245, May 2017)

**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 \$50 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 a property owner of the reasonable use of their 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, as amended by Ord. #225, Oct. 2013)

**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)

CHAPTER 8

**FLOOD DAMAGE PREVENTION ORDINANCE**

**SECTION**

14-801. Flood damage control to be governed by flood damage prevention ordinance.

14-801. **Flood damage control to be governed by flood damage prevention ordinance.** Regulations governing flood damage control within the Town of Kimball shall be governed by Ordinance #98, titled "Municipal Flood Damage Prevention Ordinance" and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #98, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

## CHAPTER 9

### SIGN REGULATIONS

#### SECTION

14-901. Definitions relating to on-premises signs.

14-902. Sign controls.

14-903. Billboards.

14-904. Permit procedures for on-premise signs.

**14-901. Definitions relating to on-premises signs.** For the purpose of this chapter and where otherwise made applicable by reference, the following definitions shall apply:

(1) "Attached sign." Attached sign shall mean an on-premise sign painted onto or attached to a building, canopy, awning, marquee or mechanical equipment located outside a building, which does not project more than eighteen (18) inches from such building, canopy, awning, marquee or mechanical equipment. Any such sign which projects more than eighteen (18) inches from the building, canopy, awning, marquee or mechanical equipment shall be considered a "Projecting Sign".

(2) "Awning." Awning shall mean a roof-like cover providing protection from the weather placed over or extending from above any window, door or other entrance to a building but excluding any column, pole, or other supporting structure to which the awning is attached.

(3) "Balloon sign." Balloon sign shall mean any sign painted onto or otherwise attached to or suspended from a balloon, whether such balloon is anchored or affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises.

(4) "Banner." Banner shall mean an on-premise sign which is made of fabric, paper or any other non-rigid material and which has no enclosing framework or internal supporting structure but not including balloon signs.

(5) "Billboard." Any off-premise sign located elsewhere from a business to direct motorists and pedestrians to a business establishment.

(6) "Building." Building shall mean any structure that encloses a place for sheltering any occupancy that contains not less than three hundred (300) square feet of enclosed space at the ground level or is routinely used for human occupancy in the ordinary course of business.

(7) "Canopy." Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

(8) "Construction sign." Construction sign shall mean any temporary on-premise sign located upon a site where construction or landscaping is in progress and relating specifically to the project which is under construction,

provided that no such sign shall exceed a total of one hundred (100) square feet in sign area.

(9) "Detached sign." Detached sign shall mean:

(a) Any freestanding or projecting sign;

(b) Any sign attached to a canopy which is detached from a building and which has less than two hundred (200) square feet of roof area; and

(c) Any sign attached to a structure which is not a building.

(10) "Facade." Facade shall mean the total external surface area of a vertical side of a building, canopy, awning or mechanical equipment used to dispense a product outside a building. If a building, canopy, awning or mechanical equipment has a non-rectangular shape, then all walls or surfaces facing in the same direction, or within twenty-five (25) degrees of the same direction, shall be considered as part of a single facade. Additionally, any portion of the surface face of a mansard, parapet, canopy, marquee or awning which is oriented in the same direction (or within twenty-five (25) degrees of the same direction) as the wall to which, or over which, such mansard, parapet, canopy, marquee, or awning is mounted shall be deemed a part of the same facade as such wall.

(11) "Freestanding sign." Freestanding sign shall mean a permanently affixed single or multi-faced on-premise sign which is constructed independent of any building and supported by one or more columns, uprights, braces or constructed device.

(12) "Height." Height shall mean the total measurement of the vertical side of the rectangle which is used to calculate the "sign area."

(13) "Incidental sign." Incidental sign shall mean an on-premise sign, emblem or decal mounted flush with the facade to which it is attached and not exceeding two (2) square feet in sign area informing the public of goods, facilities or services available on the premises (e.g., a credit card sign, ice machine sign, vending machine sign or a sign indicating hours of business) or an on-premise sign which is affixed to mechanical equipment used to dispense a product and which is less than two (2) square feet in sign area.

(14) "Landmark sign." Landmark sign shall mean any on-premise which identifies and is attached to any building which is included on the National Register of Historic Places, is listed as a Certified Historic Structure, is listed as a National Monument or is listed under any similar state or national historical or cultural designation.

(15) "Mansard." Mansard shall mean the lower portion of a roof with two pitches, including a flat-top roof with a mansard portion.

(16) "Mansard sign." Mansard sign shall mean any sign attached to the mansard portion of a roof.

(17) "Marquee." Marquee shall mean a permanent roof-like structure projecting from and beyond a building wall at an entrance to a building or

extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

(18) "Message center." Message center shall mean a sign on which the message or copy changes automatically on a lamp bank or through mechanical means also known as a Commercial Electronic Variable Message Sign.

(19) "Occupant." Occupant shall mean each separate person which owns or leases and occupies a separate portion of a premises.

(20) "Off-premise sign." Off-premise sign shall mean any sign which is not an on-premise sign.

(21) "On-premise sign." On-premise sign shall mean any sign whose content relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services or activities conducted on or offered from or on those premises, or the sale, lease or construction of those premises.

(22) "Person." Person shall mean individual, company, corporation, association, partnership, joint venture, business, proprietorship or any other legal entity.

(23) "Premises." Premises shall mean all contiguous land in the same ownership which is not divided by any public highway, street or alley or right-of-way therefor.

(24) "Portable sign." Portable sign shall mean any on-premise sign which is not affixed to real property in such a manner that its removal would cause serious injury or material damage to the property and which is intended to be or can be removed at the pleasure of the owner, including without limitation, single or multi-faced sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, ground signs and balloon signs.

(25) "Projecting signs." Projecting sign shall mean an on-premise sign attached to a building, canopy, awning or marquee and projecting outward therefrom in any direction a distance or more than eighteen (18) inches, provided, however, that no projecting sign shall extend horizontally from the building more than eight (8) feet at the greatest distance.

(26) "Reader board." Reader board shall mean any on-premise sign attached to or made a part of the support system of a freestanding sign which either displays interchangeable messages or advertises some product or service offered separately from the name of the premises where it is located, such as "Deli Inside", "Tune-Ups Available", "Year-End Special" and the like.

(27) "Roof sign." Roof sign shall mean an attached or projecting sign:

(a) Which is placed on top of or over a roof, excluding the mansard portion of a roof or so attached to any flagpole, antenna, elevator housing facilities, air conditioning towers or coolers or other mechanical equipment on top of a roof;

(b) Any portion of which extends above the top of the wall, canopy or awning to which such sign is attached; or

(c) Any portion of which extends above the top of the mansard in the case of a mansard sign.

(28) "Sign." Sign shall mean any structure or wall or other object used for the display of any message or messages; such term shall include without limitation any structure, display, device or inscription which is located upon, attached to or painted or represented on any land, on any building or structure, on the outside of a window or on an awning, canopy, marquee or similar appendage and which displays or includes any message or messages, numeral, letter work, model, emblem insignia, symbol, device, light, trademark or other representation used as or in the nature of an announcement, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, community, product, service, businesses, profession, enterprise or industry. Provided, however, that the following shall be excluded from this definition:

(a) Signs or flags erected, provided, owned, authorized or required by a duly constituted governmental body including but not limited to, traffic or similar regulatory devices, legal notices or warnings at railroad crossings.

(b) Signs located inside a building.

(c) Memorial plaques or tablets.

(d) Gravestones.

(e) Inside faces of scoreboard fences or walls on athletic fields.

(f) Historical site plaques.

(g) The display of street numbers.

(h) Any message or messages on the clothing of any person or on motor vehicles unless otherwise prohibited.

(29) "Snipe sign." Snipe sign shall mean any on-premise sign for which a permit has not been issued which is attached in any way to a utility pole, tree, rock, fence or fence post.

(30) "Special event." Special event shall mean a short-term event of unique significance not in excess of thirty (30) days; such term shall include only grand openings, health-related promotions or health-related service programs (i.e., flu shot clinic, blood donation promotions, etc.), going-out-of-business sales, promotions sponsored by a governmental entity, fairs, school fairs, school bazaars, charity events, festivals, religious celebrations and charity fund raisers and shall not include other sales or promotions in the ordinary course of business.

(31) "Unused signs." Any sign that has not displayed a message or messages for more than ninety (90) days or is not kept in good structured repair such that the sign could pose a risk to public health or safety.

(32) "Wall graphics or wall murals." Wall graphic or wall murals shall mean a painted scene, figure or decorative design so as to enhance the building architecture and which does not include written trade names, advertising or commercial messages.

(33) "Width." Width shall mean the total measurement of the horizontal side of the rectangle which is used to calculate "sign area." (Ord. #75, May 1990, as amended by Ord. #102, May 1995)

**14-902. Sign controls.** The following regulations apply to on-premise signs in the districts hereinafter set forth:

(1) Residential district (R).

(a) Signs accessory to professional and home occupations conducted in a dwelling are permitted provided that the surface display area on one (1) side of the sign does not exceed two (2) square feet.

(b) No more than one (1) sign shall be erected for each permitted use on the premises.

(c) Real estate signs are permitted.

(d) No other signs are permitted.

(2) Highway commercial district (C-2).

(a) Attached signs are permitted provided said signs:

(i) Do not exceed 20% of the area of the building face to which the sign is to be erected;

(ii) Are not mounted, attached or painted to the building's roof or extend above the building's roof line; and

(iii) Are not mounted, attached or painted to the building's wall (not the primary face of the building) with the exception of signs that specifically identify the business by name.

(b) Ground signs are permitted provided said signs:

(i) Do not exceed 900 square feet and that no one sign can be larger than 600 square feet;

(ii) Are setback ten (10) feet from the public right-of-way. This measurement is taken from the edge of the sign to the right-of-way, not from the pole supporting the sign.

(iii) Are not higher than one hundred (100) feet from the finished grade except as provided in § 14-902(4)(f);

(iv) Are spaced so that they are not closer than fifty (50) feet to another ground sign;

(v) Do not exceed two (2) signs per tract of property for all tracts that are less than one (1) acre in size; do not exceed three (3) signs per tract of property for all tracts of property that are at least one (1) acre but less than four (4) acres in size; or do not exceed four (4) signs per tract of property for all tracts of property that are four (4) acres in size or larger.

(c) Real estate signs are permitted.

(d) Contractor's signs are permitted during construction of a building for which a building permit has been issued, one (1) sign not exceeding 32 square feet in area and identifying the contractors, engineers/architects and federal, state, or local agency, if any, involved,

which signs shall be removed immediately upon completion of the construction.

(e) Banners shall be permitted providing said banners:

(i) Do not exceed twenty percent (20 %) of the area of the building face to which the sign is to be attached;

(ii) Are attached to the structure at all four (4) corners of the banner;

(iii) Does not exceed more than one (1) banner per business or structure;

(iv) Are maintained so that at no time do they become tattered, torn, faded, unsightly or not attached in a safe and secure fashion.

(f) Monument signs shall be permitted provided the signs:

(xviii) Are no closer than ten (10) feet from the right-of-way as measured from the side of the sign, including supports, to the edge of the right-of-way;

(xix) Are no higher than six (6) feet from the ground to the top of the sign or support;

(xx) Are no wider than fifteen (15) feet, including supports;

(xxi) Are located in zones A or C as set forth on the zoning map of the town.

(3) Industrial district (I-1).

(a) Attached signs are permitted provided said signs:

(i) Do not exceed 20% of the area to the building's face to which is to be erected;

(ii) Are not attached, mounted or painted to the building's roof or extended above the building's roof line.

(b) Ground signs are permitted provided said signs:

(i) Are setback 10 feet from the public right-of-way. This measurement is to be taken from the edge of the sign to the right-of-way, not from the pole supporting the ground sign;

(ii) Are spaced so that they are no closer than 50 feet to one another.

(c) Real estate signs are permitted.

(d) Contractor's signs are permitted during construction of a building for which a building permit has been issued, one (1) sign not exceeding 32 square feet in area and identifying the contractors, engineers/architects and federal, state or local agency, if any involved, which signs shall be removed immediately upon completion of the construction.

(e) Aggregate display surface area of all signs shall not exceed 1,000 square feet.

(f) Billboard are permitted only in the industrial district provided said signs:

(i) Are not larger than 775 square feet in surface display area.

(4) All signs hereafter erected in any district shall also comply with the following regulations:

(a) Signs painted or pasted directly on the structures shall be counted against the aggregate display surface area allowed.

(b) Signs incorporating any noisy mechanical devise are expressly prohibited.

(c) No sign or part thereof shall contain or consist of banners, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices for over 30 days. These may be used as part of a new business's grand opening celebration on a temporary basis for a period not to exceed 30 days.

(d) Illuminated signs and outside lighting devices, including beacons and spotlights, shall emit only light of constant intensity, and no sign shall be illuminated by or contain flashing, blinking, intermittent, rotating, or moving light or lights, except message center signs. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit focused light to be directed or beamed upon a public street, highway, sidewalks, or adjacent premises so as to cause glare or reflection that constitutes a traffic hazard or nuisance. Bare bulbs may be used on signs only when they are used as an integral part of the sign or as a message center sign and provided that the maximum wattage of the bulb shall not exceed seventy-five (75) watts.

(e) No sign or any type of any foundation or support, therefore shall be placed in or on any dedicated street or highway right-of-way, or in any utility and drainage easement. No part of a sign may extend over the right-of-way.

(f) No sign shall be located in such a position that the same obscures the view of pedestrian or vehicular traffic in such a manner as to endanger the safe movement thereof. The bottom of the sign shall not be lower than 12 feet except for ground signs large than 100 square feet shall not be lower than 30 feet.

(g) Signs are prohibited which contain or are an imitation of an official traffic signal or contain the words "stop", "go", "slow", "caution", "danger", "warning", or similar words, when used in such a manner that the same may be mistaken or confused with an official sign.

(h) No new billboards shall be erected within the corporate limits, except as allowed in the industrial district (I-1).

(i) The setback refers to any portion of the sign or its supports.

(j) In computing the area of all signs permitted under this chapter, the same shall be computed as follows:

(i) The supports or uprights and covering thereon on which a sign is supported shall not be included in the display surface area of a sign.

(ii) When two signs of the same shape and dimensions are mounted or displayed back to back and parallel, only one such face shall be included in computing the total display surface area of the sign.

(iii) The display surface area of a wall sign consisting of individual letters not enclosed by a box or outline shall be the sum of the net area of each letter. Area of letters equals shaded area only.

(iv) The display surface area of a sign consisting of connected letters or letters enclosed by a box or outline shall be the total area of the sign including the background, box or outline.

(v) The display surface area of a multi-faced sign shall be one-half (1/2) of the sum of all surface area forming a part of the display.

(k) Any sign legally in existence at the time of the effective date of this ordinance may be continued in use despite any non-conformity with these provisions; if such non-conforming sign is removed or altered by act of God, vandalism or accident, it may be restored to its former condition; if such non-conforming sign needs to be changed, painted or relettered by reason of change of business, the same may be done; if such sign needs to be repaired to prevent its falling into disrepair so far as safety is concerned, the same may be done. Under no other circumstances may any non-conforming sign be restored, replaced, or re-erected.

(l) In any zoning district, in addition to the regulations contained herein, and to the extent they do not conflict with the same, those regulations contained within § 3108 "Signs," of the Standard Building Code, 1997 edition shall apply. (Ord. #75, May 1990, modified, as amended by Ord. #146, June 2002, Ord. #156, June 2004, and Ord. #208, May 2010)

**14-903. Billboards.** Billboards, except as provided in § 14-902(3)(f) above, and any other outdoor advertising structures not herein expressly allowed, including, but not limited to portable or movable temporary signs, illuminated or otherwise, are expressly prohibited. (Ord. #75, May 1990)

**14-904. Permit procedures for on-premise signs.** (1) Before any person shall erect, construct, maintain or place any sign permitted by this chapter to be constructed, erected, placed or maintained, such person shall submit a sign application to the town recorder. The building inspector shall inspect the location and plans for said sign for compliance with this chapter.

The sign application shall include but not necessarily be limited to the following information:

- (a) Location of property.
- (b) Name and address of all persons owning or claiming an interest in said property.
- (c) No sign or part thereof shall consist of pendants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices for a period exceeding thirty (30) days. These items may only be used as part of the business's grand opening celebration for a period not to exceed thirty (30) days. There shall only be one grand opening per owner of said business.
- (d) Sketch of property showing dimensions of tract and approximate location of the sign(s).
- (e) The exact dimensions of the sign or display.
- (f) The materials to be used in the construction, erection, maintenance or repair.
- (g) The name, address and telephone number of the applicant or applicant's agent.
- (h) Estimated construction costs, including costs of installation.
- (i) Any other information application deems appropriate in support of the application.

(2) Once an application has been reviewed by the building inspector, and the sign is in compliance with this chapter, the building inspector may issue a sign permit. However, if for some reason, the sign is not in compliance, and the building inspector will not issue the sign permit, the matter may be appealed and shall be brought before the board of zoning appeals for review and consideration.

(3) Upon approval of the application for permit by the building inspector as herein above set forth, the town recorder or town clerk shall collect from the applicant at the time of issuance, a one-time fee for signs calculated by multiplying the total square feet of the sign by the sum of two dollars (\$2.00). All banners, as approved herein, shall be charged and annual fee of one hundred dollars (\$100.00). Said fee is renewable annually on the date of the issuance of the permit.

(4) The construction, erection, maintenance, placement, repair or alteration of any sign, outdoor display or advertisement without compliance with the requirements of this chapter shall subject the violator to a fine of fifty dollars (\$50.00) and court costs. For the purpose of this chapter, each day a violation exists shall be deemed a separate offense.

Any person charged with a violation of this chapter shall be cited to appear before the city court by the Town of Kimball by the building inspector or the chief of police. Should the accused be found guilty of a violation or violations of this chapter, the city judge shall impose the fines herein set forth, it being the express intent of the mayor and board of aldermen that the fine cannot be waived, reduced or in any manner forgiven.

In addition to the fine and costs, which shall be assessed upon a finding of guilty, the court is further empowered to direct the removal of the sign to be in effect no later than ten (10) days from the date of hearing. (Ord. #75, May 1990, modified, as amended by Ord. #156, June 2004)

**CHAPTER 10**

**MOBILE HOMES**

**SECTION**

14-1001. To meet state, county, and town regulations.

**14-1001. To meet state, county, and town regulations.** Anyone owning a lot may place a mobile home on it and have all rights to move off and return with no restriction, as long as the lot meets all health and other requirements, and anyone wanting to open a court may do so, by meeting all state, county, and town regulations. (Ord. #29, Dec. 1974)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.

CHAPTER 1

MISCELLANEOUS<sup>2</sup>

SECTION

15-101. Speed limit on streets.

15-102. Time limits for parking on streets.

15-103. Parking areas.

15-104. Stop signs.

15-105. TCA sections adopted.

15-106. Violation and penalty.

15-107. Compliance with financial responsibility law required.

15-101. Speed limit on streets. It shall be unlawful for any person to operate or drive a motor vehicle upon any street or highway in the Town of Kimball, Tennessee, in excess of forty-five (45) miles per hour, and if by authority of the board of mayor and aldermen, a proper sign clearly visible to motorist driving upon a street or highway, is posted upon any street or highway setting a limit lower than 45 MPH, it shall be unlawful for any person to operate a motor vehicle upon such street or highway in excess of such posted speed limit. (Ord. #6, April 1965)

15-102. Time limits for parking on streets. The board of mayor and aldermen shall have full power and authority from time to time as they deem advisable to fix and designate time limits for the parking of motor vehicles on

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-30, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

the streets and highways in the Town of Kimball, Tennessee, and when such time limits have been fixed and appropriate signs have been erected warning the public that such area has been limited for parking to the time stated on such sign, they shall be observed by all operators of motor vehicles and the parking of a motor vehicle in such area continuously for a period in excess of the time limit established for that particular area shall be unlawful and a violation of this chapter. (Ord. #6, April 1965)

15-103. Parking areas. The board of mayor and aldermen shall have full power and authority from time to time and as they deem advisable to mark off and designate on all streets and highways in the Town of Kimball, Tennessee, parking areas, no parking areas, and special reserved parking areas; and when such parking areas, no parking areas and special parking areas have been so marked off and plainly designated by appropriate signs or otherwise, they shall be observed by all operators of motor vehicles, and the parking of any motor vehicle shall be confined to one parking area as marked off. (Ord. #6, April 1965)

15-104. Stop signs. The board of mayor and aldermen shall have full power and authority from time to time and as they deem advisable to designate stop streets by erecting appropriate signs thereat, and when such streets are so designated as stop streets and plainly visible stop signs erected thereat, they shall be observed by all operators of motor vehicles. (Ord. #6, April 1965)

15-105. TCA sections adopted. Tennessee Code Annotated, §§ 55-8-101 to 55-8-179 designated as "Rules of the Road," and Tennessee Code Annotated, §§ 55-9-201 to 55-9-211 inclusive, designated "Equipment-Lighting Regulations," and all amendments and additions thereto be and the same are hereby incorporated herein by reference and made a part hereof as fully as if copied verbatim herein, and the violation of any of said statutes shall be deemed a violation of this chapter punishable not as provided by said statutes but as hereinafter set out for the violation of any of the provisions of this chapter. (Ord. #6, April 1965)

15-106. Violation and penalty. The violation of any section, part or provision of this chapter is hereby declared to be a misdemeanor punishable upon conviction by a fine of not less than two dollars (\$2.00), nor more than fifty dollars (\$50.00), provided however, the city judge may in his discretion waive said fine for a parking violation upon payment into town treasury the sum of fifty cents (50¢), within forty-eight (48) hours from the time of a violation by the responsible person. (Ord. #6, April 1965).

15-107. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of the Kimball Municipal Code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #145, April 2002)

## TITLE 16

STREETS AND SIDEWALKS, ETC<sup>1</sup>

## CHAPTER

## 1. STREETS.

## CHAPTER 1

STREETS

## SECTION

## 16-101. Minimum requirements.

16-101. Minimum requirements. All new roads and/or streets in the Town of Kimball, Tennessee, before such roads or streets are accepted as public roads or streets by the town, and before the town will agree to become responsible for the maintenance and upkeep of such roads or streets, shall be constructed under the following minimum requirements:

(1) The right of way indicated for street or road purposes shall have a minimum width of at least 40 feet.

(2) Street or road must be properly graded and drained so that surface water will drain from the roadway and drainage ditches.

(3) The street or road must be graded to the full width of the right of way, except for required drainage ditches, and smoothed and compacted and all large rocks, stumps, roots, brush and other objectionable materials removed therefrom.

(4) The travelled portion of the street shall be covered with a layer of at least 4 inches of crushed stone, gravel, or other material acceptable by the board of mayor and aldermen, and shall be spread evenly and compactly for a minimum width of 20 feet.

(5) An adequate drainage system shall be provided, including necessary open ditches, and culverts or bridges of adequate size with no culvert to be less than 12 inches in diameter.

(6) The board of mayor and aldermen may under special circumstances where it appears impractical to comply with the right of way widths herein set out, accept a street with a narrower right of way width, but the reasons therefor must be set out upon the minutes of the town. (Ord. #8, April 1965)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**TITLE 17**

**REFUSE AND TRASH DISPOSAL<sup>1</sup>**

**CHAPTER**

**1. GARBAGE.**

**CHAPTER 1**

**GARBAGE**

**SECTION**

17-101. Dumping prohibited.

17-102. Collection fee.

17-103. Violation and penalty.

**17-101. Dumping prohibited.** It shall be unlawful for any person to dump garbage, trash or waste of any kind, on either property belonging to the Town of Kimball, or property belonging to persons other than the one dumping, or upon the right of way of any public streets, roads or alleys within the Town of Kimball, with the one exception being the property belonging to the Town of Kimball set aside for the purpose of dumping.

It shall also be unlawful for any person, firm, corporation, or other agency to operate or maintain any place within the corporate limits of the Town of Kimball where garbage, trash or other waste of any kind is dumped or otherwise disposed of. (Ord. #5, April 1965, as amended by Ord. #15, April 1970)

**17-102. Collection fee.** (1) It is hereby established and imposed a garbage collection fee of twenty-five dollars (\$25.00) per month for two (2) days per week pick-up service for the users of the commercial garbage collection service within the Town of Kimball, Tennessee.

(2) The city recorder or assignee shall prepare statements twice yearly in January and July of each calendar year showing the total fee of one hundred fifty dollars (\$150.00) due for each upcoming six (6) month term and shall mail or cause the same to be delivered to the user within ten (10) days after the beginning of each six (6) month term.

(3) Any person or user failing to pay the fee hereby established when and as the same become due, which failure continues for a period of ten (10) days from and after notice as provided in subsection (2) above, shall have the service discontinued and shall not have same restored until all past-due fees

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

have been paid in full. (Ord. #116, March 1998, as amended by Ord. #140, June 2001, and replaced by Ord. #195, July 2008)

**17-103. Violation and penalty.** The violation of any section, part or provision of this chapter is hereby declared to be a civil offense punishable upon conviction, by a civil penalty of not more than five hundred dollars (\$500.00). Each day's violation of any section, part or provision of this chapter shall be a separate offense. (Ord. #5, April 1965, as amended by Ord. #15, April 1970, modified)

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

**CHAPTER**

1. SEWER SYSTEM.
2. USER CHARGE SYSTEM.
3. FATS, OIL AND GREASE.
4. MUNICIPAL FLOODPLAIN ZONING ORDINANCE.

**CHAPTER 1**

**SEWER SYSTEM**

**SECTION**

- 18-101. Board of sewer commissioners created.
- 18-102. Board of sewer commissioners composition; term of office.
- 18-103. Unlawful practices.
- 18-104. Disposal of sewage.
- 18-105. Connection to sewer system.
- 18-106. Rights and duties of superintendent.
- 18-107. Sewer rate schedule.
- 18-108. Violation and penalty of previous sections.
- 18-109. Restaurants, etc. required to maintain grease traps.
- 18-110. Construction of subdivisions.

**18-101. Board of sewer commissioners created.** There is hereby created a board of sewer commissioners who shall have the custody, administration, operation, maintenance and control of the Town of Kimball sewer system and all other powers related to same as are set forth in Tennessee Code Annotated, § 7-35-412. (Ord. #41, May 1980)

**18-102. Board of sewer commissioners composition; term of office.** The Board of Sewer Commissioners of the Town of Kimball, Tennessee, shall be composed of the five members of the Board of Mayor and Aldermen of the Town of Kimball, Tennessee. The terms of office of said sewer commissioners shall be for a period of four (4) years, and the term of office of each sewer commissioner shall run concurrent with the four (4) year term to be served by said sewer commissioner in his or her capacity as mayor or aldermen of the Town of Kimball, Tennessee. (Ord. #41, May 1980, as amended by Ord. #88, Feb. 1993)

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

**18-103. Unlawful practices.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the municipality, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the municipality, or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the municipality and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the municipality, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line. (Ord. #41, May 1980)

**18-104. Disposal of sewage.** The disposal of sewage by means other than the use of the sanitary sewage system of the Town of Kimball shall be in accordance with local and state laws. Disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available. (Ord. #41, May 1980)

**18-105. Connection to sewer system.** All ordinances of the City of South Pittsburg related to the usage of and connection with the sewer system of the City of South Pittsburg are hereby incorporated in this chapter by reference, it being understood that the usage and regulation of the Kimball sewer lines shall in all ways conform to the requirements established by the City of South Pittsburg for users of the South Pittsburg sanitary sewer system. (Ord. #41, May 1980)

**18-106. Rights and duties of superintendent.** The superintendent of the South Pittsburg Sewer Works shall have all the same rights and duties with regard to inspection and maintenance of the Kimball sewer system as are now granted him with regard to the South Pittsburg sewer system. (Ord. #41, May 1980)

**18-107. Sewer rate schedule.** The residential sewer rate and fee schedule charged by the Town of Kimball to its residential sewer customers is hereby set and established at one hundred-twenty percent (120%) of the rate and fees charged by the City of South Pittsburg, Tennessee Sewer and Water

Board (Kimball's sewer provider) to its residential customers. Accordingly, the effective residential sewer rates and fees for the Town of Kimball as of the date of June 2012 shall be as follows:

**RESIDENTIAL SEWER RATE AND FEE SCHEDULE<sup>1</sup>**

\$10.66 per month up to 3,000 gallons (minimum bill)  
 \$3.18 per 1,000 gallons of metered water used per month over 3,000 gallons  
 Sewer connection fee (tap fee): \$420.00  
 Service call charge: \$60.00  
 After-hours service call charge: \$84.00

**COMMERCIAL SEWER RATE SCHEDULE**

The commercial sewer rate and fee schedule charged by the Town of Kimball to its commercial sewer customers is hereby set and established at one hundred forty-seven percent (147%) of the rate and fees charged by the City of South Pittsburg, Tennessee Sewer and Water Board (Kimball's sewer provider) to its commercial customers, subject to the minimum bill set forth below. Accordingly, the effective commercial sewer rates and fees for the Town of Kimball as of December 2013 shall be as follows:

\$100.00 per month up to three thousand (3,000) gallons (minimum bill)  
 \$7.00 per 1,000 gallons over 3,001 gallons

Hereafter, any amendments or modifications to the rates or fees charged by the South Pittsburg Sewer and Water Board shall result in amendments or modifications of the commercial rates and fees charged by Kimball at the same one hundred forty-seven percent (147%) ratio set forth above. (Ord. #41, May 1980, as amended by Ord. #50, July 1983; Ord. #55, April 1985; Ord. #89, Feb. 1993; Ord. #131, Sept. 1999; Ord. #138, Feb. 2001, Ord. #204, Aug. 2009, Ord. #221, June 2012, and Ord. #226, Dec. 2013)

**18-108. Violation and penalty of previous sections.** (1) Any person found to be violating any provision of §§ 18-101--18-107 shall be served by written notice from the Town of Kimball stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Any such offenders shall, within the period of time stated in such notice, permanently cease all violation.

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<sup>1</sup>Ord. #55 establishing connection fees to the public sewer system is of record in the office of the recorder.

(2) Any person who shall continue any violation beyond the time limit provided in the aforementioned written notice shall be guilty of a violation of §§ 18-101--18-107 subject to a civil penalty of not more than five hundred dollars (\$500.00) and such other injunctive relief as the town may seek.

(3) Each day that a violation occurs beyond the date specified in the written notice shall constitute a separate offense and subject the person to a separate fine.

(4) Any person violating any of the provisions of §§ 18-101--18-107 shall be liable to the Town of Kimball for any expense, loss, or damage occasioned the Town of Kimball by reason of such violation. (Ord. #41, May 1980, modified)

**18-109. Restaurants, etc. required to maintain grease traps.**

(1) Restaurants, laundries, wash racks, vehicle service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the town's sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the superintendent of the town's sewer system or the town's building inspector, and said device shall be constructed in accordance with applicable building codes.

(2) All sewer users currently in existence who are or may be affected by the provisions of this section shall have one (1) year from the date of final passage of this ordinance within which to bring their sewer connections into compliance with this section, said users to bear the costs of said compliance. Failure to so comply will subject the user's right of access to the town's sewer system to termination, at the discretion of the board of mayor and aldermen, as well as to any other penalties prescribed in this section.

(3) There shall be conducted a quarterly inspection of all grease traps, lint traps, grit traps, oil traps, oil interceptors, and other similar devices by the building inspector of the Town of Kimball, Tennessee, or such other appropriate official that said town may designate. Additionally, such other, more frequent inspections of said devices may be conducted by said building inspector or other appropriate official as necessary. All users subject to said inspection shall voluntarily allow access to their systems by said inspector(s) and shall comply with all orders of said inspector(s) regarding maintenance of said devices.

All users subject to the provisions of this section shall pay an annual inspection fee in the amount of \$300.00 with the appropriate proportion of said amount to be remitted annually by the town to the building inspector or the designated officials for services rendered in performing said inspections.

(4) It shall be the sole responsibility of all users affected by this section to see that their respective devices are pumped yearly or otherwise maintained

regularly and at least annually so as to prevent problems due to overflow or blockages caused by failure of said user to properly pump and/or otherwise maintain said device. Failure to so pump and/or maintain said device as prescribed herein shall be deemed a violation of this section.

(5) Failure to comply with the provisions of this section shall be deemed a violation of same and, upon conviction, violators shall be subject to a civil penalty not to exceed \$500.00 and/or discontinuance of sewer services to said violator. Each separate act of noncompliance with this section shall be deemed a separate offense for purposes of this section. (Ord. #79, March 1991, as amended by Ord. #115, Feb. 1998, modified)

**18-110. Construction of subdivisions.** No subdivision shall be constructed within the town limits of the Town of Kimball unless the water main providing water therein shall be of a minimum diameter of not less than six (6) inches. (Ord. #44, Oct. 1980)

## CHAPTER 2

### USER CHARGE SYSTEM

#### SECTION

18-201. General provisions.

18-202. Charge structure.

**18-201. General provisions.** (1) Actual use. The UCS shall be based on actual use, or estimated use, or wastewater treatment services. Each user or user class must pay their proportionate share of the costs of wastewater treatment services based on the quantity and quality of their discharge.

(2) Notification. Each user shall be notified annually in conjunction with their regular bill of the rate being charged for wastewater treatment services and that user charges are being used for the equitable recovery of costs from users of the town's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvement depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(3) Financial management system. The UCS must establish a financial management system that will accurately account for revenues generated and expenditures of the wastewater system. This financial management system shall be based on an adequate budget identifying the basis for determining the annual operating expenses, interest expense, depreciation (if appropriate), and any reserve account requirements.

(4) Charges for inflow and/or infiltration. The UCS shall provide that the cost of operation and maintenance for all flow not directly attributable to users be distributed among all users in the same manner that it distributes the costs of the actual or estimated usage.

(5) Use of revenue. Revenue derived from a wastewater project funded by an EPA Grant or State Revolving Loan, including but not limited to, sale of treatment-related-by-products, lease of land, or sale of crops grown on land purchased shall offset current user charges as well as moderate future rate increases.

(6) Other municipalities. If the wastewater system accepts wastewater from other local governments, these subscribers receiving wastewater treatment services shall adopt user charge systems in accordance with the same state regulations requiring this chapter.

(7) Inconsistent agreements. This UCS shall take precedence over the terms or conditions of contracts between the town and users which are inconsistent with the requirements of this. (Ord. #84, Oct. 1991)

**18-202. Charge structure.** (1) Classification of users. Class 1: Those users whose average biochemical oxygen demand (BOD) is 250 milligrams per

liter by weight or less, and whose suspended solids (SS) discharge is 250 milligrams per liter by weight or less. (C1)

Class 2: Those users whose average BOD exceeds 250 milligrams per liter concentration by weight and whose SS exceeds 250 milligrams per liter concentration. (C2)

(2) Determination of costs. The governing body shall establish monthly rates and charges for the use of the wastewater system and the services supplied by the wastewater system. These charges shall be based upon the cost categories described as operation, maintenance and replacement (OMR); interest (I); and, principal repayments or depreciation, whichever is greater (P).

(a) All users who fall under Class 1 shall pay a single unit charge expressed as dollars per 1000 gallons of water purchased with the unit charge being determined by the following formula:

$$C1 = OMR + I + P / \text{Total gallons treated (Thousands)}$$

(b) All users who fall within the Class 2 classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class 1 users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand (BOD) and suspended solids (SS) in direct proportion to the actual discharge quantities.

C2 = C1 plus the following formula for excessive strength:

$$[A(D-250) + B(E-250) + C(F-25)] \times .00834 \times G = \text{Surcharge Payment (\$/Mo.)}$$

The components of the formula are as follows:

A = Surcharge rate for BOD, in \$/pound.

B = Surcharge rate of SS, in \$/pound.

C = Surcharge rate for other pollutant(s) in \$/pound.

D = User's average BOD concentration, in mg/l.

E = User's average SS concentration, in mg/l.

F = User's average other pollutants concentration, in mg/l.

G = User's monthly flow to sewage works, per 1,000 gallons.

No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the sewage works contain less than 250 mg/l of BOD, 250 mg/l of other pollutant(s).

(c) The volume of water purchased which is used in the calculation of wastewater use charges may be adjusted by the utilities manager if a user does not discharge it to the public sewers (i.e., filling swimming pools or industrial heating). The user shall be responsible for documenting the quantity of wastewater actually discharged to the public sewer.

The board of mayor and aldermen will review the user charges annually along with the budget process and revise the rates as necessary to ensure that adequate revenues are generated to pay OMR, I and P. The periodic review shall also ensure that the system continues to provide for the proportional distribution of these costs among users and user classes.

The rates are recorded in Ord. #\_\_\_\_\_ of the municipal code. (Ord. #84, Oct. 1991)

### CHAPTER 3

#### FATS, OILS AND GREASE

##### SECTION

- 18-301. Purpose.
- 18-302. Fat, Oil and Grease (Fog), waste food, and sand interceptors.
- 18-303. Definitions.
- 18-304. Fat, oil, grease and food waste.
- 18-305. Sand, soil and oil interceptors.
- 18-306. Laundries.
- 18-307. Control equipment.
- 18-308. Solvents prohibited.
- 18-309. Administrative requirements.
- 18-310. Enforcement.
- 18-311. Alteration of control methods.

**18-301. Purpose.** The purpose of this chapter is to control discharges into the public sewerage collection system and treatment plant that interfere with the operations of the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls and contribute waste of a strength or form that is beyond the treatment capability of the treatment plant. (as added by Ord #211, Nov. 2000)

**18-302. Fat, Oil and Grease (FOG), waste food, and sand interceptors.** FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent of the town's sewer system, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. (as added by Ord #211, Nov. 2000)

**18-303. Definitions.** In the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(2) "Grease trap." An interceptor whose rated flow exceeds fifty (50) g.p.m. and is located outside the building.

(3) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. or less and is typically located inside the building. (as added by Ord #211, Nov. 2000)

**18-304. Fat, oil, grease, and food waste.** (1) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(2) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other existing sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or operational problems to structures or equipment in the public sewer system.

(3) Implementation of plan. After approval of the FOG plan by the superintendent, the sewer user must implement the plan within a reasonable amount of time, and service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plant, additional pretreatment measures may be required.

(4) Pumping requirements. All users of the town's public sewerage collection system and treatment plant covered by the provisions of this chapter shall be responsible for pumping of their grease traps, interceptors, soils/sand traps, and/or lint traps on a regular basis at the expense of such users. Such action shall be taken and proof of same together with the report prepared by the contractor shall be provided to the superintendent of the town's sewer collection system at least every ninety (90) days. Only licensed pumping contractors may be used, and the town reserves the right to approve or reject any such contractors at its discretion. (as added by Ord #211, Nov. 2000)

**18-305. Sand, soil, and oil interceptors.** All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. These interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities shall prevent the inflow of rainwater into the sanitary sewers. (as added by Ord #211, Nov. 2000)

**18-306. Laundries.** Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one half inch (1/2") or larger in size, such as strings, rags, buttons, or other solids detrimental to the system. (as added by Ord #211, Nov. 2000)

**18-307. Control equipment.** The equipment or facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with International Plumbing Code and Tennessee Department of Environment and Conservation engineering standards or applicable town guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, or lack thereof, the owner or operator shall be required to refund or reimburse the labor, equipment, materials and overhead costs to the town. Nothing in this section shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law.

The town retains the right to inspect and approve installation of the control equipment. (as added by Ord #211, Nov. 2000)

**18-308. Solvents prohibited.** The use of degreasing or line cleaning products containing petroleum-based solvents is prohibited. (as added by Ord #211, Nov. 2000)

**18-309. Administrative requirements.** (1) Administrative fee. An administrative fee for facilities falling within the provisions of this chapter is hereby established at three hundred dollars (\$300.00) per year. This fee may be modified by the town from time to time to insure full cost recovery, which costs shall include but not be limited to the cost of field, administrative, engineering, and clerical expenses involved.

(2) Monitoring. As a condition for service, facilities falling within the provisions of this chapter shall provide, operate, and maintain, at such user's expense, safe and accessible monitoring facilities at all times to allow observation, inspection, sampling, and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis.

(3) Inspection and entry. Authorized personnel of the town shall have the right to enter upon all properties subject to this chapter, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, in accordance with this chapter. (as added by Ord #211, Nov. 2000)

**18-310. Enforcement.** The town shall have the administrative authority to enforce the terms and provisions of this chapter. Whenever the town finds that any user has violated or is violating the terms and provisions hereof, or any prohibition, limitation, or requirements contained herein, the town shall initiate corrective action, which may include but not be limited to the following:

(1) Notice of violation. The town may issue any user a written notice stating the nature of violation. Within fifteen (15) days of the date of notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(2) Consent order. The town may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

(3) Administrative order. When the town finds that a user has violated or continues to violate the provisions set forth in this chapter, or any order issued hereunder, the town may issue an order for compliance to the user responsible for the discharge. Orders may contain any requirements as might be reasonable, necessary, and appropriate to address the noncompliance, including but not limited to the installation of pretreatment technology, additional self-monitoring, and management practices.

(4) Civil citation. Any person who violates this chapter shall be guilty of a civil violation punishable under and according to the general penalty provision of the town's municipal code of ordinances, initiated by citation to the town's municipal court by the superintendent or other appropriate town official. Each day's violation of this chapter shall be considered a separate offense.

(5) Emergency suspension of services. The town may suspend water or sewer service when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which:

- (a) Presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment;
- (b) Causes stoppages, sanitary sewer overflows, or excessive maintenance to be performed to prevent stoppages in the sanitary sewer collection system;
- (c) Causes interference to the treatment works; or
- (d) Causes the town to violate any terms or conditions of its contracts or treatment of the town's sewage waste or any permits in relation to same.

Any person notified of a suspension of the water or sewer service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate termination of water or sewer service, to prevent or minimize damage to the sewage collection and/or treatment system or sewer connection or endangerment to any individuals. The town shall reinstate the water or sewer service when such conditions causing

the suspension have been eliminated and any reconnection fee is paid. A detailed written statement submitted by the user describing the cause(s) of the harmful discharge and the measure(s) taken to prevent any future occurrence shall be submitted to the town within fifteen (15) days of the date of occurrence.

(6) Administrative penalty. Notwithstanding any other remedies or procedures available to the town, any user who is found to have violated any provision of this chapter or any order issued hereunder may be assessed an administrative penalty not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. Such assessment may be added to the user's next scheduled sewer service bill and the town shall have such other collection remedies as are available by law.

(7) Request for hearing and appeal. Any person affected by a penalty, order, or directive of the town issued pursuant to this chapter may, within ten (10) days of the issuance of such penalty, order, or directive, request a hearing in writing before the board of mayor and aldermen of the town to show cause why such should be modified or made to not apply to such person. The requested hearing shall be held as soon as practicable after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the board shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order, or directive at issue.

(8) Cost recovery. Notwithstanding any other remedies available to it under this chapter, the town shall have the absolute right to recover from any user found to be in violation of this chapter all expenses, costs, charges, assessments, civil penalties, and/or damages incurred by or assessed to the town as a result of such violation, and failure by a user to pay such costs, expenses, charges, assessments, civil penalties, and/or damages shall be deemed a separate violation of this chapter, entitling the town to all remedies available to it as set forth herein. (as added by Ord #211, Nov. 2000)

**18-311. Alteration of control methods.** The town through the superintendent reserves the right to request additional control measures if measures taken are shown to be insufficient to protect the sewer collection system and treatment plant from interference due to the discharge of fats, oils, and grease, sand/soil, or lint. (as added by Ord #211, Nov. 2000)

## CHAPTER 4

### MUNICIPAL FLOODPLAIN ZONING ORDINANCE

#### SECTION

18-401. Statutory authorization, findings of fact, purpose and objectives.

18-402. Definitions.

18-403. General provisions.

18-404. Administration.

18-405. Provisions for flood hazard reduction.

18-406. Variance procedures.

18-407. Legal status provisions.

**18-401. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210, Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Kimball, Tennessee, Mayor and Alderman, do ordain as follows:

(2) Findings of fact. (a) The Town of Kimball, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the Town of Kimball, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (as added by Ord. #216, Oct. 2011)

**18-402. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' - 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are

necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the Town of Kimball, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to

discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. The current market value shall be determined by the county property assessor's office.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the

structure before the "start of construction" of the initial improvement. The current market value shall be determined by the county property assessor's office. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

- The appraised value of the structure prior to the start of the initial improvement, or
- In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;
- Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #216, Oct. 2011)

**18-403. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of the Town of Kimball, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Kimball, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community ID 470116 / Countywide 47115 Panel Number 0212, dated February 4, 2009 and Revised Panel Numbers 0205, 0210, 0216, and

0220 dated January 6, 2012, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body and;

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Kimball, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Kimball, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #216, Oct. 2011)

**18-404. Administration.** (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 18-405(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the

above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 18-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 18-404(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 18-404(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as

criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Kimball, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #216, Oct. 2011)

**18-405. Provisions for flood hazard reduction.** (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 18-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 18-405(1):

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 18-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on

both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 18-402.). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in § 18-404(2).

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 18-405(2).

(d) Standards for manufactured homes and recreational vehicles:

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels,

(B) In expansions to existing manufactured home parks or subdivisions, or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 18-402).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 18-405(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 18-405(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the Town of Kimball, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-405(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 18-403(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-405(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 18-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 18-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 18-402). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 18-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 18-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated

development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Kimball, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 18-405(1) and (2). Within approximate A Zones, require that those subsections of § 18-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 18-403(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' to 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 18-405(1) and (2) apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 18-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with § 18-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 18-403(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 18-404 and 18-405 shall apply.

(8) Standards for unmapped streams. Located within the Town of Kimball, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 18-104 and 18-105. (as added by Ord. #216, Oct. 2011)

**18-406. Variance procedures.** (1) Municipal board of zoning appeals.

(a) Authority. The Town of Kimball, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal

action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Kimball, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(D) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 18-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars for one hundred dollars coverage (\$25.00 for \$100.00), and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #216, Oct. 2011)

**18-407. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part

of any existing or future ordinance of the Town of Kimball, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (as added by Ord. #216, Oct. 2011)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

## TITLE 20

MISCELLANEOUS

## CHAPTER

## 1. CIVIL DEFENSE REGULATIONS.

## CHAPTER 1

CIVIL DEFENSE REGULATIONS

## SECTION

20-101. Marion County civil defense organization created.

20-102. Authority and responsibilities.

20-103. Office of director; his authority and responsibility.

20-104. Marion County civil defense corps created.

20-105. No municipal or private liability.

20-106. Expenses of civil defense.

20-101. Marion County civil defense organization created. There is hereby created the Marion County Civil Defense Organization, which shall be a joint operation by the Town of Kimball, and the County of Marion for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Marion County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction, subordinate to, and as a part of the Marion County Civil Defense. (Ord. #17, Sept. 1970)

20-102. Authority and responsibilities. (1) Authority. In accordance with the federal and state enactments of law, the Marion County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare and property of the citizens of Marion County. The Marion County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The Marion County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Marion County, to establish and co-ordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (Ord. #17, Sept. 1970)

20-103. Office of director; his authority and responsibility.

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans, recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state CD office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter and resolution, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the town and county for the execution of the authorities, duties and responsibilities of the Marion County Civil Defense organization, for the preparation of all plans and administrative regulations and for recruitment and training of personnel. (Ord. #17, Sept. 1970)

20-104. Marion County civil defense corps created. The Marion County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (Ord. #17, Sept. 1970)

20-105. No municipal or private liability. The duties prescribed in this document is an exercise by the city and county of its governmental functions for the protection of the public peace, health and safety and neither the Town of Kimball nor Marion County, the agents and representatives of said town and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant tot he provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss, of, or damage to, the property of such person. (Ord. #17, Sept. 1970)

20-106. Expenses of civil defense. No person shall have the right to expend any public funds of the town or county in carrying out any civil defense

activities authorized by this document without prior approval by the governing bodies of the town and/or county or both; nor shall any person have any right to bind the town or county by contract, agreement or otherwise without prior and specific approval by the governing body of the town and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the town and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the town and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the town and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the Town of Kimball or Marion County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organization, such funds becoming liable for audit by the town and county. (Ord. #17, Sept. 1970)